

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3

4 SALINE COUNTY

5 LANDFILL, INC.,

6 Petitioner,

7 vs.

 No. PCB 02-108

8 ILLINOIS ENVIRONMENTAL

9 PROTECTION AGENCY,

10 Respondent.

11

12

13

14 Proceedings held on April 23rd, 2002 at 10:14 a.m., at the
15 Illinois Pollution Control Board, 600 South Second Street, the
16 Library Room, Springfield, Illinois, before Hearing Officer
17 Steven C. Langhoff.

18

19

20

21 Reported by: Darlene M. Niemeyer, CSR, RPR
 CSR License No.: 084-003677

22

23

 KEEFE REPORTING COMPANY
 11 North 44th Street
 Belleville, IL 62226
 (618) 277-0190

24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

A P P E A R A N C E S

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BY: Daniel P. Merriman
Assistant Counsel
Division of Legal Counsel
1021 North Grand Avenue East
Springfield, Illinois 62794-9276
On behalf of the Illinois EPA.

LUEDERS, ROBERTSON, KONZEN & FITZHENRY

BY: Brian E. Konzen
Attorney at Law
1939 Delmar Avenue
Granite City, Illinois 62040
On behalf of Saline County Landfill, Inc.

HEDINGER & HOWARD

BY: Stephen F. Hedinger
Attorney at Law
1225 South Sixth Street
Springfield, Illinois 62703
Special Assistant State's Attorney for
Saline County, intervenor.

Also present in hearing room:
Heather Eagleson
Rhonald Hasenyager
Gerald Krueger
Joyce Munie

Also present in the hearing room, at
page 85 of the transcript:
Rod Bloese
Jacinta Douma
Marty Grant

KEEFE REPORTING COMPANY
1-800-244-0190

I N D E X

1		
2		
3		
4	WITNESS	PAGE NUMBER
5	CHRISTINE ROQUE	
	Direct Examination by Mr. Konzen.....	23
6	Cross Examination by Mr. Merriman.....	37
	Cross Examination by Mr. Hedinger.....	38
7		
	PAUL EISENBRANDT	
8	Direct Examination by Mr. Konzen.....	42
	Cross Examination by Mr. Merriman.....	46
9	Cross Examination by Mr. Hedinger.....	48
	Redirect Examination by Mr. Konzen.....	53
10		
	JOYCE MUNIE	
11	Direct Examination by Mr. Konzen.....	56
	Cross Examination by Mr. Merriman.....	65
12	Cross Examination by Mr. Hedinger.....	77
	Redirect Examination by Mr. Konzen.....	83
13		
	ANDREW INMAN	
14	Direct Examination by Mr. Konzen.....	88
	Offer of Proof Examination by Mr. Konzen.....	128
15	Direct Examination (cont'd) by Mr. Konzen.....	137
	Cross Examination by Mr. Merriman.....	140
16	Cross Examination by Mr. Hedinger.....	151
17		
	JOYCE MUNIE	
	Direct Examination by Mr. Merriman.....	173
18	Cross Examination by Mr. Konzen.....	181
19		
20		
21		
22		
23		
24		

KEEFE REPORTING COMPANY
1-800-244-0190

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

E X H I B I T S

NUMBER	FIRST REFERENCE IN TRANSCRIPT
Petitioner's Exhibit 5	27
Petitioner's Exhibit 12	34
Petitioner's Exhibit 16	128
Petitioner's Exhibit 8	131

KEEFE REPORTING COMPANY
1-800-244-0190

1 P R O C E E D I N G S

2 (April 23, 2002; 10:14 a.m.)

3 HEARING OFFICER LANGHOFF: Good morning, everyone. We are
4 back on the record from the continuance of April 16th of 2002.
5 My name is Steven Langhoff. I am the Pollution Control Board
6 Hearing Officer who is assigned to this matter and will be
7 holding the hearing today. This is PCB 02-108, Saline County
8 Landfill, Inc., versus Illinois Environmental Protection Agency.
9 For the record, it is Tuesday, April 23rd, 2002, and it is 10:14
10 a.m.

11 On February 4th of 2002, Saline County Landfill filed a
12 petition for the review of an Illinois Environmental Protection
13 Agency, or Agency, determination. On January 4th of 2002, the
14 Agency denied the application for a significant modification
15 permit regarding Saline County Landfill's facility located
16 approximately five miles southeast of Harrisburg in Saline
17 County. On February 7th of 2002, the Board accepted Saline
18 County Landfill's petition for review. The Board also granted
19 Saline County Landfill's request for an expedited review. The
20 statutory decision deadline in this matter is June 4th of 2002.
21 The Board meeting immediately preceding the statutory decision
22 deadline is scheduled for May the 16th of 2002.

23 Due to the expedited nature of this matter, on March 12th
24 of 2002, I set a hearing, originally scheduled for Tuesday, April

KEEFE REPORTING COMPANY
1-800-244-0190

1 16th of 2002. On March 14th of 2002, Saline County Landfill
2 filed a motion for summary judgment. On March 25th of 2002 the
3 County of Saline filed a motion to intervene in this matter. The
4 County of Saline represented that it is in support of the
5 position of the Illinois Environmental Protection Agency.

6 On April 2nd of 2002, I notified the parties, including the
7 County of Saline, that the April 16th of 2002 hearing would be
8 continued on the record until today, Tuesday, April 23rd, 2002,
9 at 10:00 a.m. The Board also noticed this continuance on the
10 Board's calendar located on the Board's web site. The rationale
11 for this decision is that a Board decision on the outstanding
12 motion for summary judgment, the motion for intervention, and
13 several other outstanding motions was expected to be entered by
14 the Board at the Board's April 18th of 2002 Board meeting.

15 On April 18th of 2002 the Board entered an order that
16 denied Saline County Landfill's motion for summary judgment,
17 granted the County of Saline's motion to intervene, and denied
18 the County of Saline's motion -- countermotion -- excuse me --
19 for summary judgment.

20 The Board's order also directed me to limit evidence today
21 to one remaining contested issue, that is, whether there is a
22 reasonable likelihood that the design change resulting in permit
23 denial would result in a negative impact on any of the Illinois

KEEFE REPORTING COMPANY
1-800-244-0190

1 was also directed to afford an opportunity for evidence whether
2 the design change substantially changes the nature and scope of
3 the landfill expansion approved in 1996.

4 I want to note for the record that there are no members of
5 the public present. Members of the public are encouraged and
6 allowed to provide public comment, if they so choose.

7 I want to take a brief moment to let everyone know what is
8 going to happen today and after the proceeding today. You should
9 know that it is the Pollution Control Board, and not me, that
10 will make a final decision in this case. My job as a Hearing
11 Officer requires that I conduct the hearing in a neutral and
12 orderly manner so that we have a clear record of the proceedings
13 here today for the Board. It is also my duty and responsibility
14 to assess the credibility of any witnesses giving testimony
15 today, and I will do so on the record at the conclusion of the
16 proceedings.

17 We will begin with a brief opening statement from all of
18 the parties who wish to give one, and then we will proceed with
19 the Saline County Landfill's case, followed by the Agency, and
20 then the County of Saline having an opportunity to put on a case
21 in their client's behalf. We will conclude with any closing
22 arguments that the parties may wish to make and then we will
23 discuss off the record a briefing schedule, which will then be

24 set on the record at the conclusion of the proceedings.

7

KEEFE REPORTING COMPANY
1-800-244-0190

1 The Board's Procedural Rules and the Act provide that
2 members of the public shall be allowed to speak or submit written
3 statements at hearing. Any persons offering such testimony today
4 should be subject to cross-examination by all of the parties.
5 Any such statements offered by members of the public must be
6 relevant to the case at hand. I will call for any statements
7 from members of the public at the conclusion of the proceedings.

8 This hearing was noticed pursuant to the Act and the
9 Board's Rules and Regulations, and will be conducted pursuant to
10 Sections 101.600 through 101.632 and Part 105 of the Board's
11 Procedural Rules.

12 At this time I will ask the parties to make their
13 appearances on the record, beginning with Saline County Landfill.

14 MR. KONZEN: Brian Konzen, attorney for Saline County
15 Landfill, Inc.

16 HEARING OFFICER LANGHOFF: Thank you. And for the Agency?

17 MR. MERRIMAN: Dan Merriman, attorney for the Illinois
18 Environmental Protection Agency.

19 HEARING OFFICER LANGHOFF: Thank you. For the County of
20 Saline?

21 MR. HEDINGER: Steve Hedinger, Stephen F. Hedinger, Special
22 Assistant State's Attorney for Saline County.

23 HEARING OFFICER LANGHOFF: Thank you. There are several
24 preliminary matters that need to be discussed on the record. On

8

KEEFE REPORTING COMPANY
1-800-244-0190

1 April 16th of 2002 the parties participated in a telephone status
2 conference with the Hearing Officer. The parties exchanged
3 witness lists and discussed possible evidence that they intended
4 to introduce today at hearing that is not part of the Agency
5 record in order to avoid surprise. The Hearing Officer ordered
6 that the possible evidence be disclosed by April 19th of 2002.

7 Saline County Landfill made an oral motion for a deadline
8 for objections to these exhibits. The Hearing Officer denied
9 that motion. The parties stipulated that no objection would be
10 made regarding the admissibility of any document that is part of
11 the Agency record. The stipulation was accepted by the Hearing
12 Officer.

13 Saline County Landfill also requested that a notice to
14 appear be served by April 19th of 2002, which the Hearing Officer
15 ordered. On April 19th of 2002, Saline County Landfill gave
16 notice to appear. On April 19th of 2002, Saline County Landfill
17 also tendered an exhibit list and a witness list, pursuant to my
18 order. On April 19th of 2002, Saline County Landfill made a
19 motion to allow evidence, proffer of evidence, and offer of
20 proof, although the Hearing Officer did not receive the motion
21 until April 22nd of 2002.

22 Before I issue a ruling on this motion, I would like to

23 discuss the introduction and admission of exhibits included in
24 Saline County Landfill's exhibit list. Okay. Saline County

9

KEEFE REPORTING COMPANY
1-800-244-0190

1 Landfill intends to introduce three deposition transcripts, dated
2 April 10th of 2002. The depositions were of Agency staff
3 members, Mike Summers, Paul Eisenbrandt, E-I-S-E-N-B-R-A-N-D-T,
4 and Christine Roque.

5 MS. MUNIE: Roque.

6 HEARING OFFICER LANGHOFF: Roque. Pardon me. R-O-Q-U-E.
7 Mr. Konzen, would you like to introduce those documents as
8 evidence into the record?

9 MR. KONZEN: I move to admit into the record two of those
10 three transcripts the Hearing Officer just mentioned, Ms. Roque's
11 and Mr. Eisenbrandt's.

12 HEARING OFFICER LANGHOFF: Thank you. Are there any
13 objections? Mr. Merriman?

14 MR. MERRIMAN: Well, I have, actually, a question. It has
15 to do with the scope of the introduction of the documents. I am
16 assuming that the motion, then, is seeking to introduce the
17 testimony proffered at the depositions as substantive testimony,
18 rather than for the purposes of -- the limited purposes of
19 impeachment or admissions, otherwise that you are offering the
20 entire transcript?

21 MR. KONZEN: I am offering the entire two transcripts, that

22 is correct. They would also be available under the rules of the
23 Pollution Control Board for impeachment, if it is so called for.

24 MR. MERRIMAN: It is prior recorded testimony so it is --

10

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. KONZEN: Yes, under oath, yes.

2 MR. MERRIMAN: I don't see any objection to that. I think,
3 perhaps, we should include Mr. Summers' deposition, as well.

4 HEARING OFFICER LANGHOFF: Is that a motion?

5 MR. MERRIMAN: Yes, I think it is. I would make that
6 motion.

7 HEARING OFFICER LANGHOFF: Okay. Mr. Hedinger?

8 MR. HEDINGER: I would object to any of the three being
9 introduced simply as substantive evidence. All three of the
10 witnesses have been noticed to appear and they are sitting
11 outside the room right now. Nothing that is said in the
12 deposition transcripts could not be reproduced here on the
13 record. And they were -- the depositions were noticed up as
14 discovery depositions, not evidence depositions. And that was
15 the manner and the mind frame in which they were taken.

16 I would feel the likelihood of some prejudice by
17 introducing these as substantive evidence at this time because,
18 obviously, they weren't my depositions. I was primarily
19 listening to Mr. Konzen's inquiries being made for discovery
20 purposes. At the end of the depositions I clarified things that
21 I was unfamiliar with but I didn't follow-up lines of questioning

22 that might otherwise be of substantive value to the Board. I
23 would request that those issues, any issues in these depositions
24 that Mr. Konzen feels need to be made a record, be made on the

11

KEEFE REPORTING COMPANY
1-800-244-0190

1 record in this proceeding right now.

2 MR. KONZEN: May I?

3 HEARING OFFICER LANGHOFF: Mr. Konzen?

4 MR. KONZEN: I would respond that the witnesses are present
5 and they are going to be called. If there was any remote chance
6 of prejudice by all this, it could be cured by Mr. Hedinger's
7 examination of the witnesses today.

8 HEARING OFFICER LANGHOFF: Mr. Merriman?

9 MR. MERRIMAN: Thank you. I guess I don't have -- and I
10 didn't, in fact, have any objection a moment ago. But as I am
11 listening to this, I am realizing we are under a Board order
12 restricting the scope of the evidence being offered here at the
13 hearing today. These are -- this is a discovery deposition. It
14 is outside of the record. It was, as Mr. Hedinger indicated,
15 offered and tendered for the purposes of discovery, the scope of
16 discovery being far broader, obviously, than admissible hearing
17 evidence.

18 If these are taken into the record for whatever use the
19 parties wish to make of them on the issue that is before --
20 currently before the Board, the remaining issue, I think it

21 should be made clear that these are discovery depositions and
22 they were not taken under the stricter rules of evidence, that
23 is, there may be things that are relevant and material and there
24 may be things that were not relevant but were just calculated or

12

KEEFE REPORTING COMPANY
1-800-244-0190

1 attempted to lead to relevant evidence.

2 So if they go in, the parties should have the opportunity
3 to point out fully to the Board the context in which this
4 evidence was given, not at a hearing, not under the scrutiny of a
5 Hearing Officer, but in the context of a more relaxed discovery
6 deposition.

7 HEARING OFFICER LANGHOFF: Okay. Mr. Hedinger, anything
8 further?

9 MR. HEDINGER: If I can just respond to Mr. Konzen's
10 suggestion that I can question the witnesses today, well, these
11 depositions took well over an hour each, and I don't know what in
12 all of that transcript Mr. Konzen may be intending to call to the
13 Board's attention. I mean, I would have to go through and
14 recreate and go through the transcript of these depositions page
15 by page with the witness sitting here to make sure there were no
16 other follow-up questions that I had. The purpose of an
17 evidentiary hearing, such as today, is far different, from my
18 vantage, than it was for the discovery deposition.

19 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen, anything
20 further?

21 MR. KONZEN: I think we are all in the same situation as
22 Mr. Hedinger described. We all had the transcript and the same
23 opportunity to review it. That would be my response.

24 HEARING OFFICER LANGHOFF: Okay. I am going to allow the

13

KEEFE REPORTING COMPANY
1-800-244-0190

1 motion, grant the motion. We discussed this briefly during our
2 last telephone status conference, and I find that it can come in
3 under Section 101.626(d) as written testimony. The witnesses are
4 available for cross-examination here today at the hearing. I
5 would like to limit the evidence to only the relevant portions
6 today, directed to the small issue that the Board pointed out to
7 all of the parties in the last Board order.

8 MR. HEDINGER: A point of clarification. Are all three
9 transcripts --

10 HEARING OFFICER LANGHOFF: Yes, with all three, all three
11 of the deposition transcripts of the Agency personnel that I
12 stated earlier; Mr. Summers, Mr. Eisenbrandt, and Ms. Roque.

13 Okay. Based on that ruling of the admissibility of the
14 depositions, I would like now to turn to the outstanding motion
15 to allow evidence. I assume everyone has a copy of the motion to
16 allow evidence, proffer of evidence, and offer of proof. This
17 deals with the admissions of the Agency during the deposition.

18 Mr. Konzen, do you have anything?

19 MR. KONZEN: I think I have laid it all out in two pages,

20 Mr. Hearing Officer. It is our position that it is admissable.
21 When the Pollution Control Board issued its Thursday opinion of
22 April 18th, I believe it was in this matter, they didn't have
23 this issue before them, but the reason was because of the time
24 frames we have been under.

14

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER LANGHOFF: Okay. Mr. Merriman?

2 MR. MERRIMAN: Well, they didn't have the issue before them
3 in the sense that neither party made it an issue in the
4 motions -- the pending motions for summary judgment. The issue
5 was in the record. This was a matter that had been raised by the
6 applicant toward the end of the permit review period, and so it
7 was a matter that was in the record and it was before the Agency
8 at the time that they made the decision.

9 Again, I don't have any particular feelings strongly
10 opposing this on the scope. I would say, however, that if it is
11 presented as an offer of proof -- well, first off, I guess it is
12 alternative. It is a motion to allow evidence. If the evidence
13 is not allowed, then it is an offer of proof. I mean, in either
14 case, I believe the Agency would want to offer evidence of its
15 own, either responsive testimony with respect to the 1982 siting
16 proceeding, and the petitioner's exhibits that are attached
17 thereto, or as an offer of proof, we would want to make our own
18 offer of proof, because if the Board decides ultimately to look
19 at that evidence, then they need to hear both sides.

20 HEARING OFFICER LANGHOFF: Certainly. We can handle that
21 at hearing today?

22 MR. MERRIMAN: I think so, yes.

23 HEARING OFFICER LANGHOFF: Okay. Mr. Hedinger? Briefly.

24 MR. HEDINGER: Yes. I would first reiterate my objection

15

KEEFE REPORTING COMPANY
1-800-244-0190

1 to the use and introduction of deposition testimony to begin
2 with. Second, I would respond to Mr. Konzen's suggestion that
3 the time frames have forced him to take this course by pointing
4 out that the time frames we are under are the petitioner's doing,
5 not the Board's or any other parties. The Board's order of last
6 week specifically zeroed in on that and said because the
7 petitioner has asked that we expedite this, we are dispensing
8 with a lot of factual issues and we are narrowing this down to
9 benefit the petitioner. Now we are at a point where the
10 petitioner wants to have its cake and eat it too. So I would say
11 that is a self-inflicted wound.

12 I would also dispute the factual basis for the offer of
13 proof and the suggestion that this testimony is relevant. I
14 would point out that at page 78 of the attached transcript of Ms.
15 Roque, she specifically indicates that it is Chris Liebman and
16 Joyce Munie who make the decisions that are involved in this. So
17 it is not an admission against interest as is asserted.

18 HEARING OFFICER LANGHOFF: Okay. Thank you.

19 MR. HEDINGER: So I would object.

20 HEARING OFFICER LANGHOFF: Thank you. Yes, Mr. Konzen.

21 MR. KONZEN: Very briefly. Mr. Hedinger's last argument
22 goes to weight, not admissability. As far as the comment about
23 self-inflicted wounds, I respectfully submit that we really
24 couldn't take depositions in this case before April because of

16

KEEFE REPORTING COMPANY
1-800-244-0190

1 the other --

2 HEARING OFFICER LANGHOFF: Okay. That's enough. That's
3 fine.

4 MR. KONZEN: Okay.

5 HEARING OFFICER LANGHOFF: I am going to deny the motion to
6 allow evidence. I will allow this as an offer of proof. I find
7 upon a close reading of the motion and the attached depositions,
8 that this might not be an admission of the Agency. If you look
9 closely at the depositions, I believe some of the answers are, I
10 am not sure if this is part of the permit application. And
11 specifically on 80, and if those three documents were part of the
12 permit application, would it be your opinion that the 50 foot
13 interior berm area did receive local siting approval for the
14 waste placement in 1982. That answer is yes. But, for me, that
15 is not quite an admission. So I am going to deny your motion and
16 allow it as an offer of proof. And you will be allowed further
17 evidence and questioning on this today and also go to the Board
18 for review of my ruling.

19 Okay. Are there any other outstanding or prehearing
20 motions that the parties would like to present before we proceed?

21 MR. HEDINGER: I don't believe -- at the moment we don't
22 have any witnesses in here. I thought perhaps we would want to
23 make a record as to why.

24 HEARING OFFICER LANGHOFF: Okay.

17

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. HEDINGER: There has not been a motion, but I will let
2 you explain.

3 HEARING OFFICER LANGHOFF: Okay. Because of the smallness
4 of the room, I felt for judicial economy and for the --

5 MR. MERRIMAN: Comfort of those that --

6 HEARING OFFICER LANGHOFF: Yes, the comfort of everyone
7 involved -- this is a very small room -- to exclude all of the
8 witnesses on my own motion. There has been no motion to
9 sequester the witnesses, but I thought that would be prudent to
10 do.

11 Anything further, Mr. Hedinger?

12 MR. HEDINGER: No.

13 HEARING OFFICER LANGHOFF: Mr. Merriman?

14 MR. MERRIMAN: Nothing.

15 HEARING OFFICER LANGHOFF: Mr. Konzen?

16 MR. KONZEN: Nothing, Your Honor.

17 HEARING OFFICER LANGHOFF: Okay. Would the Saline County

18 Landfill like to give a brief -- excuse me.

19 Mr. Merriman?

20 MR. MERRIMAN: I am sorry. I apologize. There is one
21 thing I would like to raise. And this came up just in the
22 context of your earlier statement of the manner in which we would
23 proceed with this. Four of the witnesses that were on Saline
24 County Landfill, Inc.'s witness list are Agency witnesses, and

18

KEEFE REPORTING COMPANY
1-800-244-0190

1 they are subject to a notice to appear. And I would, one, for
2 the record, just want to make it clear that all of those
3 witnesses are, indeed, here today in response to that.

4 But, secondly, the -- Mr. Hearing Officer, you indicated
5 that the order in which the witnesses would be called would be
6 Mr. Konzen would go first and then the Agency would go second and
7 then Mr. Hedinger would go last. I would just ask that we amend
8 that order as to Agency witnesses that might be called by Mr.
9 Konzen so that I may go last after Mr. Hedinger has had an
10 adverse examination of our witnesses, as well. That is just as
11 to those witnesses.

12 HEARING OFFICER LANGHOFF: Okay. Mr. Hedinger?

13 MR. HEDINGER: I don't have any objection, although I think
14 just for simplicity we ought to stick with one pattern, no matter
15 who the witness is.

16 HEARING OFFICER LANGHOFF: Mr. Konzen?

17 MR. KONZEN: I don't care if the Agency questions last. I

18 would object to Mr. Hedinger having an adverse examination of the
19 very parties he entered his appearance to support.

20 MR. MERRIMAN: Perhaps I didn't -- he would have an
21 opportunity, however, to cross-examination the witness that you
22 call as an adverse witness, and then I would be the, quote,
23 rehabilitative questioner, I guess, for our own witnesses that
24 are adversely examined, so it seems that I ought to go last, just

19

KEEFE REPORTING COMPANY
1-800-244-0190

1 as to those witnesses.

2 HEARING OFFICER LANGHOFF: Well, that brings up another
3 issue, Mr. Merriman. Do you intend to call your Agency personnel
4 as part of your --

5 MR. MERRIMAN: Case-in-chief?

6 HEARING OFFICER LANGHOFF: -- case-in-chief,
7 case-in-rebutal of Mr. Konzen's?

8 MR. MERRIMAN: Actually, at this time I can't answer that.
9 It depends on the scope of the questioning that Mr. Konzen asks.
10 If I think that everything -- because they have the burden of
11 persuasion, the burden of going forward, and the size of the
12 record, if everything that I think the Board needs to know about
13 this matter is covered adequately during that round of
14 questioning, then probably not.

15 HEARING OFFICER LANGHOFF: Okay. I am going to deny your
16 motion, Mr. Merriman, for the case of keeping it simple.

17 MR. MERRIMAN: Fine.

18 HEARING OFFICER LANGHOFF: Keep the order the same and give
19 you plenty of latitude on redirect or recross, whatever you might
20 feel is appropriate.

21 MR. MERRIMAN: Thank you. That's fine.

22 HEARING OFFICER LANGHOFF: Okay.

23 MR. MERRIMAN: That will work.

24 HEARING OFFICER LANGHOFF: Again, would the Saline County

20

KEEFE REPORTING COMPANY
1-800-244-0190

1 Landfill like to give a brief opening statement on behalf of his
2 client?

3 MR. KONZEN: Yes. Thank you. The April 18th of 2002 order
4 of the Board defines the contested issue that the Board is
5 interested in, and I believe that was accurately read out loud by
6 the Hearing Officer a few minutes ago. The evidence will show
7 there is no negative impact on any of the nine local siting
8 criteria under Section 39.2 of the Act. We believe all disclosed
9 witnesses will so testify that there is no material negative
10 impact.

11 The second and final issue we are interested in, and I
12 realize there has already been a ruling made on this, is whether
13 the 50 foot interior berm in question was approved for waste
14 placement at a local siting in 1982. We believe the evidence
15 will show it did. We believe the evidence will show that a 30
16 acre tract was so sited, which included the 50 foot interior

17 berm. That is our opening. Thank you.

18 HEARING OFFICER LANGHOFF: Thank you, Mr. Konzen. Mr.
19 Merriman, anything at this time?

20 MR. MERRIMAN: No, not at this time.

21 HEARING OFFICER LANGHOFF: Mr. Hedinger?

22 MR. HEDINGER: We would reserve.

23 HEARING OFFICER LANGHOFF: Thank you. Would you like to
24 put on your chase-in-chief, Mr. Konzen, and call your first

21

KEEFE REPORTING COMPANY
1-800-244-0190

1 witness?

2 MR. KONZEN: Yes, please. We would call Ms. Christine
3 Roque.

4 HEARING OFFICER LANGHOFF: Thank you.

5 MR. KONZEN: May we go off the record?

6 HEARING OFFICER LANGHOFF: Yes.

7 (Discussion off the record.)

8 HEARING OFFICER LANGHOFF: Okay. We are back on the
9 record.

10 Would you swear the witness, please

11 (Whereupon the witness was sworn by the Notary

12 Public.)

13 HEARING OFFICER LANGHOFF: For the record, would you state
14 your name and spell it.

15 THE WITNESS: It is Christine Roque, C-H-R-I-S-T-I-N-E,

16 R-O-Q-U-E.

17 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen.

18 MR. KONZEN: Move to question as an adverse witness under
19 101.610(f) of the Pollution Control Board Regulations.

20 HEARING OFFICER LANGHOFF: What is the section that you
21 gave me?

22 MR. KONZEN: 35 Illinois Administrative Code --

23 HEARING OFFICER LANGHOFF: Yes, 101 --

24 MR. KONZEN: 101.610(f).

22

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER LANGHOFF: Okay. Thank you. Mr. Merriman?

2 MR. MERRIMAN: This is an employee of the Illinois EPA and
3 her interests are, based on the nature of this case, adverse. So
4 I have no objection.

5 MR. HEDINGER: No objection.

6 HEARING OFFICER LANGHOFF: Under Section 101.624, I find
7 this to be an adverse witness, and Mr. Konzen may treat her as
8 such on questioning. Mr. Konzen?

9 MR. KONZEN: Yes, sir.

10 C H R I S T I N E R O Q U E,
11 having been first duly sworn by the Notary Public, saith as
12 follows:

13 DIRECT EXAMINATION

14 BY MR. KONZEN:

15 Q. Ms. Roque, how long have you been employed at the

16 Illinois Environmental Protection Agency?

17 A. I started in July of 1992. That makes it ten years.

18 Q. What is your current position at the IEPA?

19 A. I am an Illinois Environmental Protection -- I am an
20 Environmental Protection Engineer.

21 Q. Do you have a level?

22 A. Three.

23 Q. How long have you been a level three engineer at the
24 IEPA?

23

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. If I remember, it will be five years.

2 Q. Do your duties at the IEPA include review of landfill
3 permit applications?

4 A. Yes.

5 Q. How long have you had that duty?

6 A. Since 1992.

7 Q. I am going to direct the witness' attention to pages
8 0002 and 0003 of the record, a document dated January 4th of
9 2002. It is a two page document, and ask for you to look at that
10 for a moment.

11 A. (Witness complied.) Yes.

12 Q. Can you identify that document, please?

13 A. It is a denial letter by the Illinois EPA to Saline
14 County Landfill, Inc.

15 MR. KONZEN: For the record, that is the subject of this
16 appeal.

17 Q. (By Mr. Konzen) Did you draft this January 4th of 2002
18 permit denial letter?

19 A. Yes, I did.

20 Q. Directing your attention to the IEPA log number on that,
21 what is the log number in question?

22 A. It is log number 1999-381.

23 Q. And that references a permit application for
24 developmental permit, correct?

24

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Correct.

2 Q. Were you assigned to review this permit application?

3 A. Yes.

4 Q. Now, could I have that portion of the record back,
5 please?

6 A. Yes.

7 Q. Thank you. Are you aware that this developmental permit
8 application originally referenced a 50 foot interior separation
9 berm between two areas of waste placement?

10 A. Yes.

11 Q. Was that 50 foot interior separation berm sometimes
12 called something else? Is there another term for it?

13 A. The 50 foot separation berm.

14 Q. Well, was it called a wedge, for example?

15 A. Yes, a wedge. They called it a wedge.

16 Q. We are talking about the same thing with both of those
17 terms, aren't we?

18 A. Yes.

19 Q. The 50 foot berm was purely internal and completely
20 inside the planned final landfill mound, correct?

21 A. Correct.

22 Q. And, therefore, the 50 foot interior berm would not be
23 visible, correct?

24 A. Correct.

25

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Was this interior berm the subject of some concerns by
2 the Agency in its first permit -- draft permit denial?

3 A. Yes.

4 Q. I am going to hand the witness a document identified on
5 the record as pages 0282 through 0292, dated April 3rd of 2000,
6 and ask her to take a moment and look at that.

7 A. (Witness complied.)

8 MR. KONZEN: Does Counsel want a copy?

9 MR. MERRIMAN: Yes. Thank you.

10 (Mr. Konzen passing documents to Mr. Merriman and Mr.
11 Hedinger.)

12 MR. KONZEN: I have a copy for the Hearing Officer, just a
13 courtesy copy for the Hearing Officer.

14 HEARING OFFICER LANGHOFF: Thank you.

15 Q. (By Mr. Konzen) Have you had a chance to look at that
16 document, Ms. Roque?

17 A. Yes.

18 Q. Can you identify it for the record, please?

19 A. It is a draft denial for the application log number
20 1999-381.

21 Q. Now, would you hand that to Ms. Niemeyer so that she can
22 put an exhibit number on it, please?

23 HEARING OFFICER LANGHOFF: Actually, Mr. Konzen, I would
24 ask that you mark all your exhibits.

26

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. KONZEN: Sure. Can we go off the record for just a
2 moment.

3 (Discussion off the record.)

4 HEARING OFFICER LANGHOFF: We are back on the record.

5 Q. (By Mr. Konzen) I will hand the witness what has been
6 marked as Petitioner's Exhibit Number 5. Can you tell us whether
7 or not that is the same document we have been discussing here?

8 A. Yes.

9 Q. Directing your attention to page four of this Exhibit
10 Number 5, at the bottom of the page, paragraph five, which spills
11 over on to page five, what was the IEPA's concern and reason for
12 draft denial here?

13 A. The application failed to provide estimates of settling

14 for unit one, and the separation berm pursuant to 35 IAC
15 812.313(c).

16 Q. And now directing your attention to page six of this
17 same Exhibit 5, please, paragraph six in the middle of the page,
18 what was the Agency's concern and reason here for draft denial of
19 the permit application?

20 A. Internal 50 foot separation berm between the two units
21 not sufficient for a zone of attenuation. That's for number six.
22 Number seven, the unit one, unit two are hydraulically connected
23 and should have separate monitoring zones -- monitoring zones,
24 ZOA, for each unit to be monitored.

27

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Okay. Well, you anticipated my next question, which was
2 could you finish the explanation of paragraph seven on that same
3 page of Exhibit 5?

4 A. Unless the units can be monitored separately they will
5 be considered a single unit and must be modeled as one unit. The
6 migrate model should be revised to incorporate the addition of
7 unit one parameters.

8 Q. Okay. So is it correct to state that the Agency had
9 some concern that the two separate landfill units divided by that
10 50 foot separation berm ought to be treated as one unit for
11 modeling purposes?

12 A. I don't know. I don't review the model.

13 Q. Would you agree that the Agency had some concerns based
14 on this Exhibit 5 that the two units should be monitored as one
15 unit?

16 A. Again, I don't know. I am not a groundwater reviewer.

17 Q. With the proposed 50 foot interior berm in the permit
18 application, was the Agency concerned about the proof of
19 stability of the 50 foot interior berm location?

20 A. Yes.

21 Q. That's what you read us earlier on page four, I take it?

22 A. That's right.

23 MR. KONZEN: Can you hear her?

24 THE COURT REPORTER: Yes.

28

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. KONZEN: Okay.

2 Q. (By Mr. Konzen) Would you agree with me that removing
3 the 50 foot interior berm from the design would solve any
4 questions that the Agency had about stability and groundwater
5 monitoring, as articulated in that Exhibit Number 5?

6 A. They didn't have to remove the interior berm.

7 Q. Well, yes, I understand, but that's not my question.
8 Would you agree with me that removing the berm solved the
9 Agency's questions about stability and groundwater monitoring, as
10 articulated in Petitioner's Exhibit Number 5?

11 MR. HEDINGER: I am going to object. She testified that
12 she does not have anything to do with the groundwater. So to the

13 extent that the question goes to the Agency's position with
14 respect to the groundwater, I think she has already testified
15 that she does not know.

16 HEARING OFFICER LANGHOFF: Okay. Overruled. She can
17 answer if she knows.

18 THE WITNESS: Removing the berm could also address that
19 condition, that deficiency, point number five.

20 Q. (By Mr. Konzen) Removing the berm could solve the
21 Agency's concerns about monitoring and stability at the 50 foot
22 berm area, as expressed in Petitioner's Exhibit Number 5.

23 A. Yes.

24 Q. Did removal of the 50 foot interior berm increase the

29

KEEFE REPORTING COMPANY
1-800-244-0190

1 life overall of the site?

2 A. No.

3 Q. In fact, the removal of the 50 foot berm and the related
4 changes to the site design decreased the capacity of the overall
5 expansion, did it not?

6 A. The modified design decreased the capacity.

7 Q. In fact, the permit application proposes an expansion
8 with the volumetric capacity of almost 300,000 fewer cubic yards
9 than the volume approved at local siting?

10 A. Yes.

11 Q. Since the removal of the interior berm, the permit

12 application submitted to the Agency proposes a landfill expansion
13 of smaller overall footprint, correct?

14 A. Correct.

15 Q. The permit application submitted to the Agency proposes
16 a landfill expansion of equal height to the expansion approved at
17 the 1996 local siting; would you agree?

18 A. Yes.

19 Q. Now, the -- you recall the January 4th of 2002 permit
20 denial you stated you drafted on page 0002 of the record?

21 A. Yes.

22 Q. Now, the sole reason -- what is the sole reason given in
23 that permit denial?

24 A. That --

30

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. HEDINGER: The document speaks for itself. I would
2 object.

3 HEARING OFFICER LANGHOFF: Okay. Mr. Konzen?

4 MR. KONZEN: Well, I can move on to the next question. I
5 will withdraw the question.

6 HEARING OFFICER LANGHOFF: Thank you.

7 Q. (By Mr. Konzen) We are still referencing that January
8 4th permit denial letter. You drafted that letter?

9 A. Yes, I did.

10 Q. Now, that permit denial letter contains no references to
11 environmental or safety issues, because the Agency had no

12 environmental or safety objections to removing the 50 foot berm
13 from the design, correct?

14 A. Correct.

15 Q. In fact, the Agency had no environmental or safety
16 concerns at all about approving this expansion, correct? If you
17 had, you would have put them in the January 4th permit denial
18 letter, correct?

19 A. Correct.

20 Q. Okay. Now, there was some reference earlier, I believe,
21 in one of your answers that the Saline County Landfill did not
22 have to eliminate the 50 foot interior berm. Is it correct to
23 state that it was discussed with Saline County Landfill that
24 there were two options, either widen or eliminate the 50 foot

31

KEEFE REPORTING COMPANY
1-800-244-0190

1 interior berm?

2 A. I believe so.

3 Q. Now, if the options presented are widening or
4 eliminating the 50 foot interior berm, would either approach be
5 equally safe for the environment?

6 A. Either approach they could try to meet the regulations.

7 Q. And the regulations are designed to protect the
8 environment?

9 A. Right.

10 Q. So either approach, widening or eliminating the berm,

11 should be equally safe for the environment, if done correctly?

12 A. Yes.

13 Q. Is it correct to state that the IEPA found no
14 environmental or technical flaw in the Saline County Landfill
15 application for developmental permit?

16 A. Well, based on the draft, the denial letter, we did not
17 have technical issues.

18 Q. Or environmental issues, if I understand?

19 A. Right.

20 MR. HEDINGER: I am sorry. I am confused. Are we talking
21 about the final denial or are we talking about the preliminary
22 draft denials?

23 MR. KONZEN: I am referring to the final denial. Excuse
24 me. Was that the way you understood my question?

32

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: Yes.

2 MR. KONZEN: Okay. I believe the record is clear.

3 MR. HEDINGER: Okay.

4 HEARING OFFICER LANGHOFF: Thank you, Mr. Konzen.

5 MR. KONZEN: Am I speaking before your ruling? I am sorry.

6 HEARING OFFICER LANGHOFF: No.

7 MR. KONZEN: I don't mean to do that.

8 HEARING OFFICER LANGHOFF: No, I have not heard an
9 objection. So your witness.

10 MR. KONZEN: Thank you.

11 Q. (By Mr. Konzen) The IEPA found no flaw concerning public
12 safety in the Saline County application for developmental permit,
13 correct?

14 MR. HEDINGER: I would ask for the same point of
15 clarification. Are we talking about the final?

16 MR. KONZEN: We are still talking about the final, January
17 4th of 2002 permit denial, Ms. Roque.

18 THE WITNESS: The final denial letter only has a siting
19 issue.

20 Q. (By Mr. Konzen) And that reflects that the Agency has no
21 concern about public safety in the design, as presented to the
22 Agency, correct?

23 A. Correct, nothing that cannot be addressed as a special
24 condition in a permit if we issue one.

33

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And there were no special conditions?

2 A. We have not issued a permit.

3 Q. Right. Let me ask it this way. With the 50 foot
4 interior berm removed from the design, the Agency had no concern
5 about public safety being put at risk by issuing a permit,
6 correct?

7 A. Like I said, nothing that cannot be addressed as a
8 special condition in a permit.

9 Q. I am going to hand the witness a document dated April

10 1st of 2002 and ask her if she can identify it, please?

11 HEARING OFFICER LANGHOFF: Is that part of the record, Mr.
12 Konzen?

13 MR. KONZEN: Yes, I will get the record citation.

14 HEARING OFFICER LANGHOFF: Thank you.

15 MR. KONZEN: This has been previously marked as
16 Petitioner's Exhibit Number 12. It is the responses of the
17 Agency to our requests to admit first and second sets, made a
18 part of the record through order.

19 HEARING OFFICER LANGHOFF: Okay. Thank you.

20 MR. HEDINGER: Mr. Konzen, do you have an extra copy?

21 MR. KONZEN: Yes. This is Exhibit 12 for the witness.
22 This extra copy is for Mr. Hedinger.

23 (Mr. Konzen passing document to Mr. Hedinger.)

24 MR. MERRIMAN: If I could just clarify, when you use the

34

KEEFE REPORTING COMPANY
1-800-244-0190

1 term record, it is not part of the Illinois EPA's administrative
2 record, but is part of the Board's hearing record.

3 HEARING OFFICER LANGHOFF: Okay.

4 Q. (By Mr. Konzen) Can you identify Petitioner's Exhibit
5 12, please?

6 A. It is the Illinois EPA's response to Petitioner's first
7 and second sets of requests to admit.

8 Q. Directing your attention to the second to the last page
9 of that multipage exhibit, who verified the answers as true and

10 correct?

11 A. That would be me.

12 Q. Directing your attention, please, to the responses of
13 the Agency to the second set of requests to admit, paragraph
14 number two. Could you read that?

15 MR. MERRIMAN: This is the second set.

16 MR. KONZEN: It would be the third page of the document.

17 HEARING OFFICER LANGHOFF: Thank you, Mr. Merriman.

18 THE WITNESS: Did you want me to read this?

19 Q. (By Mr. Konzen) Could you read question number two and
20 the response of the Agency which you signed into the record,
21 please?

22 A. The Agency found no environmental or safety flaw in the
23 application for developmental permit and cited no such violation
24 in its permit denial letter of January 4 of 2002. The response,

35

KEEFE REPORTING COMPANY
1-800-244-0190

1 the Illinois EPA admits to this statement of fact for the purpose
2 of this pending proceeding only and not for any other purpose nor
3 for any other proceeding pursuant to 35 Illinois Administrative
4 Code, 101.618(i).

5 Q. The Agency's prior response to this question did not
6 include any qualification based upon special conditions, correct?

7 A. Okay.

8 Q. Is that correct?

9 A. Correct.

10 Q. Okay. So would you agree with me that this proposed
11 landfill expansion without the 50 foot interior berm is
12 environmentally safe and consistent with all applicable
13 regulations of the Pollution Control Board and the Act?

14 A. Yes.

15 MR. KONZEN: Just a moment, please.

16 HEARING OFFICER LANGHOFF: Okay.

17 MR. KONZEN: I will state on the record what I mentioned
18 earlier. We will stand on our written offer of proof that the
19 Hearing Officer has already ruled on with this witness for the
20 other issue with the 1982 local siting.

21 HEARING OFFICER LANGHOFF: Okay. Thank you. Mr. Konzen,
22 any further questions?

23 MR. KONZEN: Subject to redirect, no, sir.

24 HEARING OFFICER LANGHOFF: Okay. Thank you. Mr. Merriman?

36

KEEFE REPORTING COMPANY
1-800-244-0190

1 CROSS EXAMINATION

2 BY MR. MERRIMAN:

3 Q. I just want to clarify one or two things. Ms. Roque,
4 there was a question asked about whether the removal of the 50
5 foot separation berm during the course of the application review
6 process would -- had decreased the capacity, and I believe you
7 answered that the modified design that was submitted by the
8 applicant, in fact, did decrease the overall capacity. I want to

9 clarify that.

10 Was it just the removal of the berm that decreased the
11 capacity, or were there other design changes included in that
12 modified design?

13 A. There are other modified changes included in the design.

14 Q. Okay. With respect to this issue about public safety,
15 is it a part of your review process, as a permit reviewer, to
16 review an application and make findings with respect to public
17 safety issues?

18 A. Well, basically if it meets the regulations, then it
19 meets -- it will be protective of the environment and human
20 health.

21 Q. So you use the Board's regulations that apply to the
22 facility as your standard, would --

23 A. Yes.

24 Q. -- that be fair to say, when you do your review?

37

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. Okay. Public safety is a criteria used by local
3 governments in the siting review process; is that your
4 understanding?

5 A. Yes.

6 Q. Okay. And, in fact, you don't look at a permit
7 application that is pending before you to determine whether or

8 not the public safety, as described in the siting criteria of
9 Section 39.2 of the Act, have been met?

10 MR. KONZEN: Objection. Leading his own witness.

11 HEARING OFFICER LANGHOFF: Overruled.

12 Q. (By Mr. Merriman) Is that a fair statement?

13 A. Yes. I do not do -- I do not review siting criteria.

14 MR. MERRIMAN: Okay. That's all I have.

15 HEARING OFFICER LANGHOFF: Mr. Hedinger?

16 CROSS EXAMINATION

17 BY MR. HEDINGER:

18 Q. Ms. Roque, going back to the question Mr. Merriman just
19 asked you about the removal of the berm and the increase in the
20 size of -- I am sorry -- the decrease of the size of the
21 landfill, what other design changes were made, to your
22 recollection, that caused a decrease?

23 A. They raised the bottom elevation. They also modified I
24 think it was the western slope that makes it less steep.

38

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Okay. Were those modifications required by the removal
2 of the berm, to your recollection, or if you know?

3 A. I don't know if that is required.

4 Q. Okay. There was some questioning concerning I guess it
5 has been marked as Petitioner's Exhibit --

6 HEARING OFFICER LANGHOFF: 5.

7 MR. HEDINGER: -- 5. It is in the record starting at page

8 0282.

9 Q. (By Mr. Hedinger) And particularly with respect to the
10 questions on page six of that document, and it would be in the
11 record at 0287, and you were asked questions about paragraphs six
12 and seven. Do you recall that?

13 A. Page --

14 Q. Page six of that document.

15 A. Page six. Okay.

16 Q. Do you recall those questions?

17 A. Yes.

18 Q. Okay. As I recall, your answer was that you had no
19 knowledge, yourself, of the issues pertaining to those two
20 paragraphs, correct?

21 A. Correct.

22 Q. Who is responsible for those two paragraphs?

23 A. This would be the groundwater reviewer.

24 Q. Who is that?

39

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Either Mike Summers or Paul Eisenbrandt.

2 Q. Okay. In fact, at the bottom of page -- I am sorry --
3 at the bottom of paragraph six on that page there is some
4 handwritten words there?

5 A. Yes.

6 Q. Can you tell us whose handwriting that is?

7 A. That's my handwriting.

8 Q. As you sit here today, can you recall what the purpose
9 of those notations are?

10 A. To look at other siting, other facility with regards to
11 the 100 foot separation -- or the 100 foot ZOA requirement.

12 Q. ZOA is zone of --

13 A. The zone of attenuation.

14 Q. You also responded to one of Mr. Konzen's questions by
15 stating, and I paraphrase, but something along the lines of they
16 meaning the landfill did not have to remove the berm in order to
17 meet the regulatory requirements. Do you recall that?

18 A. Yes.

19 Q. Although I think he covered it briefly, I would like to
20 again cover, what were the options, as best as you recall right
21 now?

22 A. The original application presented to us was to separate
23 unit one from unit two with a 50 foot separation berm. And since
24 the 50 foot separation berm was not -- well, we have the denial.

40

KEEFE REPORTING COMPANY
1-800-244-0190

1 It does not meet the regulation. They can either have it as one
2 unit or widen the berm to meet the regulations. But at the time
3 we didn't know that there was the issue on siting. If we knew at
4 the time that the 50 foot separation berm was in the siting
5 application, I think that option would have been followed by
6 proof from the siting authority that they can do without the

7 berm.

8 Q. Okay. Is it your understanding that the wider berm,
9 widening the berm would have been consistent both with the
10 regulations and the siting approval?

11 A. Yes.

12 MR. HEDINGER: I have no further questions.

13 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen, any
14 redirect?

15 MR. KONZEN: No, sir.

16 HEARING OFFICER LANGHOFF: Okay. Thank you, Ms. Roque.

17 THE WITNESS: Thank you.

18 (The witness left the stand.)

19 HEARING OFFICER LANGHOFF: Mr. Konzen, call your next
20 witness, please.

21 MR. KONZEN: We call Paul Eisenbrandt.

22 HEARING OFFICER LANGHOFF: Thank you. Let's go off the
23 record a moment.

24 (Discussion off the record.)

41

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER LANGHOFF: Okay. We are back on the
2 record.

3 Mr. Konzen?

4 MR. KONZEN: Yes.

5 HEARING OFFICER LANGHOFF: I am sorry. Would you swear the

6 witness, please.

7 (Whereupon the witness was sworn by the Notary Public.)

8 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen?

9 P A U L E I S E N B R A N D T,

10 having been first duly sworn by the Notary Public, and saith as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. KONZEN:

14 Q. Mr. Eisenbrandt, can you state your employment, please?

15 A. I work for the Illinois EPA.

16 Q. And what are your duties at the IEPA?

17 A. I review hydrogeologic and geologic portions of
18 applications for landfills.

19 Q. Okay. Did you review any portion of the Saline County
20 Landfill permit application, log number 1999-381?

21 A. Yes, I did.

22 Q. What portions of that developmental permit application
23 did you review?

24 A. The hydrogeologic and geologic portions, excluding the

42

KEEFE REPORTING COMPANY
1-800-244-0190

1 GIA or the groundwater model and all engineering aspects.

2 Q. Is groundwater monitoring -- oh, did you finish your
3 answer?

4 A. Yes.

5 Q. Okay. Is groundwater monitoring and review of

6 monitoring systems part of your expertise at the IEPA?

7 A. Yes.

8 Q. Do you have any formal education in groundwater or
9 geology?

10 A. I have a degree out of Western Illinois University, a
11 bachelor's degree in geology.

12 Q. Okay. Now, directing your attention specifically to the
13 Saline County Landfill permit application that we referenced
14 earlier, do you recall that originally the application discussed
15 the possibility of two separate landfill units separated by a 50
16 foot interior berm; is that your recollection?

17 A. Yes, I believe so.

18 Q. From a regulatory standpoint, did it make any difference
19 to monitor units one and two as a single unit or as two separate
20 units?

21 A. I do not think so.

22 Q. It made no difference from a regulatory standpoint?

23 A. I don't believe so.

24 Q. You don't believe it made any difference?

43

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. No, I don't think it made any difference.

2 Q. So from the Agency's point of view, that aspect made no
3 difference whether the 50 foot interior berm is in the design or
4 removed from the design?

5 A. I believe that it could be removed, yes.

6 Q. It would make no difference to you as a reviewer on
7 behalf of the Agency?

8 A. As long as it has an adequate monitoring system around
9 the perimeter of the landfill, it made no difference to me.

10 Q. The permit application did provide an adequate
11 monitoring system proposal, didn't it?

12 A. Ultimately, it did.

13 Q. Within your area of expertise, was there any drawback or
14 disadvantage to removing that 50 foot interior berm?

15 A. Not to the best of my knowledge.

16 Q. Is it, in fact, simpler and easier to monitor for
17 exceedances in the groundwater without the 50 foot interior berm?

18 A. It made the groundwater monitoring program simpler,
19 sure, by having less wells.

20 Q. Okay.

21 A. Yes.

22 Q. So, yes, it was simpler and easier?

23 A. Yes.

24 Q. Can you tell me your reaction to the removal of the 50

44

KEEFE REPORTING COMPANY
1-800-244-0190

1 foot interior berm from the Saline County Landfill permit
2 application?

3 A. Can you restate that question? What type of reaction
4 are you looking for?

5 Q. Did you approve or disapprove?

6 A. I approved the application without the 50 foot interior
7 berm.

8 Q. Okay. Would the removal of the interior berm and the
9 corresponding replacement and removal of wells from that area,
10 did that in any way make the site more difficult to monitor?

11 A. No.

12 Q. In fact, it probably simplified the monitoring program?

13 A. Most likely, yes, it would have simplified the
14 monitoring program.

15 Q. Okay. That would be consistent with what I believe you
16 testified to earlier, that there was no drawback or disadvantage
17 to --

18 A. Not to the best of my knowledge.

19 MR. KONZEN: Okay. Subject to redirect, no further
20 questions of this witness.

21 HEARING OFFICER LANGHOFF: All right. Thank you, Mr.
22 Konzen.

23 Mr. Merriman?

24 MR. MERRIMAN: Thank you.

45

KEEFE REPORTING COMPANY
1-800-244-0190

1 CROSS EXAMINATION

2 BY MR. MERRIMAN:

3 Q. Mr. Eisenbrandt, I believe you indicated that you

4 reviewed this application for geology and groundwater and
5 hydrogeology issues, monitoring, etcetera, excluding the GIA and
6 the groundwater model; is that right?

7 A. That's correct.

8 Q. The groundwater modeling and GIA, were those aspects
9 present in this application?

10 A. There are portions of this application dealing with the
11 groundwater model and the groundwater impact assessment.

12 Q. But you didn't review them?

13 A. No, I did not.

14 Q. Do you know who did?

15 A. Michael Summers.

16 Q. So when you say, for example, you were satisfied with
17 the application, or you approved the application without the
18 interior berm, were you speaking about the entire application
19 including the GIA and the modeling and the engineering aspects or
20 were you talking about the groundwater portion and the
21 groundwater monitoring portion that was the subject of your
22 review?

23 A. I was not speaking of the groundwater impact assessment,
24 the groundwater model, or any of the engineering aspects of the

46

KEEFE REPORTING COMPANY
1-800-244-0190

1 application. I was specifically referring to the portions that I
2 reviewed.

3 Q. Okay. The reason that you found -- in answer to the

4 question, Mr. Konzen's question, that the monitoring program was
5 simpler and easier was that monitoring as one unit as opposed to
6 monitoring as two separate units would include fewer wells; is
7 that what you are saying?

8 A. That is correct, fewer wells.

9 Q. Do you recall, as you sit here now, what the groundwater
10 flow direction was or how it moved with respect to the proposed
11 facility?

12 A. The groundwater moved, I believe, to the north
13 underneath the existing facility, which would have gone
14 underneath this questionable 50 foot berm.

15 Q. Okay.

16 A. And once entering the expansion area, would have
17 diverted, I believe, to the northwest and west.

18 Q. Okay.

19 (Mr. Merriman and Ms. Munie confer briefly.)

20 MR. MERRIMAN: That's all I have.

21 HEARING OFFICER LANGHOFF: All right. Thank you, Mr.
22 Merriman.

23 Mr. Hedinger?

24 MR. HEDINGER: Yes.

47

KEEFE REPORTING COMPANY
1-800-244-0190

1 CROSS EXAMINATION

2 BY MR. HEDINGER:

3 Q. Mr. Eisenbrandt, just to make sure I am following this,
4 from your point of view with respect to your review of this
5 application, did it -- could the application have been approved
6 with the berm in place?

7 A. The existing size of the berm, I don't believe so.
8 There was a question of it -- it needed to be 100 feet thick
9 instead of 50 feet thick.

10 Q. Does that bear into the portions of the application that
11 you reviewed?

12 A. I am not quite sure if that would or not.

13 Q. It all works together, right?

14 A. Yes, between Michael Summers, Christine, and I.

15 Q. So Michael Summers having determined that the 50 foot
16 berm, as presented, would not work, that -- whatever change was
17 made after that, would affect what you were going to review?

18 A. I believe so.

19 MR. KONZEN: Objection. Assumes facts not in evidence.

20 HEARING OFFICER LANGHOFF: Okay. Overruled, and it has
21 been answered.

22 Did you get the answer okay?

23 THE COURT REPORTER: Yes, I did. Thank you.

24 MR. HEDINGER: This is Petitioner's Exhibit 5, right?

48

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. KONZEN: Yes.

2 MR. HEDINGER: Could you hand the witness Petitioner's

3 Exhibit 5.

4 Q. (By MR. Hedinger) Mr. Eisenbrandt, have you seen that
5 document before?

6 A. Portions of this document, yes.

7 Q. Can you tell me which portions you have seen?

8 A. Section 9, titled groundwater monitoring.

9 Q. That begins at page eight of that document, correct?

10 A. Page eight, yes.

11 Q. Did you have anything to do with drafting section Roman
12 numeral eight of the document that begins on page five?

13 A. No.

14 Q. Who was responsible for that portion, if you know?

15 A. Section eight, titled groundwater impact assessment. I
16 believe that these points were -- came from Michael Summers.

17 Q. Okay. And can you just explain, for the record, when
18 you are talking about reviewing the groundwater monitoring
19 program, what is the purpose for the groundwater monitoring
20 program of a permitted landfill?

21 A. To detect a potential contaminant release or leachate
22 release --

23 Q. Okay.

24 A. -- to be protective of the environment.

49

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. So typically you would -- the groundwater monitoring

2 system, if I understand what your answer was, is intended to
3 identify any release of contaminants early, correct?

4 A. That is correct.

5 Q. And this expansion was a part of -- in part, at least --
6 well, strike that. Let me start over again.

7 This application that you reviewed was for a vertical and
8 lateral expansion of an existing old landfill, correct?

9 A. That is correct.

10 Q. The separation berm, as far as you understand it, was
11 intended to separate the old landfill from the new landfill,
12 correct?

13 A. To the best of my knowledge, sure.

14 Q. Would there have been a legitimate purpose of placing
15 groundwater monitoring wells between a properly designed strip or
16 berm between the old landfill and the new landfill?

17 A. Can you restate the question, please?

18 Q. Would there have been a legitimate environmental benefit
19 to placing monitoring wells between the old landfill and the new
20 landfill, assuming that the berm between the old landfill and new
21 landfill was properly designed to meet other criteria?

22 MR. KONZEN: I object. As he is phrasing the question, it
23 calls for this witness to make speculations.

24 HEARING OFFICER LANGHOFF: Okay. Mr. Hedinger, any

50

KEEFE REPORTING COMPANY
1-800-244-0190

1 argument?

2 MR. HEDINGER: I don't think it is speculative. The
3 question is would there be an environmental benefit.

4 HEARING OFFICER LANGHOFF: Mr. Merriman?

5 MR. MERRIMAN: No comment.

6 HEARING OFFICER LANGHOFF: I am going to sustain the
7 objection.

8 MR. HEDINGER: Let me back up then.

9 Q. (By Mr. Hedinger) To your knowledge, were there options
10 available to address the concerns of Mr. Summers aside from
11 removing the berm altogether?

12 MR. KONZEN: Objection. I believe this witness has already
13 testified that Mr. Summers is not his area of expertise. This is
14 what the --

15 MR. HEDINGER: His knowledge.

16 HEARING OFFICER LANGHOFF: I am going to overrule your
17 objection.

18 If you know or have knowledge, you can answer the question.

19 THE WITNESS: The berm could have been removed or could
20 have been designed to be thicker.

21 Q. (By Mr. Hedinger) Wider?

22 A. Wider.

23 Q. Okay. Now, let's -- assuming that the berm had been
24 designed to be wider, do you have any belief as to whether that

1 could have met the criteria that you are concerned with, the
2 groundwater monitoring?

3 A. It would have met the criteria.

4 Q. Okay. If that had happened, if the berm had been
5 widened and the groundwater monitoring program had met your
6 criterion, and I would also like you to assume that it included
7 groundwater monitoring wells within the berm itself, would there
8 have been any environmental benefit to that?

9 MR. KONZEN: Two objections. First, I think this is an
10 improper hypothetical. And, second, again, I think it still
11 calls for speculation.

12 HEARING OFFICER LANGHOFF: Overruled. You can answer if
13 you know.

14 THE WITNESS: The monitoring wells within the berm would
15 have been solely monitoring the existing facility, not the
16 expansion facility. And, therefore, could have detected a
17 potential problem within the existing facility at an earlier
18 time.

19 Q. (By Mr. Hedinger) Would that have been a potential
20 benefit to the environment?

21 A. It depends if the site is considered one landfill or two
22 separate units. If it is two separate units, being separated
23 with that berm, or one unit, as long as the potential contaminant
24 does not leave the waste boundary, I don't believe that it would

1 make a difference, if it was still within the footprint of the
2 landfill.

3 Q. Okay. So if the facility was considered two separate
4 units your answer would be, yes, there would be a benefit; is
5 that my understanding?

6 A. If the facility was two separate units, yes, there would
7 be a benefit because it would catch an early detection from the
8 existing facility.

9 MR. HEDINGER: I have no further questions.

10 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen,
11 redirect?

12 MR. KONZEN: Yes, just one item.

13 REDIRECT EXAMINATION

14 BY MR. KONZEN:

15 Q. The single unit design that evolved in this permit
16 application was acceptable to you as protective of the
17 environment and public safety; is that correct?

18 A. That is correct.

19 Q. Is that what you were referring to a couple of questions
20 ago when Mr. Hedinger was asking you and you responded about the
21 single versus two unit design?

22 A. Can you restate the question?

23 Q. Well, you mentioned in response to one of Mr. Hedinger's
24 questions that it depends upon whether it is a single or a two

1 unit design. Is that what you were referring to, the removal of
2 the interior berm makes it a single unit?

3 A. That is correct.

4 Q. If I understood your response to his questions correctly
5 as long as you have properly positioned wells with the single
6 unit design the environment is equally well protected?

7 A. The environment would be -- correct, it would be
8 protected. That would be correct.

9 Q. So it doesn't sound to me like there is a major benefit
10 to having the two unit design with monitoring wells in between if
11 you have the simpler design of one unit with the properly
12 positioned wells that you have approved?

13 MR. HEDINGER: I would object. Compound and argumentative.

14 HEARING OFFICER LANGHOFF: Mr. Konzen?

15 MR. KONZEN: I am merely following up on the door that Mr.
16 Hedinger has opened.

17 HEARING OFFICER LANGHOFF: Okay. I am going to sustain the
18 objection. It is a compound question. You can ask another
19 question.

20 Q. (By Mr. Konzen) You agreed, did you not, with giving the
21 applicant in this case two options, either widen the existing
22 berm or eliminate it entirely. That was acceptable to you in
23 your area of expertise, correct?

24 A. Either avenue, either possibility was approvable.

1 Q. And if one of those two options were to have a negative
2 impact on the environment or the public safety you would not have
3 agreed with that second option, whatever option that was,
4 correct?

5 A. After evaluation, that would be correct.

6 Q. Okay. So would you agree with me, then, that there was
7 no negative impact on the environment or the public safety by
8 going to the single unit design?

9 A. I do not believe there was a negative impact to the
10 environment by going to a single unit design.

11 MR. KONZEN: Thank you. No further redirect.

12 HEARING OFFICER LANGHOFF: Mr. Merriman, any recross?

13 MR. MERRIMAN: No.

14 HEARING OFFICER LANGHOFF: Thank you. Mr. Hedinger?

15 MR. HEDINGER: Nothing.

16 HEARING OFFICER LANGHOFF: Thank you, Mr. Eisenbrandt.

17 Have a good day.

18 THE WITNESS: Thank you.

19 (The witness left the stand.)

20 HEARING OFFICER LANGHOFF: Is everybody okay? All right.

21 Mr. Konzen, do you want to call your next witness, please?

22 MR. KONZEN: We call Ms. Munie.

23 HEARING OFFICER LANGHOFF: Would you swear the witness,
24 please.

1 (Whereupon the witness was sworn by the Notary Public.)

2 HEARING OFFICER LANGHOFF: Would you spell your name for
3 the record, please.

4 THE WITNESS: It is Joyce, J-O-Y-C-E, Munie, M-U-N-I-E.

5 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen?

6 J O Y C E M U N I E,

7 having been first duly sworn by the Notary Public, saith as
8 follows:

9 DIRECT EXAMINATION

10 BY MR. KONZEN:

11 Q. Could you state your occupation for the record, Ms.
12 Munie?

13 A. I manage the Permit Section in the Bureau of Land at the
14 Illinois Environmental Protection Agency.

15 Q. And how long have you been employed at the Agency?

16 A. Since 1994, I believe. I am sorry. 1984.

17 Q. How long have you held your current position at the
18 Agency?

19 A. A little over three year.

20 Q. Do your duties at the IEPA include deciding whether to
21 issue or deny landfill permit applications?

22 A. Yes.

23 Q. Does Ms. Christine Roque report to you at the Agency?

24 A. She reports directly to Chris Liebman, who is one of my

1 unit managers.

2 Q. So you supervise Ms. Roque's boss?

3 A. Yes.

4 Q. Directing your attention to the record on appeal, pages
5 0002 and 0003, I am going to ask the witness to look at that
6 two-page document and ask her if she can identify it?

7 A. Yes, this is the denial letter for application log
8 number 1999-381.

9 Q. Whose signature is on that permit denial letter?

10 A. Mine.

11 Q. Could I have that back, please?

12 A. Yes.

13 Q. Thank you. Now, directing your attention throughout
14 this discussion to IEPA log number 1999-381, that developmental
15 permit application, did you assign Christine Roque to review this
16 permit application?

17 A. No, Chris Liebman would have.

18 Q. You are aware that the Saline County Landfill permit
19 application originally referred to a 50 foot interior separation
20 berm between the two areas of waste placement?

21 A. Yes.

22 Q. Okay. Now, your job requires you to be familiar with
23 the land pollution control and permitting provisions of the
24 Illinois Environmental Protection Act?

1 A. Yes.

2 Q. Does the Act require the Agency to explicitly state its
3 reasons for denial of a permit application?

4 A. Yes.

5 Q. In fact, you are required to cite the specific portions
6 of the Act that you think might be violated if the permit were
7 issued?

8 A. Yes.

9 Q. And I take it when you sign a permit denial do you list
10 all portions of the Act and all regulations that might be
11 violated if the permit were granted?

12 A. Yes.

13 Q. And you did that here?

14 A. Yes.

15 Q. Okay. Perhaps I took this away from you too quickly. I
16 am sorry. I am handing the witness back the permit denial letter
17 of January 4th of 2002, for the record.

18 Does the January 4th of 2002 permit denial letter you
19 signed reference, as a reason for the denial, the possibility of
20 any violation of the Act other than this issue of local siting?

21 A. No.

22 Q. It didn't list, for example, Section 21 of the Act
23 because you were satisfied the proposed expansion would not allow
24 for a release?

1 A. Section 21 of the Act is really -- has to do with
2 operating, how the facility is operated.

3 Q. I will withdraw that question. You are right. You
4 signed the January 4th permit denial letter because the IEPA
5 found no technical flaws in the permit application, correct?

6 A. No, the technical flaw is a problem with siting.

7 Q. But other than that?

8 A. There were no other denial points.

9 Q. That is true even after the removal of the 50 foot
10 interior berm from the site design?

11 A. Excuse me?

12 Q. There is no other technical concern on behalf of the
13 Agency even after removal of the 50 foot interior berm?

14 A. The application in front of us removed the 50 foot
15 interior berm. Is that -- okay.

16 Q. You had no other technical -- let me ask it this way.
17 Did you have any other concerns about removal of that berm other
18 than how it relates to local siting?

19 A. No.

20 Q. Okay. You were present, I take it, when Ms. Roque
21 earlier testified to some of the other modifications in the
22 permit application that evolved at the IEPA, the increasing of
23 the western slope, the lifting of the elevation of the liner.
24 You were present for that?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. Okay. Is it correct to state that the Agency found no
3 technical flaw or any kind of flaw with those modifications?

4 A. That's correct.

5 Q. In fact, the sole concern of the Agency boils down to
6 removal of that 50 foot interior berm as far as it relates to
7 local siting, correct?

8 A. Yes.

9 Q. Now, part of your job is to issue a system of permits to
10 protect the environment and prevent pollution, correct?

11 A. Yes.

12 Q. So if any of these design modifications to the
13 developmental permit application had posed a negative impact on
14 the environment, you would have so referenced that in your permit
15 denial letter and cited the reg, correct?

16 A. Correct.

17 Q. Similarly, if there was a reasonable likelihood that
18 removing that 50 foot interior berm would have had a negative
19 impact on the public's drinking water or safety, you would have
20 so referenced the applicable regulation in the permit denial,
21 correct?

22 A. When you use the term "safety," I am not sure how you
23 are using that term.

24 Q. Okay. We will approach it this way. You are familiar

KEEFE REPORTING COMPANY
1-800-244-0190

1 with 35 Illinois Administrative Code 811.304, requirements for
2 foundation and mass stability analysis?

3 A. Yes.

4 Q. Now, the permit denial letter does not express any
5 concerns about foundation and stability analysis, correct?

6 A. The January 4th denial, no.

7 Q. I am not talking about the draft. That is a good point.
8 I am not referencing -- I am going to ask you a series of
9 questions about this. I am not referencing the draft analysis.
10 I am talking about the ultimate denial on the final evolution of
11 the modification of this application.

12 A. Okay.

13 Q. Do you understand?

14 A. Yes.

15 Q. Okay. So the final January 4th of 2002 permit denial
16 expresses no concerns about foundation or stability, correct?

17 A. Correct.

18 Q. That's because it is in compliance with 811.304?

19 A. Yes.

20 Q. You are familiar with that 811.305 has certain
21 foundation and construction requirements?

22 A. Yes.

23 Q. Okay. You had no concerns that this application, as
24 modified, would violate those regs?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Correct.

2 Q. You are familiar with 811.306, the liner systems
3 requirements?

4 A. Yes.

5 Q. The same line of questioning here. You didn't have any
6 concerns about this application violating any liner requirements?

7 A. Correct.

8 Q. You are familiar with 811.307 through 309 referencing
9 leachate, drainage, collection, and treatment systems?

10 A. Yes.

11 Q. I take it you had no concerns about violating any of
12 those regs either?

13 A. Correct.

14 Q. You are familiar with 811.310 through 312, the landfill
15 gas, monitoring, management, and disposal system requirements?

16 A. Yes.

17 Q. And the same line of questioning, the -- you had no
18 concerns about this permit application violating any of those
19 regs?

20 A. Correct.

21 Q. You are familiar with 811.313 through 314, the
22 intermediate and final cover requirements?

23 A. Yes.

24 Q. You had no concerns about this landfill application

KEEFE REPORTING COMPANY
1-800-244-0190

1 violating any of those regulations?

2 A. Correct.

3 Q. Okay. We are almost through with them. You are
4 familiar with 811.315, the hydrogeological site investigation
5 requirements?

6 A. Yes.

7 Q. Similarly, you had no concerns that this permit
8 application would violate any of those regulations regarding
9 protection of the environment?

10 A. Correct.

11 Q. You didn't reference 811.317 either. You are familiar
12 that that is the GIA requirement?

13 A. Correct.

14 Q. And GIA means groundwater impact assessment?

15 A. Yes.

16 Q. That's part of your job, as well, at the Agency, isn't
17 it, to make --

18 A. Yes.

19 Q. -- sure that the applicants comply with the groundwater
20 impact assessment requirements?

21 A. Yes.

22 Q. The application for developmental permit, as modified,
23 satisfied the groundwater impact assessment requirements?

24 A. Correct.

63

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And does Mr. Summers report to Mr. Liebman?

2 A. No, he reports to Gwyneth Thompson.

3 Q. And Ms. Thompson reports to you?

4 A. Yes.

5 Q. So similar to Ms. Roque, you are the supervisor of Mr.
6 Summers' boss?

7 A. Yes.

8 Q. You were ultimately satisfied, I believe you just
9 testified, that the developmental permit application passed the
10 groundwater impact assessment?

11 A. Yes.

12 Q. 811.318 through 319, you are familiar with those
13 concerning groundwater monitoring systems and programs?

14 A. Yes.

15 Q. And the developmental permit application satisfied those
16 requirements, too, didn't it?

17 A. Yes.

18 Q. The last reg. Section 811.322, you are familiar with
19 those regs concerning final slope and stabilization requirements?

20 A. Yes.

21 Q. Whose job was it to review that?

22 A. Christine.

23 Q. Christine Roque?

24 A. Roque, yes.

64

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. You were satisfied that the developmental permit
2 application complied with the regulations about slope and
3 stability issues?

4 A. Correct.

5 Q. So just to summarize, if you had any concerns that
6 issuance of a permit might violate any of these regulations or
7 injured the environment, you would have so stated in the January
8 4th permit denial?

9 A. Yes.

10 MR. KONZEN: Okay. Subject to redirect, no further
11 questions.

12 HEARING OFFICER LANGHOFF: Thank you, Mr. Konzen. Mr.
13 Merriman?

14 MR. MERRIMAN: Thank you.

15 CROSS EXAMINATION

16 BY MR. MERRIMAN:

17 Q. The denial letter referred to at beginning of page two
18 of the record references a local siting issue. And that's the
19 only -- Mr. Konzen made it really abundantly clear that that is
20 the only basis that the Agency cited for the denial of this
21 permit?

22 A. Yes.

23 Q. In the process of reviewing this permit and I assume
24 that in your capacity as Permit Section Manager that you did not

65

KEEFE REPORTING COMPANY
1-800-244-0190

1 review the entire -- each and every page of the entire permit
2 application. Would that be fair to state?

3 A. Yes.

4 Q. But you are, in fact, familiar with the process and the
5 stages that the permit reviewer goes through, I assume?

6 A. Yes.

7 Q. When this particular application, log number 1999-381,
8 was received by the Agency, was there anything required to be
9 provided with respect to the local siting as a part of that
10 application?

11 A. We require that they include proof of local siting
12 approval.

13 Q. And that's consistent with our obligation under Section
14 39(c) of the Environmental Protection Act?

15 A. Yes, 39(c) requires that prior to issuing a
16 developmental permit for a new pollution control facility that
17 the applicant provide proof that there is local siting approval.

18 Q. And what form does that proof take or did it take in
19 this context?

20 A. We require a form filled out by the local siting
21 approval called the LPCPA8 form.

22 Q. In fact, an LPCPA8 form was submitted with this

23 application; is that right?

24 A. Yes.

66

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Bear with me just for a moment while I am flipping
2 through these. Just for the record, I am going to show you pages
3 802 through 819 of the record. I am not offering them as an
4 exhibit. They are already in the record for the Board. I
5 specifically call your attention to page 805 of the
6 administrative record.

7 A. Yes.

8 Q. Is this the PA8 form that you were referring to?

9 A. Yes.

10 Q. This comes -- is tendered to the Agency by the applicant
11 as a part of the application process?

12 A. Generally it is submitted with the application, but it
13 is filled out by the local siting approval.

14 Q. Okay. And do they include any other documents along
15 with this form relating to siting?

16 A. They are required to submit the legal description of the
17 facility approved and then they may include conditions of siting.

18 Q. In this case did they include the local resolution that
19 the County Board passed in Saline County approving the siting
20 application of Saline County Landfill, Inc.?

21 MR. KONZEN: I am going to object. I don't see how this

22 relates to the issue that the Hearing Officer articulated in the
23 beginning of the hearing. Materiality.

24 HEARING OFFICER LANGHOFF: Relevance, Mr. Merriman?

67

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. MERRIMAN: Well, I think it is going to -- we have had
2 a lot of questions about the siting application and I am just
3 laying a little bit of background in the record as to how we got
4 to the single issue of siting and how that was not raised in
5 Petitioner's Exhibit Number 5, in the first draft denial, but was
6 subsequently raised. And then with respect to the issues of the
7 siting criteria that the Board is concerned with, the nine points
8 that are found in Section 39.2 of the Act, I wanted, as the
9 Permit Section Manager, Ms. Munie to briefly touch on the
10 relationship of the Agency's review process and those criteria.

11 HEARING OFFICER LANGHOFF: Thank you. Mr. Hedinger?

12 MR. HEDINGER: No comment.

13 HEARING OFFICER LANGHOFF: Mr. Konzen?

14 MR. KONZEN: I profess that I still don't understand how
15 this is material to whether there is a reasonable likelihood of a
16 negative impact on the nine criteria.

17 HEARING OFFICER LANGHOFF: Thank you. I am going to
18 overrule your objection.

19 Mr. Merriman.

20 MR. MERRIMAN: All right. I will move it along quickly,
21 though.

22 HEARING OFFICER LANGHOFF: Thank you.

23 Q. (By Mr. Merriman) You received a copy of the resolution
24 from the COUNTY?

68

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. But you did not receive at that point the application
3 that was made before the County Board?

4 A. No. When we first received the application, no.

5 Q. Then you heard testimony earlier about Petitioner's
6 draft -- excuse me -- Exhibit Number 5, which was the first draft
7 denial, which appears beginning at page 282 of the record?

8 A. Yes.

9 Q. In fact, there is only one reference to local siting in
10 that document, and that's section one, paragraph one, that asks
11 for information with respect to an elevation; is that right?

12 A. Yes.

13 Q. That was because there was something that was not clear
14 or clearly set out in the application?

15 A. Yes.

16 Q. But at this point in time the design had the berm in it?

17 A. Yes.

18 Q. Subsequent to this draft discussion there were meetings
19 and alternative modifications to the design submitted to the
20 Agency; is that right?

21 A. Yes.

22 Q. And at some point during that process then the siting
23 question was raised?

24 A. Yes.

69

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And with respect to that siting question, the applicant
2 submitted the application that had been originally submitted to
3 the Saline County Board?

4 A. Yes.

5 Q. And that was reviewed by the Agency?

6 A. Yes.

7 Q. And in addition to the application also was submitted as
8 a part of the application process the testimony of the witnesses
9 at the hearing held by Saline County and a transcript, rather, of
10 that --

11 MR. KONZEN: I am going to object.

12 Q. (By Mr. Merriman) -- hearing?

13 MR. KONZEN: I am sorry. Did you finish your question?

14 MR. MERRIMAN: Yes, I guess, to this point.

15 MR. KONZEN: The same objection as before. I don't see
16 what this has to do with the reasonable likelihood of negative
17 impact on the nine criteria.

18 HEARING OFFICER LANGHOFF: Thank you. Mr. Merriman?

19 MR. MERRIMAN: Well, first off, these issues, these nine
20 criteria issues were addressed specifically before the County

21 Board. There is evidence, testimony offered on behalf of the
22 Saline County Landfill, Inc., to the Saline County Board on those
23 issues as the landfill was originally designed with the berm in
24 place and discussion about the berm in the original hearing

70

KEEFE REPORTING COMPANY
1-800-244-0190

1 before --

2 MR. KONZEN: Excuse me. I may have misunderstood. Are you
3 asking her about the 1996 local siting transcript?

4 MR. MERRIMAN: Yes, the transcript, the 1996 local siting
5 was, in fact, submitted -- asking her if it was, in fact,
6 submitted to the Agency and reviewed as a part of the review
7 process.

8 MR. KONZEN: All right. I will withdraw the objection. I
9 thought he was talking about a more recent transcript.

10 HEARING OFFICER LANGHOFF: Okay. Thank you.

11 Can you answer the question?

12 THE WITNESS: The answer is yes.

13 HEARING OFFICER LANGHOFF: Thank you.

14 Q. (By Mr. Merriman) In the process of reviewing -- first
15 off, let me ask you, you are familiar generally with Section 39.2
16 of the Act?

17 A. Yes.

18 Q. And that provision sets forth a number of criteria that
19 are required to be met by the applicant in order to receive local

20 siting approval by the appropriate local government; is that
21 right?

22 A. Yes.

23 Q. They are listed specifically in Section 39.2. Is a part
24 of the Agency's process of reviewing a permit application that

71

KEEFE REPORTING COMPANY
1-800-244-0190

1 includes proof of local siting or a question of proof of local
2 siting, is it part of the Agency's process to look at each of
3 those Section 39.2 criteria and make a determination independent
4 of the local government?

5 A. No, that is the Board's purview.

6 Q. When you say that's the Board purview, what do you mean
7 by that?

8 A. If there is any question as to whether or not those
9 nine criteria had been met, those questions go to the Board.

10 Q. Does the Agency participate in the local siting
11 applications with the local government?

12 A. No.

13 Q. The normal procedure is that an applicant obtains local
14 siting approval and then, as you mentioned with the PA8 form,
15 submits proof of the approval to the Agency along with their
16 application for a developmental permit; is that right?

17 A. Correct.

18 Q. In this case, did you examine or anyone under your
19 control, examine the application for purposes of making a

20 determination that the nine siting criteria had been
21 appropriately met either by the original design with the berm or
22 the modified design after the berm had been removed?

23 A. No.

24 Q. Why is that?

72

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. It is outside our requirements. It is outside the
2 regulations. And the allowance to deny it based on siting is
3 just that there be a proof of local siting.

4 Q. So that's the focus of the Agency's examination, whether
5 there is or is not proof of local siting approval?

6 A. Correct.

7 Q. In this case, can you just generally state why it was
8 that we ultimately denied this permit?

9 A. Yes.

10 MR. KONZEN: I think this has been asked and answered.

11 HEARING OFFICER LANGHOFF: Overruled.

12 THE WITNESS: May I answer? I am sorry.

13 HEARING OFFICER LANGHOFF: Yes.

14 THE WITNESS: Okay. In this application it appeared that
15 the siting approval had given them -- or had required that there
16 be two units. And changing it to a one unit design appeared to
17 be inconsistent with the local siting approval.

18 Q. (By Mr. Merriman) What, then, did the Agency do? Did

19 they immediately deny the permit when that issue was raised?

20 A. Generally, if siting is an issue, it is a fatal flaw and
21 becomes a denial point. In this case we had several meetings
22 with the applicant attempting to show that it was consistent with
23 local siting.

24 Q. In fact, the applicant submitted additional information

73

KEEFE REPORTING COMPANY
1-800-244-0190

1 and additional material throughout the process for the Agency's
2 review with respect to the siting question?

3 A. That's correct.

4 Q. That's all in the Agency's administrative record?

5 A. Yes.

6 Q. Two more things, and then I will try to wrap this up
7 briefly. One of the nine criteria in Section 39.2(a)(2),
8 references the term the facility is so designed, located and
9 proposed to be operated that the public health, safety, and
10 welfare will be protected.

11 Does that criteria in any way intersect with the Agency's
12 review of the development application?

13 A. When we review an application we are determining whether
14 or not the design of the facility is protective of human health
15 and the environment, being protective of those issues identified
16 in Section 39.2, paragraph two, they appear to be similar but
17 they are not exactly the same.

18 Q. The Agency -- Christine Roque testified that she uses

19 the regulations, the Board regulations, with respect to, in this
20 instance, landfill facilities as the -- as her standard for her
21 review. Is that generally the case with the Agency?

22 A. Yes, that specifically is the case with the Agency.

23 Q. That is how we make a determination within the scope of
24 our authority that a facility is designed and proposed to be

74

KEEFE REPORTING COMPANY
1-800-244-0190

1 operated for the protection of health, safety and welfare?

2 A. Yes.

3 Q. You mentioned that the facility was originally designed,
4 proposed as two units and then later changed to one unit. You
5 were here, I believe, when Mr. Eisenbrandt testified that the
6 monitoring, the groundwater monitoring unit originally proposed
7 to monitor the existing unit by placing wells in the berm but
8 when the berm or the wedge was removed it became a simpler
9 monitoring program?

10 A. Yes.

11 Q. And I believe Mr. Konzen asked him, as did Mr. Hedinger
12 asked, whether there was any benefit to having one unit monitored
13 at the perimeter of the one larger unit versus the original idea
14 where there would be a separation berm between the old existing
15 unit and the new expansion unit. Do you have any opinion on that
16 issue?

17 A. It is a simpler design in that there are less wells.

18 Q. Does the simpler design equate in -- necessarily equate
19 in terms of safer or more protective of the environment?

20 A. No.

21 Q. Do you have any opinion with respect to whether there is
22 any potential benefit to having two units separately monitored as
23 opposed to one larger unit?

24 A. Since this is -- one of the units is an existing unit,

75

KEEFE REPORTING COMPANY
1-800-244-0190

1 the benefit could be that if it detected contamination sooner
2 corrective action would occur sooner for the existing unit.

3 Q. You heard Mr. Eisenbrandt testify that the groundwater
4 flow came under the existing unit and then under the proposed
5 berm and then into the proposed expansion unit and then took a
6 turn to the northwest?

7 A. Yes.

8 Q. So the reason it would -- it might detect a release from
9 the old unit more quickly is what?

10 A. Is that those wells, the detection wells would be closer
11 to the new unit -- I am sorry -- to the existing unit.

12 Q. And I believe you also heard testimony that there was a
13 discussion of options made at the meeting following the issuance
14 of the first draft denial, which would be Petitioner's Exhibit 5,
15 and that at that time options were discussed of either removing
16 the unit, removing the wedge, rather, between the unit, or
17 widening the unit?

18 A. Yes.

19 Q. Did you have a particular preference over either of
20 those options?

21 A. No.

22 Q. Again, other than the siting issue, and Mr. Konzen made
23 this point, but I just want to make sure. Other than the siting
24 issue that was set forth in the denial letter that is the subject

76

KEEFE REPORTING COMPANY
1-800-244-0190

1 of this appeal, the Agency was satisfied during the course of the
2 application process of all of -- of all or any other technical or
3 environmental concerns with this landfill?

4 A. Yes.

5 MR. MERRIMAN: That's all I have.

6 HEARING OFFICER LANGHOFF: Thank you, Mr. Merriman. Mr.
7 Hedinger?

8 MR. HEDINGER: Yes. Thank you.

9 CROSS EXAMINATION

10 BY MR. HEDINGER:

11 Q. I want to touch first on the line of questioning that
12 Mr. Merriman just finished up with concerning the potential
13 benefits or potential impact of having the unit monitored as two
14 units rather than one. Just to make sure I understand and that
15 the record is clear, I want to walk back through that, and I am
16 going to do this in the context of Mr. Eisenbrandt's testimony,

17 and, again, you were present during that testimony, correct?

18 A. Correct.

19 Q. Do you recall that testimony, ma'am?

20 A. Yes.

21 Q. Okay. If you will recall, the hypothetical situation
22 presented to Mr. Eisenbrandt was that the berm was expanded to
23 100 feet. Do you recall that?

24 A. Yes.

77

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Would that have been an acceptable situation from the
2 Agency's perspective? Let me restate the question.

3 Could the facility have been permitted with a 100 foot berm
4 between the two units?

5 A. Assuming that all of the other technical issues are
6 satisfied, yes.

7 Q. Okay. Then assuming that groundwater monitoring wells
8 were placed within that berm, and, again, that is, I believe, the
9 same hypothetical scenario that was presented to Mr. Eisenbrandt.
10 If I understood your testimony with Mr. Merriman just a moment
11 ago, you said those wells in the berm might detect a release from
12 the existing landfill earlier, correct?

13 A. They could, yes.

14 Q. Again, what would be the potential benefit of that?

15 A. Corrective action would occur sooner.

16 Q. Okay. Corrective action focused on wherever in the

17 existing landfill the release might be coming from, correct?

18 A. Correct.

19 Q. Was it your understanding that a 100 foot berm so
20 configured would be consistent both with the -- or could be
21 consistent both with the regulations that you enforce and with
22 the siting approval?

23 A. Yes.

24 Q. Okay. Who is Mr. Eisenbrandt's direct supervisor?

78

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Gwyneth Thompson.

2 Q. Okay. And then she reports to you, correct?

3 A. Yes.

4 Q. So the same chain of command with him as with Mr.
5 Summers?

6 A. Yes.

7 Q. Okay. As far as Christine Roque, you testified that she
8 reports to Mr. Liebman, who reports to you, correct?

9 A. Correct.

10 Q. Does she have authority to make any decisions with
11 respect to permit applications without approval of a superior?

12 A. I am sorry. Could you --

13 Q. Well, let me just ask it more broadly. What is her
14 authority with respect to approvals? Does she need to get any
15 authorization from superiors?

16 A. Her review involves doing a technical review and making
17 recommendations to her supervisor as to whether or not something
18 should be approved or denied.

19 Q. Okay. Does she have authority to make any final
20 decisions without her supervisor's approval?

21 A. No.

22 Q. Mr. Merriman also asked you about criteria 2 of Section
23 39.2. Do you recall those questions?

24 A. Yes.

79

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. That has to do with whether the facility is protective
2 of the health, safety, and welfare of the public and the
3 environment, correct?

4 A. Correct.

5 Q. Just to, again, make sure I understand your testimony as
6 regards to that criterion, is it your understanding that this
7 interior berm potentially had an impact upon that second landfill
8 siting criterion?

9 A. I have no opinion on that.

10 Q. You also answered some questions concerning the simpler
11 groundwater monitoring design resulting from treating this
12 facility as one unit. Do you remember those questions?

13 A. Yes.

14 Q. What do you mean by simpler?

15 A. There would be less wells in the monitoring system.

16 Therefore, less number of statistical analysis during sampling
17 and review of any type of data.

18 Q. Okay. I believe you answered a question of Mr.
19 Merriman's that the simpler is not necessarily, in and of itself,
20 more protective of the environment; is that correct?

21 A. Correct.

22 Q. Who benefits, therefore, by the simpler groundwater
23 monitoring design? Is that a benefit to the Agency?

24 A. There is a benefit to the Agency, yes.

80

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Less for you to review?

2 A. Yes.

3 Q. Is there a benefit to the landfill?

4 A. Yes.

5 Q. What would be the benefit to the landfill?

6 A. Less number of wells for them to review the monitoring
7 data from.

8 Q. And that translates into an economic benefit too,
9 correct?

10 A. Yes.

11 Q. Because each of those well sampling events costs money,
12 correct?

13 A. Correct.

14 Q. Would you take a look at what has been marked as

15 Petitioner's Exhibit Number 5, right in front of you?

16 A. Yes.

17 Q. Do you recognize that document?

18 A. I have seen it, yes.

19 Q. Okay. Did you review that document before it was
20 forwarded to the petitioner?

21 A. No.

22 Q. You did not?

23 A. No.

24 Q. Were you aware of the issues at that time when this

81

KEEFE REPORTING COMPANY
1-800-244-0190

1 document was drafted?

2 A. No.

3 Q. When did you become aware of Mr. Summers' concerns about
4 the existence and the size of the berm?

5 A. When a question came to me in regards to siting for the
6 facility, when that question was identified.

7 Q. Okay. At that time and subsequent to that time you
8 reviewed the record to determine the extent of the issue,
9 correct?

10 A. Portions of the record, yes.

11 Q. Okay. One option that was available to the landfill
12 would have been to simply leave the 50 foot berm in place,
13 correct?

14 A. Yes.

15 Q. And can you describe for us how that would have worked,
16 how Mr. Summers' concerns might have been addressed while leaving
17 the 50 foot berm in place?

18 A. I can't speculate on that.

19 Q. Okay. Another option that was available was, as you
20 testified earlier, to expand the berm to 100 feet or more,
21 correct?

22 A. Correct.

23 Q. Then the third option was to remove the berm altogether,
24 correct, which is what they proposed?

82

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. That's what they proposed.

2 Q. Which was unacceptable solely because of the siting
3 approval, correct?

4 A. Correct.

5 MR. HEDINGER: That's all of the questions I have.

6 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen?

7 MR. KONZEN: Yes, very briefly, Mr. Hearing Officer.

8 REDIRECT EXAMINATION

9 BY MR. KONZEN:

10 Q. Ms. Munie, if I understood your prior testimony, as
11 Manager of Permits for the Bureau of Land you are tasked with
12 protecting the human health and the environment?

13 A. Correct.

14 Q. If I understood your answer to Mr. Merriman's questions,
15 you had no preference between the single unit versus the two unit
16 design in this developmental application?

17 A. Correct.

18 Q. If you thought there was a reasonable likelihood of any
19 negative impact on human health or the environment, you would
20 have a preference?

21 A. It would have been identified in the denial.

22 Q. And that was not identified in the denial?

23 A. Correct.

24 MR. KONZEN: May I have just a moment, please.

83

KEEFE REPORTING COMPANY
1-800-244-0190

1 (Mr. Konzen and Mr. Krueger confer briefly.)

2 MR. KONZEN: No further redirect.

3 HEARING OFFICER LANGHOFF: Thank you. Mr. Merriman,
4 anything on recross?

5 MR. MERRIMAN: No. But could we briefly go off the record
6 just a moment for a procedural matter?

7 HEARING OFFICER LANGHOFF: I would like to finish the
8 witness and then go off the record.

9 MR. MERRIMAN: Okay. It actually pertains to that, but
10 that's all right. I have nothing further.

11 HEARING OFFICER LANGHOFF: Thank you. Mr. Hedinger?

12 MR. HEDINGER: Nothing further.

13 HEARING OFFICER LANGHOFF: Okay. Thank you, Ms. Munie.

14 THE WITNESS: Thank you.

15 (The witness left the stand.)

16 HEARING OFFICER LANGHOFF: We are going to go off the
17 record for just a moment.

18 (Discussion off the record.)

19 HEARING OFFICER LANGHOFF: We will take a five minute
20 break.

21 (Whereupon a short recess was taken.)

22 HEARING OFFICER LANGHOFF: Back on the record. It is 23
23 after 12:00.

24 Do you have a motion, Mr. Konzen?

KEEFE REPORTING COMPANY
1-800-244-0190

84

1 MR. KONZEN: Yes, Mr. Hearing Officer. My clients are
2 here, three people, and I think they would like -- I know they
3 would like to hear what is going on in this case. It is a public
4 proceeding. I make a motion that they be allowed in the room or
5 some other accommodation be made so they can hear.

6 HEARING OFFICER LANGHOFF: Are they expected to testify?

7 MR. KONZEN: No, I don't -- it is highly unlikely they will
8 testify.

9 HEARING OFFICER LANGHOFF: Mr. Merriman?

10 MR. MERRIMAN: I have no objection to that.

11 MR. HEDINGER: I am not feeling cramped. I think there is
12 room for them if they don't mind.

13 HEARING OFFICER LANGHOFF: All right. I would grant that
14 motion to let your clients in, certainly. As long as they are
15 not anticipated to -- it is not anticipated that they will be
16 testifying.

17 MR. KONZEN: No. Two of them are on the witness list, I do
18 admit, Ms. Douma and Mr. Bloese. Oh, and Mr. Grant. Make that
19 three. I think it is unlikely they would testify. If they do,
20 it would be solely in rebuttal, not as part of my case-in-chief.

21 HEARING OFFICER LANGHOFF: Okay.

22 (Mr. Rod Bloese, Mr. Marty Grant, and Ms. Jacinta Douma
23 entered the hearing room.)

24 MR. KONZEN: Mr. Hearing Officer, do you wish them to be

85

KEEFE REPORTING COMPANY
1-800-244-0190

1 identified for the record?

2 HEARING OFFICER LANGHOFF: Yes.

3 MR. KONZEN: Okay.

4 HEARING OFFICER LANGHOFF: I would ask everyone to turn off
5 their phones and pagers, please.

6 Mr. Konzen, for the record, is going to identify the people
7 that just came in.

8 MR. KONZEN: Yes. Three people came in, Mr. Rod Bloese,
9 B-L-O-E-S-E, Mr. Marty Grant, spelled like it sounds, and Ms.
10 Jacinta Douma, D-O-U-M-A .

11 HEARING OFFICER LANGHOFF: Thank you. Your next witness.

12 MR. KONZEN: We call Mr. Andrew Inman, please.

13 HEARING OFFICER LANGHOFF: Would you swear the witness,
14 please.

15 (Whereupon the witness was sworn by the Notary Public.)

16 HEARING OFFICER LANGHOFF: Would you spell your name for
17 the record, please.

18 THE WITNESS: Andrew Inman, A-N-D-R-E-W, I-N-M-A-N.

19 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen.

20 MR. HEDINGER: Excuse me. I bring this up now so I don't
21 burden things later. I would like to raise what I believe will
22 be a standing objection based partly upon simply having Mr. Inman
23 testify and partly upon Mr. Konzen's representations earlier that
24 Mr. Inman is going to be testifying for quite some time. I would

86

KEEFE REPORTING COMPANY
1-800-244-0190

1 object and would like it to be considered a standing objection to
2 testimony or other evidence that was not presented to the Agency
3 and before the Agency at the time that they were considering this
4 permit application.

5 HEARING OFFICER LANGHOFF: Okay. Thank you. Any argument?

6 MR. KONZEN: Mr. Inman's testimony will be based on the
7 record.

8 HEARING OFFICER LANGHOFF: All right. Thank you, Mr.
9 Konzen.

10 Mr. Merriman?

11 MR. MERRIMAN: Well, certainly, to the extent that it is

12 not based on the record, then I would concur with Mr. Hedinger
13 that the testimony is immaterial and improper. But if it is
14 going to be based on the record, as long as it is not unduly
15 duplicative of things that are already there, I have no problem
16 with it.

17 HEARING OFFICER LANGHOFF: I am going to overrule your
18 objection or deny your motion.

19 MR. HEDINGER: Okay.

20 HEARING OFFICER LANGHOFF: I will, of course, let it be a
21 running objection. I would ask you to state your objection again
22 when it comes up, though.

23 MR. HEDINGER: I understand.

24 HEARING OFFICER LANGHOFF: Thank you.

87

KEEFE REPORTING COMPANY
1-800-244-0190

1 ANDREW INMAN,
2 having been first duly sworn by the Notary Public, saith as
3 follows:

4 DIRECT EXAMINATION

5 BY MR. KONZEN:

6 Q. Can you state your occupation for the record, Mr. Inman?

7 A. I am a civil and environmental engineer employed with
8 STS Consultants.

9 Q. And what are your areas of expertise?

10 A. Primarily solid waste management and specifically within
11 that design and permitting of solid waste facilities such as

12 landfills, transfer stations. I also practice within the civil
13 engineering and environmental engineering areas as well as
14 transportation engineering.

15 Q. How long have you been employed full-time in this field
16 of solid waste management?

17 A. Twelve years full-time.

18 Q. What is your current position?

19 A. Currently I am an associate engineer with STS
20 Consultants. I serve as an area manager for STS Consultants as
21 well as currently serving as the solid waste management practice
22 leader for STS Consultants.

23 Q. Do you possess any professional licenses?

24 A. Yes, I do. I am a Professional Engineer registered in

88

KEEFE REPORTING COMPANY
1-800-244-0190

1 the State of Illinois and Wisconsin.

2 Q. What is your formal education since high school, please?

3 A. I have a Bachelor of Science degree in civil and
4 environmental engineering, and I have had continuing education
5 course work in the field of engineering and solid waste
6 management.

7 Q. Are you familiar with the application for developmental
8 permit by Saline County Landfill, Inc., IEPA log number 1999-381?

9 A. Yes, I am.

10 Q. How are you familiar with that application?

11 A. I served as the Professional Engineer in charge of
12 development of the application.

13 Q. How long have you been working in general on matters
14 related to the Saline County Landfill?

15 A. Since the early 1990s, approximately 1993.

16 Q. Okay. Are you familiar with the 1996 local siting
17 application concerning the Saline County Landfill?

18 A. Yes, I am. I served as the project engineer in charge
19 of pulling together and coordinating the project team for the
20 local siting application in 1996.

21 Q. Can you describe generally the major differences between
22 the Saline County Landfill's 1996 local siting application and
23 the corresponding permit application?

24 A. Yes. Subsequent to receiving approval in 1996 from the

89

KEEFE REPORTING COMPANY
1-800-244-0190

1 Saline County Board, we complete -- we proceeded with field
2 investigations, specifically referenced in the IEPA regulations
3 as the phase three site investigation requirements. Once we
4 completed the field portion of the investigation, we proceeded
5 with the design and engineering analysis related to the design of
6 the facility. And then we proceeded with the landfill, the final
7 landfill design for submittal to the Illinois Environmental
8 Protection Agency.

9 As part of that process in completing the data acquisition
10 and completing the design and analysis, there were a few

11 modifications made to the design of the facility. Generally they
12 consisted of raising the base grades as a result of completing
13 the groundwater impact assessment. Increasing the width of an
14 exterior berm located along the western portion of the facility.
15 Elimination of an interior separation wedge between what was
16 formerly referenced as unit one and unit two. And rounding the
17 corners. We had some 90 degree corners of the corners of the
18 landfill. For constructibility reasons, those 90 degree corners
19 were rounded inside the exterior corners.

20 Q. Did the local siting application presented to the Saline
21 County Board in 1996 include a groundwater impact assessment?

22 A. Yes, it did. I am sorry. Submitted to the Saline
23 County Board?

24 Q. Submitted to Saline County?

90

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. No, it did not. We did not complete a groundwater
2 impact assessment for the 1996 siting application.

3 Q. Was a groundwater impact assessment submitted to the
4 Environmental Protection Agency?

5 A. Yes, that was submitted with the permit application
6 1999-381.

7 Q. Now, just to make sure the record is clear you mentioned
8 a phase three investigation. Is that a hydrogeologic
9 investigation?

10 A. Yes.

11 Q. It was --

12 A. We are obtaining additional hydrogeologic data,
13 including soils, as well as groundwater information.

14 Q. Was any of that submitted to the Saline County Board in
15 1996?

16 A. The phase three portion of the investigation was not.
17 It was completed subsequent to the 1996 approval.

18 Q. I take it all of that is in the record as submitted to
19 the Agency?

20 A. Correct.

21 Q. You mentioned some changes to the western berm. Was
22 there a change in the slope of the western berm in the permit
23 application?

24 A. No, it was simply as a result of raising the base

91

KEEFE REPORTING COMPANY
1-800-244-0190

1 grades, which was the result of preparing and completing the
2 groundwater impact assessment. We completed geotechnical
3 analysis and slope stability analysis of the western slope.
4 Because we raised the base grades, the width of the western berm
5 needed to be increased. We increased the width. We did not
6 increase the slope of the western berm. We simply increased the
7 width and we increased it towards the interior of the landfill.
8 So the actual landfill footprint as a result of that application
9 became smaller.

10 Q. Okay. Now, you just referenced some calculations, I
11 believe, there.

12 A. Uh-huh.

13 Q. Were there any difference between the local siting
14 application and the permit application as far as stability
15 calculations?

16 A. Yes. We did not complete slope stability analyses on
17 the 1996 siting application conceptual design. What we included
18 in the 1996 siting application submitted to the Saline County
19 Board were calculations that were done for what we are referring
20 to in the application as the existing fill area. Those
21 calculations and stability analyses were done as part of the 1996
22 sig mod that was submitted to the Illinois Environmental
23 Protection Agency. We did not complete any slope stability or
24 geotechnical analyses beyond what was submitted as part of the

92

KEEFE REPORTING COMPANY
1-800-244-0190

1 sig mod. Subsequent to the receipt of the approval from the
2 Saline County Board, we did complete full geotechnical analysis
3 to demonstrate compliance with the Illinois Solid Waste
4 Regulations for the proposed expansion.

5 Q. Did the 1996 local siting application include any
6 stability calculations concerning that 50 foot interior berm?

7 A. The 1996?

8 Q. Yes.

9 A. No, they did not.

10 Q. Was there any change between the 1996 local siting
11 application and the permit application regarding the volumetric
12 capacity of the facility?

13 A. Yes. The design modifications and improvements that
14 were made subsequent to the 1996 siting approval as a result of
15 the additional investigations and analyses that were completed
16 did result in an approximately 300,000 air space cubic yard
17 decrease in capacity.

18 Q. Was there any change in the acreage of the facility?

19 A. Yes. For the same reasons as I mentioned or referenced
20 pertaining to the air space capacity, the acreage, the net
21 acreage decreased by approximately 0.8 acres.

22 Q. The net acreage of what, the footprint or the whole
23 perimeter or of the entire site or what?

24 A. Of the entire landfill. We had a total of approximately

93

KEEFE REPORTING COMPANY
1-800-244-0190

1 53 acres sited in the 1996 siting approval, and that was reduced
2 by 0.8 acres, approximately.

3 Q. When you say landfill in your last answer, you are
4 referring to the waste column?

5 A. Yes.

6 Q. As a result of any of these changes we have been talking
7 about for the last several minutes, does any exterior waste
8 boundary of the facility expand beyond that which was proposed in

9 the 1996 local siting?

10 A. No.

11 Q. Can you describe generally for us the 50 foot interior
12 berm that is the subject of testimony today?

13 A. Sure. The 50 foot interior berm is referred to as a
14 site -- as a separation berm. The berm, as it is referenced, is
15 approximately 50 feet wide. It is constructed of recompact
16 soil material. It is surrounded on both sides, if you were to
17 cut a cross-section north-south through the 50 foot zone, by
18 waste materials. Above it is the final cover. Below it is the
19 in situ liner soil material.

20 Q. Is it in any way visible to somebody outside?

21 A. No, you would not be able to notice it or observe it
22 from outside the final land form.

23 Q. Why was the 50 foot -- oh, did you finish your answer?

24 A. Yes.

94

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Why was the 50 foot interior berm removed from the site
2 design?

3 MR. HEDINGER: I would object to the extent that it is in
4 the record. It is in the record, and the record speaks for
5 itself. To the extent it is not, I don't think this is
6 information that was before the Agency when they made their
7 decision.

8 MR. KONZEN: I will rephrase the question if I may.

9 HEARING OFFICER LANGHOFF: Okay.

10 Q. (By Mr. Konzen) I will direct your attention to
11 Petitioner's Exhibit Number 5, and ask you if you can identify
12 that document, Mr. Inman?

13 A. Yes, this is the first draft denial letter the Illinois
14 Environmental Protection Agency prepared following the initial
15 portion of the technical review for the application 1999-381.

16 Q. Does that reference the 50 foot interior berm?

17 A. Yes, it does.

18 Q. Within the context of that draft denial can you explain
19 why the 50 foot interior berm was removed from the site design?

20 A. Yes.

21 MR. HEDINGER: I have the same objection.

22 MR. KONZEN: He is explaining something that is in the
23 record, ver clearly.

24 MR. HEDINGER: This is in the record, but the why -- if the

95

KEEFE REPORTING COMPANY
1-800-244-0190

1 why is is in the record, then it is in the record. If the answer
2 to that question is not in the record, then it was not before the
3 Agency when they made the decision. If he wants to testify that,
4 well, I had a conversation with the Agency and I explained to
5 them, then that would be information that was before the Agency.
6 For Mr. Inman to sit here now and to say, well, it is a good idea
7 for us to remove this, I think is -- has the potential for coming

8 up with information that was not before the Agency when they made
9 their decision. To the extent it does not, it is duplicative of
10 what is in the record.

11 HEARING OFFICER LANGHOFF: Okay. Thank you. Mr. Konzen.

12 MR. KONZEN: I think as Mr. Hedinger has very artfully
13 explained, until we hear the answer, we don't know if there is
14 any merit to the objection.

15 HEARING OFFICER LANGHOFF: Okay. I am going to overrule
16 your objection and allow the witness to answer.

17 THE WITNESS: Thank you. The -- could you repeat the
18 question? I am sorry.

19 Q. (By Mr. Konzen) Why was the 50 foot interior berm,
20 referenced in Exhibit Number 5, removed from the site design?

21 A. Subsequent to the receipt of the draft denial letter it
22 was faxed to us dated April 3rd of 2000. We had a meeting with
23 the Agency and did have discussions with the Agency at that
24 meeting on April 19th of 2000. At the meeting, Ms. Gwyneth

96

KEEFE REPORTING COMPANY
1-800-244-0190

1 Thompson of the Agency suggested that it would be more efficient
2 and their preference would be that the berm did not exist, from a
3 permitting perspective. We reviewed the comments in the draft
4 denial and had discussion following that, and it was decided that
5 we would remove the berm.

6 Q. Now I am going to ask you some questions generally about

7 all of the design and other modifications to the permit
8 application that you explained to us earlier in your testimony
9 and --

10 A. Uh-huh.

11 Q. -- not just the interior berm. Do these design
12 modifications in the permit application impact whether the
13 facility is necessary to accommodate the waste needs of the area
14 it is intended to serve?

15 A. No, they do not.

16 MR. HEDINGER: Objection. No foundation.

17 HEARING OFFICER LANGHOFF: Mr. Konzen?

18 MR. KONZEN: Well, it is already asked and answered. I
19 think the objection is untimely. But I am happy to lay some
20 additional foundation.

21 MR. HEDINGER: I would ask it be stricken.

22 HEARING OFFICER LANGHOFF: I am going to overrule your
23 objection. Go ahead.

24 Q. (By Mr. Konzen) You previously testified some 300,000

97

KEEFE REPORTING COMPANY
1-800-244-0190

1 cubic yards of capacity were given up or lost as a result of the
2 modifications to the permit application?

3 A. That's correct.

4 Q. What percentage is that of the overall air space that
5 was proposed at local siting?

6 A. Of the 4.6 million air space cubic yards that was

7 approved in 1996 at the local siting hearing, that represents
8 approximately six percent.

9 Q. Do the modifications in the permit application have a
10 negative impact on the protection of the public health, safety
11 and welfare?

12 MR. HEDINGER: Objection. Foundation.

13 HEARING OFFICER LANGHOFF: Mr. Konzen?

14 MR. KONZEN: Well, the man has previously testified as to
15 his expertise and 12 years of full-time employment in the field
16 of environmental engineering and consulting. We are going to get
17 into greater detail in each one of those.

18 HEARING OFFICER LANGHOFF: Okay. Mr. Hedinger?

19 MR. HEDINGER: The detail, I guess, to say the least,
20 should come first, not second. It seems to me that part of the
21 foundational problem with the question, aside from just Mr.
22 Inman's knowledge of those issues, the Section 39.2 issues versus
23 the landfill design, putting that aside, because I suspect he
24 would be able to lay a proper foundation, the question itself is

98

KEEFE REPORTING COMPANY
1-800-244-0190

1 overly broad. You know, there is no foundation explaining what
2 he means by these phrases he is using, whether Mr. Inman might be
3 answering the question in the way that we would understand it.

4 MR. KONZEN: In the interest of progressing with the
5 testimony, I am willing to ask some very specific underlying

6 questions and withdraw that one for the moment.

7 HEARING OFFICER LANGHOFF: Okay. Please.

8 Q. (By Mr. Konzen) Do the modifications in the permit
9 application provide any positive impacts on the environment?

10 A. Yes, I think there are multiple positive impacts
11 provided by the design modifications that were presented in the
12 application to the Illinois Environmental Protection Agency.

13 Q. Can you describe those benefits?

14 A. Sure.

15 MR. HEDINGER: I will object. This is information not
16 presented to the Agency.

17 HEARING OFFICER LANGHOFF: Okay. You are overruled and I
18 will allow that to be a running objection.

19 MR. KONZEN: You can answer the question, if I understand
20 the Hearing Officer.

21 THE WITNESS: The benefits that are provided by the revised
22 design include, with the removal of the 50 foot separation berm,
23 that allowed us to tie in contiguous to the existing fill area
24 the composite Subtitle D liner. By composite Subtitle D liner I

99

KEEFE REPORTING COMPANY
1-800-244-0190

1 mean a three foot recompact clay liner with a 60 mill
2 geomembrane HDPE. That stands for high density polyethylene
3 geomembrane liner. We were able in the revised design to tie
4 that composite liner directly into the existing fill area.

5 Along with that, we were able to tie in directly the

6 leachate collection system into the existing fill area. The
7 landfill gas extraction system proposed to the Illinois
8 Environmental Protection Agency in the proposed expansion area
9 was immediately contiguous to the existing fill area. Removal of
10 the separation berm allowed the landfill gas extraction system in
11 the proposed expansion area to have a benefit and a larger zone
12 of influence on the existing fill area.

13 In addition to that, regulating the facility as a single
14 unit rather than two separate units results in pushing back the
15 start of the post-closure monitoring period. That has a
16 significant impact on the length of time that the operator is
17 required to continue the operations, the leachate collection
18 system, continue monitoring the facility, both groundwater,
19 landfill gas, as well as settlement of the landfill. And,
20 finally, it will result in requiring the operator to post
21 additional financial assurance funds to cover the extended
22 monitoring and operation of the -- and maintenance of the
23 systems.

24 Q. (By Mr. Konzen) Okay. Can you tell us how much

100

KEEFE REPORTING COMPANY
1-800-244-0190

1 additional -- does the phrase design life or design period mean
2 anything in the context of your last answer?

3 A. Yes, it definitely does. A design period consists of
4 the operating life of a landfill plus the post-closure care

5 period. Regulations require a 30 year post-closure care period.
6 Now, the design life, the other component of the design life is
7 the operating period. What that is defined as, the operating
8 period does not end until the closure period starts. With
9 combining the two units, the formal closure period, even though
10 we will close out unit one under the same schedule, the existing
11 fill area under the same schedule, had they been two separate
12 units, the regulations require and design life would require that
13 the start of the post-closure care period get pushed back by
14 approximately 15 years until the complete single unit is full.

15 Q. So are you saying that post-closure monitoring, leachate
16 collection operation, and landfill gas operation, all that
17 continues 15 years longer than it otherwise would have with the
18 two unit design?

19 A. Yes. In essence, the minimum period is extended 15
20 years.

21 Q. Now, you made a statement earlier, a few sentences ago,
22 about the final cover would take place about the same time. Can
23 you explain what you meant?

24 A. There is an exhibit in the record that might be helpful

101

KEEFE REPORTING COMPANY
1-800-244-0190

1 to refer to. We also have that full size. That might be -- for
2 clarity purposes that might be easier to see for everyone if I
3 could refer to that in describing it.

4 Q. Okay. For the record, I have in front of me record

5 number 3680 -- or 3690. I am sorry. Is that what you are
6 referring to?

7 A. Yes, this exhibit is what I am referring to. I can't
8 clearly make out the Bates stamp number, but we can verify that
9 number.

10 Q. Okay. It is 3680, for the record.

11 A. Okay. It looks like an eight.

12 Q. And you have a large version of that so it is easier to
13 see?

14 A. Yes. This drawing appeared in the application presented
15 to the Illinois Environmental Protection Agency. Specifically,
16 this drawing was submitted -- it is dated 09-03 of 1999, is the
17 approval date on the drawing.

18 HEARING OFFICER LANGHOFF: Is that the same thing as the
19 exhibit in the record?

20 THE WITNESS: Yes, it is drawing --

21 HEARING OFFICER LANGHOFF: It is just shrunk down so it can
22 fit in the record; is that correct?

23 THE WITNESS: Yes.

24 MR. MERRIMAN: Just to clarify, this was not submitted to

102

KEEFE REPORTING COMPANY
1-800-244-0190

1 the Agency?

2 THE WITNESS: No.

3 MR. MERRIMAN: This is an enlargement. The one that was

4 actually submitted to the Agency would have been somewhere
5 between these two?

6 THE WITNESS: No, we submit both full size plans and we
7 submitted just for the convenience in the actual application
8 itself reduced copies. What is contains the Bates stamp 3680 is
9 the same drawing, just a reduced version of this.

10 MR. MERRIMAN: The one that you are demonstrating from is
11 the full size drawing, but it is on a -- some kind of a backer
12 board.

13 THE WITNESS: It is mounted on foam board, yes.

14 MR. MERRIMAN: That is not what was submitted to the
15 Agency, it was just a paper folded and so forth?

16 THE WITNESS: This is an accurate reproduction of the full
17 sized and the reduced sized drawings that were submitted to the
18 Agency with the application.

19 MR. MERRIMAN: Thank you.

20 HEARING OFFICER LANGHOFF: Thank you. That is in the
21 record at 3680.

22 MR. KONZEN: That is the record page number, yes, Mr.
23 Hearing Officer.

24 HEARING OFFICER LANGHOFF: Thank you.

103

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. (By Mr. Konzen) Before you go further with that, Mr.
2 Inman, is there a revised date on that drawing, in what would be
3 my upper right-hand corner?

4 A. Yes, there is. Revised 08-00. This was submitted to
5 the Agency with the August 30th of 2000 submittal.

6 Q. Okay. I didn't mean to pull you off. Go ahead.

7 A. What this drawing shows, and this will help clarify the
8 operating life and closure of the facility, specifically as it
9 pertains to design period.

10 One of the requirements of the Illinois Solid Waste
11 Regulations is to present to the Agency the anticipated phasing
12 for the closure of the facility. There are a number of variables
13 along with that, but this, based on the waste receipts that are
14 anticipated for the proposed expansion, and the volume estimates
15 for each of the various cells that are proposed in the expansion
16 area, this is the proposed phasing and closure of each of the
17 various areas in the facility. This phasing plan does not change
18 in terms of the closure of each area whether you have a 50 foot
19 separation berm in it or no 50 foot separation berm, a single
20 unit.

21 Q. Now, let me interrupt you to make sure the record is
22 clear. Are we talking about final cover or final closure here?

23 A. We are talking about placement of -- reaching final
24 grades and placement of final cover. The final grades in the

104

KEEFE REPORTING COMPANY
1-800-244-0190

1 existing fill area were anticipating to reach those grades in
2 years one to five. The baseline for year zero is basically when

3 we get approval of the permit. We will reach the grades shown
4 here in drawing D10, which is included in the record at 3680, in
5 years one through five. As we reach final waste grades, the
6 regulations require that final cover be placed within 60 days of
7 reaching the waste grades. So the actual final cover material
8 under the regulations as required to be placed as we reach the
9 final waste grades, as shown in this phasing plan.

10 The bottom line is there is no difference in when that
11 final cover will be placed, one unit versus two units. The
12 phasing of the placement of that final cover will not change.
13 What will change is when the actual post-closure care period
14 begins. Under a single unit design, that regulatory post-closure
15 care period starts approximately 15 years later requiring the
16 applicant to monitor, operate the maintenance systems for an
17 additional 15 years. So that is an important benefit to the
18 overall redesign.

19 Q. So let me ask a couple of follow-up questions just to
20 make sure this is clear. In switching from a two unit to a
21 single unit design is there any change in the date where final
22 cover will be placed on unit one?

23 A. No, the proposed phasing plan is identical.

24 Q. But in switching to a single unit design, post-closure

105

KEEFE REPORTING COMPANY
1-800-244-0190

1 monitoring and post-closure care is extended for how long again?

2 A. The post-closure monitoring is the same. It is 30

3 years.

4 Q. Okay.

5 A. The monitoring and operations of the systems that will
6 be required during the -- prior to initiating post-closure care,
7 is approximately 15 years longer with the single unit design.

8 Q. With the single unit design does the public achieve any
9 benefit through this extended 15 year period?

10 A. Yes, there is it a benefit of --

11 MR. HEDINGER: I have a standing objection.

12 HEARING OFFICER LANGHOFF: Overruled. It is noted.

13 THE WITNESS: There is a benefit of prolonged monitoring,
14 additional financial assurance, prolonged monitoring of the
15 groundwater and landfill gas and prolonged collection of landfill
16 gas and leachate, as well as monitoring of the final surface of
17 the existing fill area.

18 Q. (By Mr. Konzen) So going back to the question that we
19 withdrew earlier, does the revised design provide a positive
20 impact on the protection of the public health, safety, and
21 welfare?

22 A. Yes, in my opinion it does for the reasons that we have
23 referenced earlier.

24 Q. Do the modifications to the permit application have a

106

KEEFE REPORTING COMPANY
1-800-244-0190

1 negative impact on the value of the surrounding property?

2 MR. HEDINGER: Again, foundation.

3 MR. KONZEN: I believe we have already laid that. Mr.
4 Hearing Officer, may I argue?

5 HEARING OFFICER LANGHOFF: Please.

6 MR. KONZEN: I believe we have already discussed that he
7 talked about whether or not it was visible and whether or not it
8 was smaller. I can lay more foundation. Okay. I will withdraw
9 the question and lay some more foundation.

10 MR. HEDINGER: I would also like to raise just a basic
11 objection that this is not a siting hearing. This is a permit
12 appeal. I object to it -- to the witness taking the place of the
13 siting authority in his testimony. I understand through an
14 interpretation of the Board's ruling might allow for this, yet, I
15 raise my objection.

16 HEARING OFFICER LANGHOFF: I am going to deny your
17 objection and allow Mr. Konzen to ask questions. And feel free
18 to object again at the proper time.

19 MR. MERRIMAN: I am going to throw in, just for the record,
20 an objection on the issue of foundation, as well. I don't think
21 I have heard any -- although we have heard his background with
22 respect to this particular design and this locale, this question,
23 I think, goes a little more specific to neighborhood impacts and
24 real estate valuation and that sort of thing. I don't know if we

107

KEEFE REPORTING COMPANY
1-800-244-0190

1 have heard anything that would establish the foundation that the

2 witness can address that issue.

3 HEARING OFFICER LANGHOFF: Okay. That is noted and
4 overruled at this time. I believe Mr. Konzen is going to try to
5 lay some foundation.

6 MR. KONZEN: Yes.

7 HEARING OFFICER LANGHOFF: Feel free to object again, Mr.
8 Merriman.

9 MR. MERRIMAN: Thank you.

10 Q. (By Mr. Konzen) Mr. Inman, do the modifications to the
11 permit application raise the height of the facility when it is
12 under final cover?

13 A. No, the maximum final elevation, as shown on the
14 previously referenced drawing, contained on 3680 of the record,
15 is shown here as approximately maximum elevation of 495. That is
16 the same elevation approved by the Saline County Board in 1996.

17 Q. Do the permit modifications in the application for
18 permit, that is, do those modifications make the overall facility
19 more visible or less visible to people from neighboring
20 properties?

21 A. No change.

22 Q. Okay.

23 A. In terms of visibility.

24 Q. I believe you previously testified that there was a

1 change in acreage?

2 A. Yes, there is a slight reduction in acreage from -- of
3 approximately 0.8 acres. Arguably there could be a slight
4 reduction in the visibility, but in my opinion the final land
5 form height and final land form itself will have a negligible
6 impact on the visibility of the facility.

7 Q. Do the modifications in the permit application mean that
8 the facility will be operating and accepting trash for a longer
9 period of time or a shorter period of time?

10 A. A shorter period of time, with the reduction of net air
11 space of approximately 300,000 air space cubic yards.

12 Q. Will a person from a neighboring property be able to see
13 any difference, as a practical matter, in the facility after the
14 permit modifications are implemented?

15 MR. HEDINGER: Objection. Foundation.

16 HEARING OFFICER LANGHOFF: Overruled.

17 THE WITNESS: No, there is virtually no visual impact from
18 the engineering design modifications.

19 Q. (By Mr. Konzen) So going back to the question I withdrew
20 earlier, do the modifications to the permit application have a
21 negative impact on the value of the surrounding properties?

22 MR. HEDINGER: Objection. As Mr. Merriman pointed out --
23 this question has to do with property values. There has been no
24 foundation laid as far as what properties are nearby, and how

1 these things might possibly affect it. And, again, I would also
2 reiterate the objection that this is turning this into a siting
3 hearing.

4 HEARING OFFICER LANGHOFF: Mr. Konzen?

5 MR. KONZEN: The testimony has been laid. The foundation
6 has been laid that the facility will be slightly smaller, no
7 greater height, open for a shorter period of time, taking less
8 trash, and there will be no visible impact to somebody nearby in
9 a neighboring property. I don't think the man has to be
10 qualified as an appraiser to verify that that is not going to
11 have a negative impact on property values.

12 MR. HEDINGER: If he doesn't, then neither does the Board
13 need his opinion on it. They can make that determination
14 themselves.

15 MR. KONZEN: He has been in the field of solid waste
16 management for 12 years. I can lay further foundation in terms
17 of his experience with the total number of landfills and local
18 siting hearings.

19 HEARING OFFICER LANGHOFF: Okay. Just a moment, please.
20 I don't think it is proper for this witness to answer your last
21 question based on the foundation that you have shown. It is
22 obvious from his answers that in his opinion nothing has changed
23 as to the height and the affects on the surrounding property. As
24 to the value of the surrounding property, I don't think you have

1 shown any foundation.

2 So I am going to sustain Mr. Hedinger's objection to your
3 last question.

4 MR. KONZEN: Okay.

5 Q. (By Mr. Konzen) Mr. Inman, how many local siting
6 hearings have you been involved with professionally?

7 A. I don't know the precise number, but I would say I have
8 been involved on behalf of the applicant in approximately five
9 landfill siting hearings. I have also been involved in a review
10 capacity in landfill siting hearings in Illinois on behalf of
11 counties or the reviewing authority under Section 39.2 of the
12 Act. I have probably reviewed or been involved in the review of
13 a similar number of siting hearings on behalf of the county or
14 municipality.

15 Q. And total, can you tell me how many landfills you have
16 been offered professional services in relation to?

17 A. Design and permitting services, approximately 20. In
18 terms of reviews of existing landfill facilities on behalf of a
19 client, on the order of 25.

20 Q. When you have been involved in any of these landfills,
21 do you ever have to do any work on a siting application involving
22 compatibility with surrounding land uses?

23 A. Yes, generally we do bring on an appraiser or land use
24 consultant to address those issues. In my capacity as either the

1 Professional Engineer in charge of developing the application or
2 in my capacity as the project engineer, either preparing or
3 reviewing siting applications, I do review and get involved with
4 the land use and real estate impact issues as it pertains to the
5 local siting.

6 Q. Do the permit modifications have a negative impact on
7 whether this facility is compatible with the character of the
8 surrounding area?

9 A. In my opinion --

10 MR. HEDINGER: Objection. I think he just testified that
11 they usually bring in an appraiser or a land use expert to make
12 that determination. He is neither of those.

13 MR. KONZEN: Under his direction, I believe, he elaborated.

14 HEARING OFFICER LANGHOFF: I am going to overrule the
15 objection. I don't think the question has anything to do with
16 the value of the surrounding property.

17 MR. KONZEN: Yes, the question was whether the facility is
18 compatible with the character of the surrounding property.

19 HEARING OFFICER LANGHOFF: I am going to overrule the
20 objection.

21 THE WITNESS: Could you repeat the question?

22 Q. (By Mr. Konzen) Do the permit modifications have a
23 negative impact on whether the facility is compatible with the
24 character of the surrounding property -- the surrounding area?

1 A. In my opinion, they do not have an impact on the
2 compatibility. The design modifications, as we have mentioned
3 previously, do result in a slight decrease in acreage and a
4 slight decrease in permitted air space, approximately 300,000
5 cubic yards. Arguably, if anything, that would have a net --
6 that would reduce the potential for a negative impact on land use
7 or surrounding property.

8 MR. HEDINGER: Show my continuing objection again to the
9 whole line of questioning as being beyond what was before the
10 Agency.

11 HEARING OFFICER LANGHOFF: It is already noted. It is
12 noted.

13 MR. HEDINGER: I bring that up because you had mentioned
14 earlier to continue making it.

15 HEARING OFFICER LANGHOFF: No, just your objection as to
16 when the evidence is getting outside what you would believe the
17 relevant evidence that is in the record, and then I am going to
18 grant your running objection to that. I wanted to see where his
19 questions were going before I granted or overruled your
20 objection.

21 Q. (By Mr. Konzen) Do the design modifications have a
22 negative impact on whether the site is outside of the 100 year
23 floodplain?

24 A. No.

1 MR. HEDINGER: Objection.

2 THE WITNESS: No impact.

3 HEARING OFFICER LANGHOFF: Overruled.

4 Q. (By Mr. Konzen) Do the design modifications have a
5 negative impact on whether the site is flood proofed?

6 MR. HEDINGER: The same objection.

7 HEARING OFFICER LANGHOFF: Overruled.

8 THE WITNESS: No, again, no impact.

9 Q. (By Mr. Konzen) Do the modifications in the permit
10 application have a negative impact on the plan of operations for
11 the facility?

12 MR. HEDINGER: Objection.

13 HEARING OFFICER LANGHOFF: Overruled.

14 THE WITNESS: The proposed design modifications, again,
15 will result in a net decrease of approximately 300,000 air space
16 cubic yards. That, in my opinion, would have the potential to
17 reduce potential negative impact on the operation. So in my
18 opinion there is, if anything, a positive impact on the
19 operations.

20 Q. (By Mr. Konzen) Do the modifications in the permit
21 application increase the risk of fires, spills, or operational
22 accident?

23 MR. HEDINGER: Objection.

24 HEARING OFFICER LANGHOFF: Overruled.

1 THE WITNESS: No, I don't think it has an impact on that.

2 Q. (By Mr. Konzen) For the reason?

3 A. Well, there is -- if anything, again, there would be a
4 reduction in air space capacity, which would reduce the potential
5 for fires, spills, or other operational accidents.

6 Q. Do the modifications in the permit application have a
7 negative impact on traffic patterns or on traffic flow?

8 MR. HEDINGER: Objection.

9 HEARING OFFICER LANGHOFF: Overruled.

10 THE WITNESS: No, they do not have a negative impact,
11 again, because of the net decrease in air space capacity.
12 Ultimately over the design life of the facility, there would be
13 fewer vehicles, waste vehicles entering and exiting the site. If
14 anything, that would reduce the potential for a negative impact
15 on the traffic.

16 Q. Do the modifications to the permit application change
17 the type of waste to be received at the site?

18 A. No, they have no impact on the type of waste.

19 Q. Is any hazardous waste proposed to be taken at this
20 facility?

21 A. Hazardous waste is not proposed.

22 Q. Do the modifications in the permit application have a
23 negative impact on whether the facility is consistent with any
24 county solid waste management plan?

1 MR. HEDINGER: Objection.

2 HEARING OFFICER LANGHOFF: Overruled.

3 THE WITNESS: No, they do not.

4 Q. (By Mr. Konzen) Do the design changes in the permit
5 application affect whether the facility is in a regulated
6 recharge area?

7 MR. HEDINGER: Objection.

8 HEARING OFFICER LANGHOFF: Overruled.

9 THE WITNESS: No, they do not. The facility is not located
10 within a regulated recharge area.

11 Q. (By Mr. Konzen) Are there any regulated recharge areas
12 in the State of Illinois?

13 A. In 1996 there were not. Currently there is one
14 regulated recharge area in Peoria County.

15 Q. Is there any likelihood the modifications in the permit
16 application will have a negative impact on the environment?

17 A. In my opinion, no, they will not have a negative impact
18 on the environment for the reasons I listed previously in terms
19 of developing a contiguous Subtitle D composite liner, tying that
20 into the existing fill area, leachate collection, landfill gas
21 extraction systems, tying in contiguous to the north, to that end
22 I think the design modifications will have net positive impact on
23 the environment. We also discussed, and I would have the same
24 opinion on the positive impact on the environment, of the

KEEFE REPORTING COMPANY
1-800-244-0190

1 financial assurance, increased financial assurance as a result of
2 combining the two units and extending the monitoring period for
3 the facility.

4 Q. At the local siting hearing in 1996, did the application
5 include any references to the possibility of monitoring wells
6 within the 50 foot interior separation berm?

7 A. Did the application reference --

8 MR. HEDINGER: I would object. Again, the record speaks
9 for itself. It is not in the record.

10 HEARING OFFICER LANGHOFF: I understand your objection.
11 Overruled.

12 THE WITNESS: At the time we submitted an application to
13 the Saline County Board in 1996, we did not complete, as I
14 mentioned previously, the phase three hydrogeologic
15 investigation. We did not complete the design and all the
16 engineering analyses necessary under the Illinois Solid Waste
17 Regulations and necessary to permit and construct the facility.

18 Because the design and the analyses required -- all of the
19 design and analyses required under the regulations were not
20 completed and all the investigation was not complete, we did not
21 prepare a final groundwater monitoring plan for submittal to the
22 Saline County Board in 1996.

23 We did prepare a conceptual groundwater monitoring plan to
24 provide an idea of the monitoring systems that would be employed

KEEFE REPORTING COMPANY
1-800-244-0190

1 to monitor and verify that the systems are operating as according
2 to design. So we did include a conceptual groundwater monitoring
3 plan. I believe the question was did it include a monitoring
4 plan or was it --

5 Q. (By Mr. Konzen) Did it reference monitoring wells within
6 the 50 foot interior separation berm?

7 A. Okay. Within that we did indicate that groundwater
8 monitoring wells -- I believe the application referenced that
9 groundwater monitoring wells may be constructed within the 50
10 foot separation wedge.

11 Q. Is there any likelihood of an adverse impact on the
12 public health, safety, and welfare from removing monitoring wells
13 from the 50 foot separation area, removing it from the design?

14 A. Removing the monitoring --

15 Q. Removing monitoring wells from the 50 foot separation
16 area?

17 A. No. In my opinion, the groundwater monitoring plan that
18 was submitted to the Illinois Environmental Protection Agency,
19 based on our analyses completed as part of that plan, based on
20 the geology of the site, and based on the design of the site, the
21 groundwater flow patterns on the site, there is not a negative
22 impact to removing the -- or not providing wells within the 50
23 foot separation berm.

24 Q. Which direction is the groundwater flow at this site?

KEEFE REPORTING COMPANY
1-800-244-0190

1 Can you explain that, please?

2 A. Yes. There is convergent flow on the site, which
3 basically is converging -- let me go back to D10 which, again, is
4 in the record at 3680.

5 The groundwater flow at the site for the proposed expansion
6 area is coming in a southwesterly to westerly direction. Across
7 the existing fill area the groundwater flow direction is coming
8 primarily to the northwest, and converging and bending around to
9 the west in the same area that I had referenced previously. And
10 just for the record, I am referencing an area at approximately
11 6,200 to 6,700, in that area, is generally where the convergent
12 flow is occurring.

13 HEARING OFFICER LANGHOFF: Mr. Konzen, for the record, is
14 any of the groundwater flow analysis part of the record?

15 THE WITNESS: Yes.

16 MR. KONZEN: Yes, I believe you will find it on page 3486,
17 figure 7-5.

18 HEARING OFFICER LANGHOFF: And that would be helpful for
19 the Board.

20 THE WITNESS: We do have potentiometric maps which show the
21 groundwater flow direction.

22 HEARING OFFICER LANGHOFF: Does that show the same type of
23 groundwater movement that you have just indicated on this larger
24 exhibit?

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: Yes.

2 Q. (By Mr. Konzen) If I may hand the witness record 3486.

3 A. 3486 in the record shows -- 3486 is figure number 7-5.

4 This is from, again, the April 30th of 2000 submittal to the
5 Illinois Environmental Protection Agency. The title is Figure
6 7-5, Generalized Potentiometric Surface Map of the Mine Aquifer.
7 That is the upper most aquifer at the site, and the aquifer of
8 concern as it pertains to contaminant transport and monitoring.

9 HEARING OFFICER LANGHOFF: I want the record to reflect
10 that the groundwater flow that Mr. Inman described on the record
11 3680, that is the blown up exhibit, the record 3680 is, again,
12 represented on the record 3486 and it is the same.

13 Q. (By Mr. Konzen) Now, can you relate the direction of the
14 groundwater flow to whether the removal of monitoring wells has
15 any negative impact?

16 A. Yes. As part of our proposed groundwater monitoring
17 system included in the application to the Illinois EPA, we do
18 have monitoring wells positioned along the western boundary of
19 the existing fill area. Those wells are located within, I
20 believe, half the distance of the zone of attenuation, which is
21 100 feet in that area, and the waste boundary. So, in other
22 words, they are located within approximately 50 feet of the waste
23 boundary. Those wells are down gradient relative to the

24 groundwater flow direction.

120

KEEFE REPORTING COMPANY
1-800-244-0190

1 In addition, because of the convergent flow, the
2 existing -- the groundwater flow from the existing fill area does
3 go from initially northwest, turns to the west, and in the area
4 that I described earlier, we have concentrated groundwater
5 monitoring wells in that area specifically to monitor that
6 convergent flow area.

7 In addition to that general description that I just
8 provided, we have done two different models from a groundwater
9 monitoring well spacing standpoint to evaluate the efficiency of
10 the system. Those are included in the record, and were submitted
11 to the Illinois Environmental Protection Agency. Those models
12 show and demonstrate that the groundwater monitoring system, as
13 proposed and designed, is a highly efficient system.

14 Q. Did you finish your answer?

15 A. Yes.

16 Q. Okay. Is there any likelihood the modifications to the
17 permit application will have a negative impact on the stability
18 of the expanded landfill?

19 A. No, there will not be a negative impact on the stability
20 of the landfill.

21 Q. Can you explain?

22 A. Yes. There were some references in the 1996 siting
23 application to the 50 foot separation berm providing stability to

24 the waste mass. And I think it would be helpful to explain those

121

KEEFE REPORTING COMPANY
1-800-244-0190

1 references in the application.

2 MR. HEDINGER: I would object to that testimony.

3 HEARING OFFICER LANGHOFF: Okay. On what grounds?

4 MR. HEDINGER: If the explanation is not in the record then
5 it is improper to place it in the record now.

6 HEARING OFFICER LANGHOFF: Thank you. I thought it was the
7 same objection. It is overruled.

8 THE WITNESS: The stability benefit provided by the 50 foot
9 separation berm, as was described in the local siting
10 application, basically was referencing that in order to create
11 two separate units we had to have a horizontal separation. There
12 are basically two options from an engineering standpoint to
13 create that horizontal separation. We can either create a two
14 hill concept where we have three to one or four to one slopes
15 coming back from that 50 foot separation zone. And you would
16 physically see two separate hills, two mounds out there to create
17 two units.

18 The other option from an engineering standpoint is to
19 create a vertical separation berm that would be constructed
20 sequentially as waste filling operations progressed. There is a
21 detailed referenced in the IEPA permit application how that fill
22 sequence would occur, but basically what the reference is in the

23 siting application to stability is that that 50 foot recompacted
24 soil wedge or column, if you will, what it does is it allows us

122

KEEFE REPORTING COMPANY
1-800-244-0190

1 to build vertical waste slopes at that 50 foot separation
2 boundary, rather than laying the slopes back at a three to one or
3 four to one slope.

4 Q. (By Mr. Konzen) Okay. Does the permit application
5 contain any stability calculations concerning the landfill
6 without the 50 foot interior berm?

7 A. Does which application?

8 Q. The permit application?

9 A. The permit application. Yes, it does. We have analyzed
10 the proposed facility as a single facility and we have analyzed
11 in the application, which is in the record, the stability of an
12 interior slope which would cut through, and I am referring to --
13 it would probably be better to refer to -- back to D10, which is
14 3680 in the record.

15 If we were to take a north-south section through this area
16 as a single -- designed as a single unit, we have analyzed the
17 slope stability of that section. The slope stability analyses
18 were conducted in accordance with the procedures laid out in the
19 Illinois Solid Waste Regulations and did demonstrate that the
20 intermediate slope in that area is, in fact, stable and meets the
21 regulatory requirements under the Illinois Solid Waste
22 Regulations without a separation berm.

23 Q. The 1996 local siting application referenced the 50 foot
24 interior berm. You have previously testified to that. Did it

123

KEEFE REPORTING COMPANY
1-800-244-0190

1 say anything about stability in relation to the berm, the 1996
2 local siting application?

3 A. To the best of my recollection the siting application
4 only contained the general references as I have described in
5 terms of allowing us to build vertical waste slopes in that area.

6 Q. Are you familiar with the nine criteria for local siting
7 of a landfill under Section 39.2 of the Illinois Environmental
8 Protection Act?

9 A. Yes, I am.

10 Q. Did you work with those nine criteria at the 1996 local
11 siting hearing in Saline County?

12 A. Yes, we did.

13 Q. Is there a negative impact on any of those nine
14 criteria, in your opinion, from combining the two landfill units
15 into one?

16 MR. HEDINGER: The same objection as before, and at this
17 point I would also say asked and answered.

18 HEARING OFFICER LANGHOFF: Overruled.

19 THE WITNESS: The question was is there a negative impact?
20 No, there is not a negative impact for the reasons I have
21 enumerated previously. The contiguous liner. Benefits to the

22 landfill gas extraction. Benefits to increased monitoring. And
23 financial assurance. All of those aspects that we have
24 previously described, the design improvements that were proposed

124

KEEFE REPORTING COMPANY
1-800-244-0190

1 to the Illinois Environmental Protection Agency, in my opinion,
2 result in a net positive as they pertain to the nine local siting
3 criteria.

4 Q. (By Mr. Konzen) Is there a negative impact on any of the
5 nine local siting criteria resulting from simplifying the
6 groundwater monitoring system into a one unit system?

7 A. No.

8 Q. Is there a negative impact on any of the nine local
9 siting criteria resulting from eliminating of this potential 50
10 foot zone of attenuation between the two waste disposal units?

11 A. No, there is not.

12 Q. Can you explain?

13 A. Well, again, in terms of the zone of attenuation, with
14 the 50 foot separation berm in place between what was formerly
15 described as two units, the zones of attenuation overlap. The
16 regulations specifically, and it is 811.320(c) -- excuse me. It
17 is 811.320(c) (3) in the Illinois Solid Waste Regulations
18 specifically allow overlapping zones of attenuation to be
19 combined into a single zone of attenuation for the purposes of
20 developing a monitoring network.

21 That was the situation that we had with the separation

22 wedge in place as presented in the 1996 local siting application.
23 The relevance of that is with the overlapping zones of
24 attenuation, we would have combined the zones of attenuation into

125

KEEFE REPORTING COMPANY
1-800-244-0190

1 a single zone of attenuation as pertains to groundwater
2 monitoring.

3 Q. Is there a negative impact on any of the nine local
4 siting criteria resulting from combining the two units and, thus,
5 delaying final closure of unit one, the existing unit?

6 MR. HEDINGER: The same objection.

7 HEARING OFFICER LANGHOFF: Overruled.

8 THE WITNESS: No. Again, just to make it clear, the actual
9 phasing and reaching of final grades, placement of final cover,
10 is not affected by removing or any of the design modifications
11 that we have proposed. What it does affect is a prolonged
12 monitoring and operating period to operate the maintenance
13 systems and leachate collection systems and the other
14 environmental systems at the facility.

15 Q. That's the 15 year additional period you mentioned
16 earlier?

17 A. Correct.

18 Q. In your opinion, is the nature and scope of the facility
19 proposed in IEPA log 1999-381 the same as that approved by the
20 Saline County Board in 1996?

21 A. Yes.

22 MR. HEDINGER: I would object to the use of the terms of
23 nature and scope without some foundation as to what those mean.

24 MR. KONZEN: My response is we have been laying the

126

KEEFE REPORTING COMPANY
1-800-244-0190

1 foundation of nature and scope for over an hour with this
2 witness. It is in the order directed to us on the last page of
3 that order of Thursday, April 18th.

4 HEARING OFFICER LANGHOFF: I am looking at that order. I
5 am going to have to overrule your objection, Mr. Hedinger.

6 MR. MERRIMAN: How about this one, just for the record. It
7 is the ultimate issue. The Board is going to make that
8 determination. He can testify to facts as he knows them and the
9 accumulation or the sum total of those facts can be argued to the
10 Board that develop or determine the nature or the scope of the
11 facility, but the witness is being asked to give an opinion on
12 the ultimate issue and, therefore, I would object.

13 HEARING OFFICER LANGHOFF: I am going to have to overrule
14 your objection, Mr. Merriman. You can argue that before the
15 Board. This is the Petitioner's expert witness. He can ask this
16 question.

17 Q. (By Mr. Konzen) Do you need to hear the question again?

18 A. No, I recall it. Yes, it is the same in nature and
19 scope.

20 Q. I am going to refer you now to the record, pages 6198

21 through 6200. I should clarify for the record, Mr. Hearing
22 Officer, that I am going to begin an offer of proof here. You
23 have already ruled about the admissibility. This pertains to the
24 1982 local siting.

127

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. KONZEN: I want to make it clear for the record that
2 this begins the offer of proof.

3 OFFER OF PROOF EXAMINATION

4 BY MR. KONZEN:

5 Q. Do you have in front of you those record pages, 6198
6 through 6200, or do you need them?

7 A. I do not have 6198. I have 6199 and 6200.

8 Q. Okay. We are going to check that record citation. I
9 believe we can continue by referring to those three pages as
10 Petitioner's Exhibit Number 16, and ask the witness if he can
11 identify Exhibit 16?

12 HEARING OFFICER LANGHOFF: For the record, this is part of
13 your motion to allow evidence, an offer of proof?

14 MR. KONZEN: Yes.

15 HEARING OFFICER LANGHOFF: That is the same, 16 and 18 and
16 8, I assume?

17 MR. KONZEN: Yes, Mr. Hearing Officer.

18 MR. MERRIMAN: I would, just for the record, note that
19 these -- Petitioner's Exhibit 16 pages do, indeed, appear in the

20 record at pages 6198, 6199 and 6200. Actually, the record copy
21 seems to be a little better than the second page of the -- a
22 little bit more is cut off in the exhibit than in the record
23 copy.

24 HEARING OFFICER LANGHOFF: Thank you, Mr. Merriman. So the

128

KEEFE REPORTING COMPANY
1-800-244-0190

1 record is clear, this is your offer of proof?

2 MR. KONZEN: Yes.

3 HEARING OFFICER LANGHOFF: If you would just indicate when
4 you are finished with your offer.

5 MR. KONZEN: Yes, sir.

6 OFFER OF PROOF EXAMINATION (continued)

7 BY MR. KONZEN:

8 Q. Can you identify that three-page document, Petitioner's
9 Exhibit Number 16?

10 A. Yes. The first page, 6198, is a letter from Thomas
11 Cavanagh, with the Illinois Environmental Protection Agency to
12 Bill Endsley, Jr., the Chairman of the Saline County Board, dated
13 November 3rd of 1982.

14 The subsequent two pages are Saline County Board meeting
15 minutes, dated October 7th of 1982, consisting of two pages,
16 signed by Bill Endsley, Jr., Chairman.

17 Q. So on October 7th of 1982, there was a local siting
18 approval of some kind granted by the Saline County Board?

19 A. Yes. This is included in the record. We submitted this

20 under 1999-381 to demonstrate that basically this contains the
21 local siting approval issued by the Saline County Board in 1982.

22 MR. HEDINGER: For the record, when you are referring to
23 this, you are referring to Petitioner's Exhibit 16? I am sorry
24 to interrupt. I just wanted for clarification to -- you kept

129

KEEFE REPORTING COMPANY
1-800-244-0190

1 saying this is what we submitted, and I just wanted to make sure
2 that it is the three-page document.

3 THE WITNESS: The three pages is what we submitted. It is
4 the Petitioner's Exhibit 16, yes. And it is both the IEPA letter
5 and the Saline County Board meeting minutes.

6 MR. HEDINGER: Okay. No objection.

7 Q. (By Mr. Konzen) Now I am going to direct the witnesses
8 attention to a page in the record, record 6177, and ask if he can
9 identify what is referenced on that page of the record?

10 A. Yes, this was also submitted to the Illinois EPA under
11 IEPA log number 1999-381. This document, starting on page 6177,
12 is the March 30th of 1983 permit for the Saline County Landfill.
13 It is the initial development permit for the Saline County
14 Landfill, permit number 1983-9-DE, which is shown in the upper
15 heading of the letter.

16 MR. MERRIMAN: For the record, I would just -- it is sort
17 of an objection by way really of a clarification. This is a
18 single page that has been tendered to the witness and it does

19 accurately reflect page 6177 of the record. However, pages 6177
20 through page 6184 are the complete document that was submitted to
21 the Illinois EPA. So this is just the first page of a series of
22 things that are a part of a single document.

23 HEARING OFFICER LANGHOFF: Thank you, Mr. Merriman. Your
24 objection slash clarification is noted for the record.

130

KEEFE REPORTING COMPANY
1-800-244-0190

1 MR. KONZEN: I would agree it does continue through page
2 6184, that is correct.

3 HEARING OFFICER LANGHOFF: And the record reflects that.

4 MR. KONZEN: Okay.

5 Q. (By Mr. Konzen) Does this 1983 permit on page 6177 of
6 the record, et sequentes, refer us back to the 1982 local siting?
7 Or let me ask it a little differently. Are they talking about
8 the same area?

9 A. Yes, it is the same area. There are 29.6 acres,
10 specifically, 29.62 acres referenced in the introductory
11 paragraph to this permit referenced describing the sanitary
12 landfill that is included in permit number 1983-9-DE.

13 Q. Have you had an opportunity to identify where the
14 previously referenced 50 foot separation berm is in relation to
15 the 1982 locally sited area?

16 A. Yes. We prepared an exhibit which, again, was submitted
17 to the Agency. We have a full size copy of that exhibit, which
18 might be helpful, again, for demonstrative purposes. The exhibit

19 is listed here as Petitioner's Exhibit 8.

20 HEARING OFFICER LANGHOFF: I am sorry. Is that -- was the
21 record number given for that?

22 MR. KONZEN: That is in the record at page 0200 and page
23 6197 both.

24 HEARING OFFICER LANGHOFF: Thank you, Mr. Konzen.

131

KEEFE REPORTING COMPANY
1-800-244-0190

1 THE WITNESS: What this exhibit shows is two basic areas.
2 There is an area to the south shown in green, which is the
3 subject -- approximately 30 acres, that was subject to the 1982
4 local siting approval from the Saline County Board, as well as
5 the 1983-9-DE permit that we just discussed.

6 The second area is the yellow, tan area to the north. That
7 area is the area that was sited for waste disposal by the Saline
8 County Board in 1996.

9 The one other feature that is shown here relevant to your
10 question is the stipple area that is shown on the reduced exhibit
11 also, which was included in the record. That area is shown in
12 the legend as the location of the interior wedge contained in
13 conceptual design. That is referencing the conceptual 1996
14 design that was submitted to the Saline County Board. Of
15 particular relevance is that the entire separation zone and wedge
16 that was discussed previously in my testimony is located entirely
17 within the 30 acre limits that was sited by the Saline County

18 Board in 1982.

19 Q. (By Mr. Konzen) Now, when you referenced 30 acres just a
20 moment ago in your last answer, is that the same tract or a
21 different tract than the 29.6 acres that you referenced?

22 A. It is essentially the same. It is the same tract. It
23 is the same parcel. There is a slightly different measurement
24 that the surveyor obtained in the field in preparing -- I am not

132

KEEFE REPORTING COMPANY
1-800-244-0190

1 sure who prepared the legal description contained in the IEPA
2 permit, but there is a slightly different -- a difference in one
3 of the dimensions. Under both dimensions, though, I have scaled
4 from the southern most property boundary. Again, this 50 foot
5 separation berm falls within the area described both in the
6 permit and the 30 acre parcel that was sited in 1982.

7 Q. Is there any other information in the record that
8 supports your conclusion that this 50 foot berm received local
9 siting approval for waste placement in 1982?

10 A. Yes. On December 4th we submitted additional
11 information to the Illinois Environmental Protection Agency
12 supporting this fact that the 50 foot separation wedge was, in
13 fact, located on property that was sited by the Saline County
14 Board in 1982. I am referring to the December 4th of 2001
15 submittal from STS Consultants to the Illinois Environmental
16 Protection Agency. The cover letter, again, is dated December
17 4th of 2001, to Joyce Munie. Page four of that document is

18 signed by myself and Gerald Krueger.

19 Within Attachment A of that document is a letter from Bill
20 Endsley, Jr., who was the Saline County Board Chairman at the
21 time in 1982. The last sentence of that letter states that
22 Saline County Board feels that Lambert has met all other required
23 Agency standards and have no other objections except the
24 aforementioned location. At the same regular meeting the County

133

KEEFE REPORTING COMPANY
1-800-244-0190

1 Board voted to approve the Lambert site number three. That was
2 his cover letter.

3 MR. MERRIMAN: For the record, that appears on page 6193 of
4 the administrative record.

5 HEARING OFFICER LANGHOFF: Thank you, Mr. Merriman.

6 THE WITNESS: Also included in that attachment is what was
7 previously described as Petitioner's Exhibit 16. And on -- in
8 Attachment C of that December 4th of 2001 submittal is an
9 affidavit that was provided from Bill Endsley, Jr., as to the
10 fact -- and I am referring to item number six, item number five
11 and six of that affidavit.

12 Item number five states that no limitations were placed on
13 the site regarding vertical limits or boundaries by the Board
14 determination. And six states that no limitations were discussed
15 or ordered by the Board of Supervisors other than set forth in
16 the minutes of the Board meeting dated October 7th of 1982, which

17 we previously referenced in Petitioner's Exhibit 16.

18 MR. KONZEN: For the record, that Mr. Endsley affidavit is
19 on page 6215 of the record.

20 HEARING OFFICER LANGHOFF: Thank you.

21 THE WITNESS: There is one other attachment that addresses
22 that issue in the December 4th of 2001 submittal, and that is
23 contained in Attachment D. There is a series of documents there.
24 The first is an August 16th of 1995 letter from Mr. Rod Wolf. I

134

KEEFE REPORTING COMPANY
1-800-244-0190

1 am sorry. It is to Mr. Rod Wolf, State's Attorney, Saline County
2 Courthouse, from Edwin C. Bakowski, Permit Section Manager of the
3 Illinois Environmental Protection Agency. And that's a two-page
4 letter.

5 And the third page, again, all this contained in Attachment
6 D, are notes that we received from the Illinois Environmental
7 Protection Agency file pertaining to the 1982 local siting
8 approval. The Agency notes indicate that the response, which was
9 included in the letter to Mr. Rod Wolf, and this is a quote,
10 response to indicate that the original local approval stated,
11 i.e., that the only condition on the 1982 approval was the
12 property boundary, end quote.

13 MR. KONZEN: For the record, the witness -- the letter to
14 Rod Wolf is on pages 6218 and 6219 of the record. And the last
15 document that the witness referenced is on page 6220 of the
16 record.

17 HEARING OFFICER LANGHOFF: Thank you.

18 MR. KONZEN: That concludes our offer of proof.

19 HEARING OFFICER LANGHOFF: Thank you.

20 (At this point in the record the offer of proof was
21 concluded.)

22 MR. KONZEN: I would move for a brief recess, please. Oh,
23 first, that drawing referencing the 50 foot berm as part of the
24 local siting, the green and tan document, is marked as

135

KEEFE REPORTING COMPANY
1-800-244-0190

1 Petitioner's Exhibit 8, for the record.

2 HEARING OFFICER LANGHOFF: Okay. Are you finished with the
3 witness, Mr. Konzen?

4 MR. KONZEN: Basically, yes. I would like a very brief
5 recess to review in light of some of the objections we have heard
6 today. But basically, yes.

7 HEARING OFFICER LANGHOFF: What kind of break were you
8 suggesting? A five minute break or --

9 MR. KONZEN: I asked for five minutes, but I would be very
10 willing to go to lunch.

11 HEARING OFFICER LANGHOFF: Mr. Merriman?

12 MR. MERRIMAN: Just inquiring, is he tendering the witness,
13 then? That's the key, I think.

14 HEARING OFFICER LANGHOFF: I think he is going to wait five
15 minutes and tender the witness. Is that your --

16 MR. KONZEN: Yes, sir.

17 HEARING OFFICER LANGHOFF: Okay.

18 MR. MERRIMAN: I just suppose, I guess, in this stage as
19 long as -- I am not even trying to suggest that there would be
20 anything improper. I think it is customary that the witness be
21 cautioned not to discuss while he is still on the stand subject
22 to his cross or to his questioning that they not discuss their
23 answers at this point. But I hate to even bring that up. I
24 guess that's my only concern.

136

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER LANGHOFF: Mr. Hedinger?

2 MR. HEDINGER: Similarly, I guess I don't have any
3 objection to taking a couple of minutes right now. I would
4 prefer to have Mr. Konzen tender the witness before we take an
5 extended break.

6 MR. KONZEN: I will keep it well below five minutes.

7 HEARING OFFICER LANGHOFF: Okay. We will take a five
8 minute break. Is it almost 2:00 already?

9 MR. HEDINGER: Yes, a quarter till.

10 HEARING OFFICER LANGHOFF: Okay. We will be back at ten
11 till 2:00. Thank you.

12 (Whereupon a short recess was taken.)

13 HEARING OFFICER LANGHOFF: All right. We are back on the
14 record.

15 Mr. Konzen, anything else?

16 MR. KONZEN: Yes. Mr. Inman is still under oath. Just one
17 very brief line of inquiry.

18 DIRECT EXAMINATION (continued)

19 BY MR. KONZEN:

20 Q. You previously testified, Mr. Inman, to some of your
21 background and experience. Do you have any experience in site
22 development?

23 A. Yes, both commercial and industrial site development of
24 anywhere from small commercial office type buildings to larger

137

KEEFE REPORTING COMPANY
1-800-244-0190

1 industrial facilities.

2 Q. Does this call for anything in your background
3 pertaining to visual analysis and developments?

4 A. Yes. In those cases it has, on those projects it has
5 required me to be familiar with engineering design as it pertains
6 to land use and potential land impacts. An example of one of the
7 analyses that was completed on a project I was working on for the
8 Pierre Group of America was a million square foot bottling
9 facility, and we completed visual impact analysis to assess how
10 our engineering design might impact the surrounding land use and
11 surrounding homes adjacent to the facility.

12 Q. Was one of the concerns in that study the value of the
13 homes?

14 A. Yes.

15 Q. Or the value of the surrounding properties?

16 A. Value and visual impact, yes.

17 Q. How many of these visual impact studies have you been
18 associated with?

19 A. That was in terms of an actual study specifically for
20 visual impact. That was the only one I have done to, quote,
21 unquote, quantify the visual impact. But it is certainly
22 something that we do incorporate into or consider in most of our
23 engineering designs.

24 Q. How many such land use studies have you been involved in

138

KEEFE REPORTING COMPANY
1-800-244-0190

1 or associated with?

2 A. Well, again, for the commercial and industrial --
3 valuing land use impacts for the commercial and industrial site
4 development activities, I would say at least a dozen. And then
5 as I had testified earlier, on virtually all of the landfill and
6 transfer station siting cases that I have worked on in Illinois
7 under Section 39.2 we have incorporated land use and real estate
8 value impact studies as part of those projects.

9 Q. And the dollar value impact would be -- when you say
10 value, you meant the dollar value?

11 A. Yes.

12 Q. So do the design modifications in this permit
13 application have a negative impact on the value of the
14 surrounding property?

15 A. In my opinion --

16 MR. HEDINGER: The same objection.

17 HEARING OFFICER LANGHOFF: Okay. I am going to overrule
18 your objection, Mr. Hedinger. I think enough foundation has been
19 shown for this witness to answer this question, specifically
20 since criteria three talks about where the facility is located.

21 You can answer.

22 THE WITNESS: In my opinion, no.

23 HEARING OFFICER LANGHOFF: Thank you.

24 MR. KONZEN: No further questions.

139

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER LANGHOFF: Okay. Thank you. Let's go off
2 the record for just a moment, please.

3 (Discussion off the record.)

4 HEARING OFFICER LANGHOFF: All right. We are back on the
5 record.

6 Mr. Merriman, do you have any cross?

7 MR. MERRIMAN: Yes, please. Thank you.

8 CROSS EXAMINATION

9 BY MR. MERRIMAN:

10 Q. Mr. Inman, I just have a few questions and points of
11 clarification. You were the project -- would you call it project
12 manager, perhaps, at the time that the siting application was
13 prepared and presented to the Saline County Board, and I am

14 referring to the 1996 siting application; is that right?

15 A. That's correct.

16 Q. You, in fact, testified before at the hearing, and I
17 think the hearing was held on -- was that August 16th of 19 --
18 excuse me -- October the 16th of 1996, and you were present and
19 testified at that hearing, right?

20 A. That's correct.

21 Q. At that hearing there was some discussion about the
22 design of the facility and, in fact, you discussed briefly there
23 before the County Board the separation zone of the berm and the
24 intended -- the nature and the intended use of that berm, right?

140

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. That did include, in fact, a statement that the
3 separation zone will be used for such things as monitoring
4 between the two units to allow independent monitoring for each of
5 them?

6 A. I trust you are reading the transcript. I don't recall
7 the specific statement.

8 Q. I mean, if it appeared in the transcript, again, which
9 appears at pages 4284 and 4285 of the record, that you would
10 agree that that is likely what was said?

11 A. Maybe I could just take a look.

12 Q. Sure.

13 A. I know the statement that you are referring to, and I am

14 not sure if you included the latter portion, the separation zone
15 will be used for things such as monitoring between the two units
16 to allow -- and I further clarified it at the end -- to allow
17 independent monitoring for each of them.

18 Q. The independent monitoring for each of them was part of
19 your original design; is that right?

20 A. I agree that the -- I guess, what do you mean by
21 monitoring?

22 Q. Well, maybe we should ask you that question. But, I
23 mean, you indicated in the hearing and I think you testified
24 earlier that the original plan called for groundwater monitoring

141

KEEFE REPORTING COMPANY
1-800-244-0190

1 wells to be placed within the separation?

2 A. Okay. That's why I asked for the clarification. In my
3 testimony I don't believe I testified that there would be
4 groundwater monitoring between the two units. I did, in that
5 statement, reference monitoring.

6 Q. Right.

7 A. And specifically that last portion of that statement in
8 terms of -- again, if I could refresh my recollection of what it
9 was, but the -- specifically allow for independent monitoring for
10 each of them.

11 Q. Right.

12 A. And that, I think, was the essence of my testimony and

13 certainly within the 1996 siting application it was contemplated
14 that there would be two units.

15 Q. Okay. And as -- because there were two units, they were
16 going to be independently monitored?

17 A. In some fashion. My testimony in the siting hearing was
18 not as it pertains to groundwater monitoring. The other thing I
19 think your question slightly mischaracterized earlier is that it
20 mischaracterized my earlier testimony in that the conceptual
21 monitoring plan submitted in 1996 discussed that there may be
22 monitoring in that separation zone.

23 And clearly a final groundwater monitoring plan had not
24 been developed at that point in time. We had not completed our

142

KEEFE REPORTING COMPANY
1-800-244-0190

1 phase three hydrogeologic investigation and had not completed the
2 groundwater impact assessment and final engineering design. So
3 from a conceptual standpoint I will agree that we contemplated
4 independent monitoring, but I don't agree that we had committed
5 to that.

6 Q. When you refer to the conceptual design, you are
7 referring to the design that was included and discussed in the
8 siting application that was submitted to the Saline County Board?

9 A. Yes.

10 Q. All right.

11 A. I think conceptual or I think maybe we referred to it in
12 the siting application as a preliminary design.

13 Q. Do you know where in the siting application you referred
14 to it as a preliminary design, as opposed to a proposed design or
15 a planned design?

16 A. I am sure I could find it. Off the top of my head I
17 don't have the record and the citation from the 6,000 page
18 record.

19 Q. And you didn't refer to it in the application as a
20 conceptual design, did you?

21 A. I don't recall if we -- I don't recall that we didn't
22 refer to it as a conceptual design. I do recall that we referred
23 to it in some cases as a preliminary design. We may or may not
24 have referred to it as a conceptual design.

143

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. There was a portion of the siting application and,
2 again, I will refer you to record pages, that Section 2.6 that
3 was the operating plan, for example. And 2.6-17, appearing at
4 pages 4745 and 4746 have a discussion about the berm, and it says
5 something like the berm will be constructed to isolate the waste
6 in unit one and two. It does not say that -- I mean, let me
7 refer you to that.

8 A. Okay.

9 Q. I am not trying to make a big -- just trying to make a
10 couple of points and that's all. But it does not indicate there,
11 does it, that it is -- that you had anything else in mind, and

12 that that was, in fact, the plan that you were intending to
13 utilize?

14 A. You are talking about the separation berm? --

15 Q. Having the separation berm.

16 A. -- or the monitoring?

17 Q. The separation berm.

18 A. The separation berm, yes, I think that is consistent
19 with my statements that our initial plan was to have -- presented
20 in the preliminary design was to have two separate units.

21 Q. In fact, the two separate unit plan appeared in the
22 development permit application that was submitted to the Agency
23 after you obtained the siting approval?

24 A. The initial application to the Illinois Environmental

144

KEEFE REPORTING COMPANY
1-800-244-0190

1 Protection Agency also proposed two separate units.

2 Q. In that plan you did, in fact, propose groundwater
3 monitoring between the -- in the space between the two?

4 A. I don't recall that specifically. I don't doubt it.

5 Q. Okay.

6 A. I would want to confirm that before I testified to that.

7 Q. But that would be in your application, and that would be
8 in --

9 A. That would be in our application and that would be in
10 the groundwater monitoring plan.

11 Q. Okay. I guess we can use the large diagram, the smaller

12 version of which appears on page 3680, which is the ultimate
13 design after the berm was removed, and you used this diagram also
14 related to a potentiometric map that appeared in the record in
15 order to describe generally the groundwater flow.

16 A. Uh-huh.

17 Q. I am not going to ask you to repeat that testimony,
18 because it is in the record and it is in your prior testimony.
19 But it is fair to say that the groundwater does flow under the
20 old existing unit and to some extent, although perhaps in a north
21 or northwesterly direction, would also cross the area where the
22 berm or wedge that is the subject of this appeal?

23 A. I don't think what you said is fair. I don't think
24 that's an accurate reflection of my testimony. Just to clarify,

145

KEEFE REPORTING COMPANY
1-800-244-0190

1 I don't think that it flows -- well, to clarify what my testimony
2 was and what the potentiometric map we referred to shows is flow
3 under the existing unit in a northwesterly direction, flow under
4 the proposed expansion in a southwesterly direction, both
5 converging at an area that we had previously described and
6 flowing in a westerly direction.

7 Q. So your testimony now is that groundwater does not flow
8 from the old unit into the area of the proposed berm?

9 A. No, that was not my testimony. My testimony was it
10 flows in a northwesterly direction under the existing facility.

11 Q. I guess what I am saying is that flow does cross and
12 continue to flow to a northwesterly direction to some extent from
13 the old unit, the existing unit under the berm?

14 A. A portion of -- with that north, northwesterly flow
15 component, a portion of the existing facility, the groundwater
16 flow direction would be directed towards that 50 foot zone that
17 we have discussed previously.

18 Q. That is what I was trying to clarify. So, in fact, your
19 initial proposed design to have monitoring wells spaced in the
20 berm area would be -- that would be a good location to intercept
21 groundwater flow from the existing unit?

22 A. Again, in my opinion, based on our design and our
23 analyses, the -- a good location to intercept that flow or to
24 monitor that flow is along the western facility boundary.

146

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Well, that's what you submitted ultimately, right?

2 A. Correct, and we actually had several discussions with
3 the Agency about that and what is an appropriate monitoring
4 system, and based on those discussions and based on our analyses,
5 that was, in fact, what was finally agreed upon with the Agency.

6 Q. Did you prepare the groundwater impact assessment
7 portion of the development application?

8 A. It was -- my role was to oversee the entire application
9 development. I did not personally do the groundwater modeling as
10 part of the groundwater impact assessment. My role --

11 Q. So did you select the help model that was used?

12 A. The help model is a model that I use and we use at STS
13 Consultants to -- and we collectively at STS Consultants have
14 selected that model to oftentimes model the hydraulic performance
15 of landfill systems. In this particular instance, I don't recall
16 if I personally selected it for use on this model, but it is
17 certainly something that we frequently use for that purpose.

18 Q. And there is another model referred to as the migrate
19 model?

20 A. Yes.

21 Q. Did you select that one?

22 A. I was involved in those discussions to utilize that
23 model.

24 Q. Did you select the parameters that were used to input in

147

KEEFE REPORTING COMPANY
1-800-244-0190

1 the model in order to get the model results that were submitted
2 as a part of the initial development application?

3 A. For which model?

4 Q. Migrate?

5 A. Well, there were a series of models and runs that were
6 done for migrate, and I guess I am not sure of what --

7 Q. The initial one that was referenced in -- looking at
8 Petitioner's Exhibit Number 5, which would be the first draft
9 denial that was faxed to you on April 3rd that was referenced on

10 page 0287 of the record, paragraph six and seven, appearing on
11 those pages.

12 A. That was the initial submittal to the Agency.

13 Q. That's right.

14 A. And some of those input parameters I would have been
15 involved in.

16 Q. Would that include landfill length?

17 A. Yes.

18 Q. Now, you chose -- I mean, there was -- I mean, I can
19 draw this to a conclusion here. You have testified that after
20 having removed the wedge or the berm, there are, as you have
21 testified at length, no disadvantages. In fact, you have made it
22 sound like there are a number of advantages to that design
23 proposal over the two unit design proposal. Is that fair to
24 state?

148

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I believe my testimony was that there were a number of
2 benefits realized by combining the two units into a single --
3 into a single unit.

4 Q. You know, they tell lawyers never ask this question, but
5 I am compelled to ask you, if this was an option, this being the
6 ultimate design of a single unit, as well as the two units
7 separately monitored, what was -- why was the choice made to
8 submit the two units that would be monitored to the Saline County
9 Board for siting approval and then to the Illinois EPA for a

10 development permit application?

11 A. In large part at the time of preparing the 1996 local
12 siting application, it was based on the ability to independent --
13 with the two unit concept, that design decision was based on the
14 flexibility or ability to close out unit one earlier thereby
15 releasing financial assurance and terminating earlier, as I had
16 described in my earlier testimony, the leachate extraction
17 system, the groundwater monitoring, the landfill gas monitoring,
18 that would shorten the minimum length of time required to keep
19 those systems operating.

20 Q. This was always going to have one -- I believe in your
21 plan as proposed to Saline County was always going to have one
22 final cover or cap over the top of both units, right?

23 A. The final land form itself would not -- it was the same
24 under both, wedge in or wedge out.

149

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And you -- there was testimony, I believe, earlier
2 today when you were not here, but testimony relating to the fact
3 that after the first draft denial was received there was a
4 meeting held by the Agency, and there were at least two different
5 options discussed. One was the one you ultimately chose, which
6 was to remove the berm, and the other was to leave it as two
7 units and to just widen the berm to address the zone of
8 attenuation issue, do you recall? You were present at that April

9 19th meeting?

10 A. Yes.

11 Q. You recall those discussions?

12 A. I recall that there were a number of options discussed
13 including leaving the berm as is with a 50 foot separation zone.
14 We definitely discussed removal of the berm, and as I had
15 indicated previously in my testimony, at least one point in the
16 meeting Ms. Thompson had testified -- or excuse me -- had
17 indicated that they would prefer to see the wedge gone.

18 Q. Now, that was not a direction or an instruction from the
19 Agency to do that, was it?

20 A. I would not characterize it as an instruction from -- I
21 would not characterize it as an instruction.

22 Q. But that's the -- ultimately, the option you chose is
23 the one here before us, which is the removal of the wedge?

24 A. Based on the outcome of that meeting, and subsequent

150

KEEFE REPORTING COMPANY
1-800-244-0190

1 analyses that was done the option selected was to remove the
2 wedge.

3 Q. But you certainly could have modified your design to
4 make the wedge wider and achieve the zone of attenuation?

5 A. I have not completed any engineering analyses to show
6 that option would have been -- I don't know if that would have
7 been permitted by the Agency, but I believe leaving the wedge at
8 50 foot is an option. I believe removal of the wedge is an

9 option, and there are probably other options that could be
10 explored.

11 MR. MERRIMAN: Okay. I have no other questions.

12 HEARING OFFICER LANGHOFF: Thank you. Mr. Hedinger?

13 CROSS EXAMINATION

14 BY MR. HEDINGER:

15 Q. Can you describe for me, Mr. Inman the -- we know this
16 berm as contemplated in the 1996 siting and as originally
17 submitted to the Agency was 50 feet wide. And it was going to be
18 made of soil materials, right?

19 A. That's correct, approximately 50 feet wide and soil
20 materials.

21 Q. At its largest, as finally completely built, how long
22 was that berm going to be, end to end?

23 A. Was that your -- are you finished with your question?

24 Q. Yes.

151

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I am sorry. I don't recall the exact length. I could
2 scale it off the drawing and get an approximate length. It would
3 run the length of the width, east to west of the landfill.

4 Q. Okay. I don't mean to be difficult here, but is there
5 someplace you could look pretty quick and come up with that
6 number?

7 A. Sure.

8 Q. Okay. Please do. And I will also be asking for the
9 vertical height --

10 A. Okay.

11 Q. -- at its highest?

12 HEARING OFFICER LANGHOFF: Let the record reflect that the
13 witness is using an engineering scale on Exhibit R3680.

14 THE WITNESS: The approximate width would be, depending on
15 where you measure it, somewhere in the area of 1,000 feet to
16 1,150 feet.

17 Q. (By Mr. Hedinger) Again, that would be the length of
18 this 50 foot wide berm?

19 A. The approximate length, and I am measuring it at the --
20 basically at the ground surface, at the toe of the final land
21 form slope. The pyramid itself -- so it is more or less the
22 approximate -- or I am sorry -- the maximum length of the berm.
23 The berm itself would be more trapezoidal in shape as it would
24 get narrow as you got higher above the ground surface. So it

152

KEEFE REPORTING COMPANY
1-800-244-0190

1 would be much less than that up at the top.

2 Q. Okay. I guess I am getting confused as to which
3 dimensions we are talking about here. It is going to be
4 approximately 50 feet wide running the entire span of the
5 landfill; is that correct?

6 A. Correct.

7 Q. And then you are saying at the bottom of the landfill it

8 would be approximately -- is that the 1,150 number you gave me?

9 A. No, that is the range of somewhere on the order of 1,000
10 to 1,150 at the ground surface.

11 Q. All right.

12 A. As you go up from the ground surface vertically above
13 grade in the land form itself, it is going to get narrower and
14 narrower up to a point. I can scale that up at the top of the
15 land form also if you would like that number.

16 Q. Will it be significantly smaller?

17 A. Yes.

18 Q. Okay. Yes, give me that number, then, please?

19 A. Less than 500 feet up at the top, and then it will more
20 or less flatten out on the top of the landfill. There is a two
21 percent or greater slope across the top of the landfill.

22 Q. Then how high is the berm?

23 A. Actually, I would like to look at the drawings and get
24 you the detail.

153

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Yes, please do.

2 A. I don't know if I can get over there. Is it okay if
3 Gerry grabs that for me?

4 Q. Sure.

5 A. We have a detail showing that berm. Maybe just hand me
6 the roll of drawings.

7 Q. This detail you are looking at was a detail that was
8 included in the record, right?

9 A. Uh-huh.

10 HEARING OFFICER LANGHOFF: Is that a yes?

11 THE WITNESS: That's correct. I think we have it in here.
12 If not, I can scale it off of the cross-section, too. I will do
13 that. Again, it depends where you take that cross-section
14 because it will come down to roughly zero at the sides. It will
15 be a trapezoidal shape, so it will vary from zero feet at either
16 side of that maximum distance that I provided you the maximum
17 length, up to approximately 80 to 90 feet across the top of the
18 landfill and, again, down at the sides of the landfill
19 approximately -- well, it would be zero.

20 Q. (By Mr. Hedinger) Okay. And --

21 A. For the record, I am referring to sheet number D24 of
22 the September of 1999 submittal. The drawing is dated -- again,
23 the D24 drawing is dated 09-03-99.

24 HEARING OFFICER LANGHOFF: Thank you.

154

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. (By Mr. Hedinger) You are referring to that for purposes
2 of obtaining the vertical height?

3 A. The vertical height, correct. Can I put these away?

4 Q. Yes, please. Now, it is my understanding that this
5 geometric figure that you have just described, being the
6 three-dimensional space between the old landfill and the new

7 landfill would be filled with soil materials, right?

8 A. That's correct.

9 Q. Is there anywhere to your recollection in the record
10 that the approximate volume of the soil materials might be
11 reflected?

12 A. I believe it is in the siting application, yes.

13 Q. Okay. Not the permit application but in the siting
14 application?

15 A. It may be in both places in some fashion. I am not sure
16 that that direct number -- I know there are some soil balance
17 tables that were provided in the application. The soil balance
18 numbers I don't think break out distinctly what that soil volume
19 is. By soil volume I mean the volume in that 50 foot zone
20 consisting of the -- there is two basic types of soil, the
21 recompacted clay and the low permeability material on either side
22 of this wedge and general soil material in between that.

23 Q. Okay.

24 A. So I don't think you will find that directly in the IEPA

155

KEEFE REPORTING COMPANY
1-800-244-0190

1 permit ap.

2 Q. Okay. But your recollection is it may be in the siting
3 application?

4 A. It may be in both. I don't recall it being in the IEPA
5 permit ap.

6 Q. Whatever number that is, though, the redesign of the
7 facility to make the expansion one unit rather than two, and the
8 removal of that berm, pretty much all of that geometrical figure
9 will now be taken up with trash, correct?

10 A. Well, there were more modifications in that area than
11 just removal of the wedge. It was not as simple as keeping the
12 same liner design. As I have testified previously, we are going
13 to bring liner material across and tie in directly contiguous to
14 the existing fill area.

15 Q. So some portion of it at the bottom will be taken up
16 with liner?

17 A. Sure. So it is not an equal one-to-one trade-off.

18 Q. Okay. Would it be a fair representation, though, that
19 the lion's share of what was formerly going to be soil will be
20 taken up with waste materials?

21 A. The majority of -- I don't know if lion's share is maybe
22 a bit subjective. But the majority of the volume will be taken
23 up with waste materials.

24 Q. Mr. Konzen asked you some questions concerning the

156

KEEFE REPORTING COMPANY
1-800-244-0190

1 affect of the various design changes with respect to the capacity
2 of this landfill. Do you remember those questions?

3 A. Yes.

4 Q. This particular design change will not -- this
5 particular design change meaning the removal of the berm, will

6 not reduce the available air space, correct?

7 A. My testimony was that --

8 Q. No. I want to know is that a yes or no answer to that
9 question. Is that correct or incorrect?

10 MR. KONZEN: I object. I don't think he has to limit the
11 witness to yes or no.

12 HEARING OFFICER LANGHOFF: I will overrule your objection
13 and order the witness to answer yes or no in this
14 cross-examination to that question, if he can.

15 THE WITNESS: Could you repeat the question?

16 Q. (By Mr. Hedinger) This particular design change, removal
17 of the berm, will not result in a reduction of air space?

18 A. I don't think I can accurately answer that with a yes or
19 a no. I can answer it with a very brief explanation if you would
20 like.

21 Q. Go ahead.

22 A. As I had mentioned before, it is not as simple as just
23 taking the wedge out and replacing that with air space. There is
24 a series of design modifications, including structural fill,

157

KEEFE REPORTING COMPANY
1-800-244-0190

1 liner, removal of the 50 foot separation berm, the net of all of
2 the design changes between the 1996 siting approval and the final
3 design submitted to the Illinois Environmental Protection Agency
4 is approximately a 300,000 air space cubic yard decrease.

5 Q. I understand that. I am putting aside the rounding of
6 the corners, and putting aside the raising of the base, and
7 putting aside the other design changes that you talked about, and
8 I want you to focus solely upon the removal of this berm. The
9 removal of the berm, in and of itself, does not reduce the
10 available air space capacity, correct?

11 A. I didn't do that calculation. I mean, I -- that's why I
12 felt more comfortable answering it with the explanation that I
13 provided to you previously.

14 Q. All right. You also discussed in your testimony with
15 Mr. Konzen certain what you referred to as benefits of removing
16 this berm, and one of them that you just mentioned again was the
17 tie in with the liner with the existing area. Do you recall
18 that?

19 A. I am not sure you are accurately reflecting my
20 testimony. My testimony was the design modifications, I believe,
21 there were a number of benefits. One of the benefits to the
22 design modification was the contiguous tie in of the Subtitle D
23 composite liner system, the leachate collection system into the
24 existing fill area.

158

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Okay. When you use the word design modification, are
2 you referring to removal of the berm or the design modifications
3 generally?

4 A. All of the design modifications.

5 Q. Well, let's just focus on removing the berm. Does that
6 impact the tying in with the liner with the existing area?

7 A. Does removal of the berm impact it?

8 Q. Is that a benefit of removing the berm, solely focusing
9 on removal of the berm?

10 A. Tying the liner in is a benefit, yes.

11 Q. So you could not have tied the liner in and left the
12 berm there?

13 A. That was not the way the preliminary or conceptual
14 design, as we have referred to it previously, tied the liner in.

15 Q. Well, would it have been possible?

16 A. There may be alternate ways to tie the liner in
17 different than what we had in the preliminary design, yes. One
18 of the alternates was the way we have tied it in now.

19 Q. Is there something wrong with the liner in the old
20 landfill?

21 A. Not to my knowledge. There is an existing in situ liner
22 in the old landfill.

23 Q. If the berm had been retained, there would have been --
24 to reach final grades in that old landfill portion, there would

159

KEEFE REPORTING COMPANY
1-800-244-0190

1 have been recompact clay materials and other kinds of liner
2 materials going up that wall of the berm, correct?

3 A. Which wall?

4 Q. The wall that would be -- the north wall of the old
5 landfill? That is the wall where the berm is, right?

6 A. There would be recompacted clay adjacent to the old
7 landfill, in that wall is that your question?

8 Q. Yes, that's my question.

9 A. Yes, there would be recompacted clay.

10 Q. So you basically have one liner system in the old
11 landfill and then you create a one liner system in the new
12 landfill, correct?

13 A. You would have -- you would have your in situ liner
14 system in the existing landfill and you would have a composite
15 Subtitle D liner in your proposed expansion area.

16 Q. And then the liner in the old landfill system -- well,
17 strike that.

18 The liners in both systems would extend all the way up the
19 berm as the berm was constructed, correct?

20 A. No.

21 Q. There would be nothing -- okay. So the berm is not
22 intended to act as a barrier for the passage of liquid materials
23 between the old landfill and the new landfill?

24 A. That is -- your statement is incorrect.

160

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Okay.

2 A. It is intended to serve as a barrier.

3 Q. How is that accomplished if there is no liner extending

4 up the berm?

5 A. The composite Subtitle D liner, the HDPE geomembrane
6 will not be extended up the berm. How is the barrier
7 accomplished?

8 Q. Yes.

9 A. With the five foot minimum recompacted clay.

10 Q. Okay. Another benefit that you identified was the
11 ability to tie in the leachate collection system from the old
12 landfill to the new landfill. Do you recall that?

13 A. That is the benefit of the design modifications, yes.

14 Q. All of the design modifications?

15 A. Correct. Well, it is a benefit of that one design
16 modification, the tie in, yes.

17 Q. The one design modification being the removal of the
18 berm?

19 A. No, of tying in the leachate collection system, of how
20 we tied it in.

21 Q. I see.

22 A. It is a net benefit of them cumulatively but
23 specifically, it is a benefit of tying in the leachate collection
24 system.

161

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. Could the leachate collection system have been tied in
2 without removing the berm?

3 A. Well, the -- that would be inconsistent -- well, the --
4 that would be a difficult detail to construct. I don't -- it is
5 possible it could have been constructed. It would be -- it would
6 be a -- it would be an odd detail to construct.

7 Q. I have never yet met an engineer that said something was
8 impossible.

9 (Laughter.)

10 Q. Is there something wrong with the old leachate
11 collection system?

12 A. To my knowledge, no.

13 Q. You also testified that another benefit was the landfill
14 gas -- with respect to the landfill gas extraction system. And
15 my notes may be not complete here. I know you said there would
16 be a larger zone of influence. Was it also a benefit just the
17 basic tie in of the two systems?

18 A. The larger zone of influence was a result of the removal
19 of the separation zone which served as a barrier for that zone of
20 influence.

21 Q. Okay. Is there a gas extraction system in the old
22 landfill right now?

23 A. Yes.

24 Q. Is that working okay, to the best of your knowledge?

162

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. You also talked about the benefit of the affect removing

3 the berm would have on post-closure activities, including the
4 time post-closure care would start to run and, hence, would end.
5 Do you recall that?

6 A. I remember testifying about the post-closure care
7 period, yes.

8 Q. I recognize that I am paraphrasing what my notes say and
9 they may not be entirely accurate. So if I am not accurate,
10 please let me know. I believe you said that the minimum period
11 of post-closure care would be extended by 15 years?

12 A. Approximately 15 years is my testimony.

13 Q. Okay. The approximate 15 years represents the
14 anticipated life of the expansion, correct?

15 A. No.

16 Q. I am sorry. Then tell me what the 15 years was?

17 A. That is the net difference of when the existing fill
18 area would reach final grades. The cover would be placed and
19 under a two unit system the post-closure care, the closure
20 certification would be received and the post-closure care
21 monitoring period would begin. And the time period for the whole
22 facility to receive post-closure -- to receive closure
23 certification and begin post-closure care. It was a net
24 difference for the time period for the entire facility minus just

163

KEEFE REPORTING COMPANY
1-800-244-0190

1 for the existing facility under a two unit concept.

2 Q. The 30 year post-closure care period is identified as a
3 minimum post-closure care period, correct?

4 A. That's correct.

5 Q. If there is problems the Agency has the ability to
6 require that post-closure care period to be extended; is that
7 correct?

8 A. That's correct. Certain monitoring systems could be
9 terminated under certain conditions in less than 30 years, but
10 the post-closure care period, the minimum post-closure care
11 period is 30 years and it could be longer.

12 Q. Mr. Konzen also asked you some questions about the
13 various siting criteria of Section 39.2. I think I will skip
14 most of them, but I would like to ask you about the floodplain
15 criterion. Part of this expansion is in a floodplain, correct?

16 A. The site was flood proofed as part of a joint permit
17 application back in 19 -- let me rephrase that. A joint permit
18 application was submitted and we received approval back in 1995
19 or 1996. One of the elements of that joint permit application
20 was flood proofing a portion of the site. That work was
21 completed and certified completed under the requirements of that
22 joint permit application.

23 Q. The flood proofing was necessary because that portion
24 was in a floodplain, correct?

164

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. A portion of the facility was formerly -- it was

2 formerly below the 100 year flood elevation determined for that
3 portion of the Saline River. I believe -- well, I don't recall
4 specifically if it was in the 100 year FEMA map 100 year flood
5 boundary.

6 Q. Okay. That approval came from the Corps of Engineers?

7 A. It was a joint permit application from the Army Corps of
8 Engineers, the Illinois Department of Natural Resources, and the
9 Illinois Environmental Protection Agency.

10 Q. Okay. Have the design changes that are the subject of
11 your current permit application been submitted to those agencies
12 for consistency with the -- with that floodplain application?

13 A. The construction of those features have been submitted.
14 The design modifications that we have been discussing today have
15 not impacted that submittal.

16 Q. You say they have not impacted that submittal. Is that
17 something that the Department of -- I am sorry -- the Corps of
18 Engineers told you or the Department of Natural Resources or the
19 IEPA?

20 A. No, that is something that I am telling you, is that
21 there have not been any impacts -- any of the design
22 modifications have not impacted that -- the flood proofing issue.

23 Q. Okay. Mr. Merriman asked you about the landfill siting
24 application, the difference between that and the permit

1 application that is currently at issue. And at least once, it is
2 my recollection, you said the 1996 siting did contemplate two
3 units. Is that an accurate reflection of your testimony?

4 A. The -- I don't recall specifically the exact language of
5 my testimony, but I can paraphrase it for you or rephrase it for
6 you. Yes, the preliminary design in the 1996 siting application
7 definitely contemplated two units.

8 Q. And now, of course, we are talking about one unit,
9 right?

10 A. Correct.

11 Q. You also answered Mr. Merriman's question concerning why
12 two units were proposed. If I understood you correctly, that the
13 interest was closing the old unit earlier to obtain the financial
14 assurance refund quicker. Is that accurate?

15 A. Again, I don't think you have quite phrased it the way I
16 had phrased it but --

17 Q. Please rephrase it to make it accurate?

18 A. We had discussions with the operator at the time of
19 preparing the 1996 siting application, and one of the reasons we
20 elected to propose the two unit concept was to allow the
21 flexibility for the facility ultimately to be permitted as two
22 separate units so that it could be -- the existing fill area
23 could be closed out earlier and moved to the post-closure care
24 monitoring period earlier.

1 Q. Okay. Then, finally, Mr. Merriman asked you about the
2 discussions you had with the Agency concerning alternatives to --
3 the alternative approaches to dealing with the 50 foot berm. He
4 specifically asked you about the possibility of expanding the
5 berm to 100 feet, and I believe your testimony was that you did
6 not do those calculations. Is that accurate?

7 A. Did not do which calculations?

8 Q. As to whether the site would be permissible with a 100
9 foot berm rather than a 50 foot berm?

10 A. We did not do that design. We did not do any analyses
11 as to the regulatory compliance with a 100 foot berm.

12 Q. Did you do any analysis with respect to any width in
13 excess of 50 feet for that berm?

14 A. I didn't personally, no.

15 Q. Did anyone involved with this project, to your
16 knowledge?

17 MR. KONZEN: Objection. Are we going outside of the
18 record? If we are, I believe it is objectionable.

19 MR. HEDINGER: No further than we have been.

20 HEARING OFFICER LANGHOFF: Mr. Hedinger, any response?

21 MR. HEDINGER: This is direct follow-up to questions that
22 Mr. Merriman was asking.

23 HEARING OFFICER LANGHOFF: I will overrule the objection
24 and allow the question.

1 THE WITNESS: I don't recall anyone doing those analysis or
2 design.

3 Q. (By Mr. Hedinger) Okay. So the 50 foot width was the
4 largest you ever did any analysis on?

5 A. It was the largest we had designed or analyzed, yes.

6 MR. HEDINGER: Okay. That's all of the questions I have
7 right now.

8 HEARING OFFICER LANGHOFF: Okay. Thank you. Mr. Konzen?

9 MR. KONZEN: Just a moment, please.

10 HEARING OFFICER LANGHOFF: Okay.

11 (Mr. Konzen and Mr. Krueger confer briefly.)

12 MR. KONZEN: No redirect.

13 HEARING OFFICER LANGHOFF: Thank you. You may step down.

14 THE WITNESS: Thank you.

15 (The witness left the stand.)

16 HEARING OFFICER LANGHOFF: Anyone else?

17 MR. KONZEN: I believe I will rest. I would like just a 60
18 second conference with my client on that issue.

19 HEARING OFFICER LANGHOFF: Okay. Actually, before you do
20 that, Mr. Konzen, while we are on the record, I want to clarify
21 my ruling on your motion to allow evidence and your offer of
22 proof. I am allowing all of the evidence into the record that
23 you gave. What I am not allowing and not granting is that this
24 is an admission.

1 MR. KONZEN: Oh, I see.

2 HEARING OFFICER LANGHOFF: Okay. And --

3 MR. KONZEN: You are not making that conclusion.

4 HEARING OFFICER LANGHOFF: I am not prepared to make that
5 legal conclusion. I am prepared and have admitted the evidence.
6 It is part of the record, and it is in this record, and I will
7 treat your evidence as an offer of proof that it is an admission
8 and direct the Board to make a ruling on that.

9 MR. KONZEN: The evidence is in the record and the Board
10 will interpret it?

11 HEARING OFFICER LANGHOFF: That is correct.

12 MR. KONZEN: All right.

13 MR. MERRIMAN: So no ruling on the interpretation nor
14 impact of that evidence, just other than it is before the Board?

15 HEARING OFFICER LANGHOFF: That is right. It is in the
16 record and it is before the Board. I am not prepared to make
17 that legal conclusion that it is an Agency admission. I believe
18 there might be an argument. So, therefore, I denied your motion
19 to allow that as an admission. I suppose there is a difference
20 between the heading and the actual relief requested, and will
21 allow everything as an offer of proof that is before the Board.

22 MR. KONZEN: And Mr. Inman's testimony on the same topic,
23 the 1982 siting, that's the same thing?

24 HEARING OFFICER LANGHOFF: That's correct.

1 MR. KONZEN: Okay.

2 HEARING OFFICER LANGHOFF: All right. We are off the
3 record for five minutes, I suppose. Or actually 60 seconds.

4 (Laughter.)

5 MR. KONZEN: Yes, that is all I need.

6 (Whereupon a short recess was taken. After the recess was
7 taken, Mr. Rod Bloese, Ms. Jacinta Douma, Ms. Heather
8 Eagleson, and Mr. Marty Grant were not present in the
9 hearing room.)

10 HEARING OFFICER LANGHOFF: Okay. We are back on the
11 record.

12 Is there anything further, Mr. Konzen?

13 MR. KONZEN: Subject to potential rebuttal, we rest.

14 HEARING OFFICER LANGHOFF: Do you intend to offer any -- I
15 think everything that you have marked as exhibits is already part
16 of the record. I am wondering is there anything that you want to
17 offer into evidence.

18 MR. KONZEN: Good question, Mr. Hearing Officer. The
19 deposition transcripts, I am not sure I have extra copies here
20 today.

21 HEARING OFFICER LANGHOFF: I have already admitted those
22 into the record. As a practical matter, I need to get copies
23 very quickly, within a day or two.

24 MR. KONZEN: I could overnight mail them tomorrow.

1 HEARING OFFICER LANGHOFF: I don't think that is necessary.
2 But having them, you know, by the time we get the transcript,
3 which we will discuss here in a little bit, which is about three
4 days. So if you could have them to the Board within four or five
5 days, that would be acceptable.

6 So is there any other evidence that you want to offer
7 before we move on.

8 MR. KONZEN: I believe everything else is in the record.
9 How many copies does the Board require? Do they require an
10 original and nine?

11 HEARING OFFICER LANGHOFF: I have to check. No, I believe
12 that --

13 MR. MERRIMAN: What about Exhibit 8? It is in the record
14 as a black and white copy. There has been some reference to the
15 colored --

16 HEARING OFFICER LANGHOFF: Certainly. I thought it was in
17 the record as a colored copy.

18 MR. MERRIMAN: No.

19 MR. KONZEN: Well, there would be only one copy, if there
20 would be. I have --

21 MR. INMAN: Do you want the full size?

22 MR. KONZEN: I have several 11 by 17. How many do --

23 HEARING OFFICER LANGHOFF: I just need one.

24 MR. KONZEN: Okay.

1 HEARING OFFICER LANGHOFF: I am just going to take this and
2 indicate that this is the original exhibit to page three -- what
3 is this? It is not 3680. That is this.

4 MR. KONZEN: It is 0200 and 6197, I believe.

5 MR. MERRIMAN: Yes, it appears twice, once in Christine
6 Roque's notes and once in a latter submittal.

7 HEARING OFFICER LANGHOFF: What is the 02 number? I am
8 sorry. I don't see it right here in front of me.

9 MR. KONZEN: 0200 and it is again in the record at page
10 6197.

11 HEARING OFFICER LANGHOFF: Okay. Let the record reflect
12 that I am taking the color version of what is in the record at
13 page 0200 and 6197, in case that is helpful to the Board.

14 MR. MERRIMAN: Okay.

15 MR. KONZEN: All right.

16 HEARING OFFICER LANGHOFF: With the depositions we are going
17 to need one copy.

18 MR. KONZEN: Okay.

19 HEARING OFFICER LANGHOFF: So is there anything further,
20 then, Mr. Konzen?

21 MR. KONZEN: No, Mr. Hearing Officer.

22 HEARING OFFICER LANGHOFF: Thank you. Mr. Merriman.

23 MR. MERRIMAN: Thank you. I will waive any opening
24 statement, save those remarks for a brief.

1 HEARING OFFICER LANGHOFF: Thank you.

2 MR. MERRIMAN: And call Joyce Munie.

3 HEARING OFFICER LANGHOFF: All right. Ms. Munie, you are
4 still under oath.

5 DIRECT EXAMINATION

6 BY MR. MERRIMAN:

7 Q. I am not going to duplicate -- to the extent possible I
8 am not going to duplicate your prior testimony this morning in
9 this case. But I would like to ask you a few things,
10 particularly with respect to the 1982, I believe, siting
11 approval, siting application that has been testified to here by
12 Mr. Inman, and that was originally submitted as an offer of proof
13 and I guess it is now a part of the hearing record.

14 So Ms. Munie, you had a role in participating in this
15 review of the application after the siting issue arose; is that
16 right?

17 A. Yes.

18 Q. And, in fact, there was some meetings and reference to
19 the meetings in the record that you were in attendance as well as
20 a number of other people from the Agency as well as people from
21 representatives of the Petitioner?

22 A. That's correct.

23 Q. I am going to specifically call your attention to the
24 period of I believe it is in December of 2001, which would be

KEEFE REPORTING COMPANY
1-800-244-0190

1 just about a short period of time, a month or so, before the
2 final decision letter was issued. There was a meeting, was there
3 not, on or about December 5th with the Petitioner held at the
4 Illinois EPA?

5 A. I don't recall the specific date, but it was early in
6 December.

7 Q. All right. It may have been the 5th or the 6th but,
8 again, it is in the record. Can you tell us briefly your
9 recollection of that meeting?

10 A. The review was pretty well completed by all parties
11 being both groundwater reviewers and the engineer and we had come
12 down to just the remaining issue of being siting. We considered
13 the application in front of us, including all the information
14 which included the siting document from 1996, and concluded that
15 it was inconsistent, the proposal in front of us was inconsistent
16 with that 1996 approval.

17 So early on in December we were asked by the applicant to
18 make one more consideration of the remaining issue. They felt
19 that they could bring additional information to us of a technical
20 nature that would demonstrate that it had the appropriate siting.
21 It being the wedge itself.

22 Q. And there was a meeting, in fact, held at the Agency?

23 A. Yes.

24 Q. And you were in attendance?

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Yes.

2 Q. At that meeting was the topic of the 1982 siting
3 application raised?

4 A. Yes.

5 Q. Okay. And who raised that, the Agency or the
6 Petitioner?

7 A. The applicant.

8 Q. The applicant. Okay. And did you have the opportunity
9 to take a look at documents that were produced, I believe as
10 Petitioner's Exhibit, was it 16, today here in the hearing that
11 were included also in the record as a part of the December 4th of
12 2001 submittal to the Agency by STS Consultants?

13 A. Yes.

14 Q. Okay. Among other things, it included -- and we have
15 heard testimony about it -- a letter, a cover letter from Bill
16 Endsley, Jr., the then Chairman of the Saline County Board, dated
17 October 12th of 1982, reciting, in brief, the vote on the siting
18 application?

19 A. Yes.

20 Q. And that appears, by the way, at 6193 of the record. In
21 addition, we have got, I believe, that this has been marked as
22 Exhibit 8?

23 MR. KONZEN: Yes, Petitioner's Exhibit 8.

24 Q. (By Mr. Merriman) Petitioner's Exhibit 8, which appears

KEEFE REPORTING COMPANY
1-800-244-0190

1 at page 200 of the record as well as page 6197 of the record.

2 Have you seen it? Before today have you seen that document?

3 A. Yes, it was presented in the December meeting.

4 Q. Okay. And that is what?

5 A. It is a drawing showing -- using color coding, showing
6 what was approved in the 1982 siting and then overlaying with
7 another color of the additional lateral limits of the newly sited
8 area in 1996. Also delineated is the location of the interior
9 berm or the wedge.

10 Q. And there was testimony earlier by Mr. Inman about the
11 fact that the interior wedge, as delineated in Petitioner's
12 Exhibit 8, falls within the boundaries of what purports in this
13 diagram to be sited in 1982?

14 A. Yes.

15 Q. Was that issue raised, then, at the meeting, that, in
16 fact, the wedge area that was a subject of concern, had been once
17 sited by Saline County back almost 20 years earlier?

18 A. Yes.

19 Q. And the other items that were testified by Mr. Inman
20 that appear in the record, including the copy of the resolution
21 and the correspondence from the Saline County State's Attorney
22 and the affidavit of Mr. Inman were all items that were presented
23 at the meeting?

24 A. Yes.

KEEFE REPORTING COMPANY
1-800-244-0190

1 Q. And you reviewed them all?

2 A. Yes.

3 Q. Okay. You also were aware that there was a siting
4 hearing held before the Saline County Board on October the 16th
5 of 1996?

6 A. Yes.

7 Q. And there was an application made to the Board prior to
8 that, to the Saline County Board prior to that hearing; is that
9 right?

10 A. Yes.

11 Q. And that application and the transcript of that hearing
12 were both submitted to the Agency as a part of the application
13 review process?

14 A. Yes.

15 Q. In fact, there was a reference at the hearing -- do you
16 recall that there was a reference at the hearing when Mr. Inman
17 was testifying to the Board that, in fact, there was a large
18 nearly 30 acre tract that had been previously sited in 1982?

19 A. Yes.

20 Q. So the applicant and the County, apparently, were all
21 aware of that fact?

22 A. Yes.

23 Q. And, nevertheless, the siting application that was

24 presented in 1996 sought to seek siting approval, as we have

177

KEEFE REPORTING COMPANY
1-800-244-0190

1 indicated in the original development permit application?

2 A. Yes.

3 Q. What was your conclusion when you were presented with
4 the information that this wedge area that was described in the
5 1996 siting application as a berm that -- a separation berm
6 between two units that would be comprised of soil and clean fill
7 and not be -- not include waste, when you were also advised then
8 that it had fallen within the boundaries of a larger area that
9 had been approved for a waste placement back in 1992?

10 A. It appeared that the 1996 siting application modified
11 the original siting.

12 Q. Modified it how or by what?

13 A. There are certain areas contained within the 1996 area,
14 within the 1996 siting application that were also covered, the
15 same area of land was covered in the 1982 application. And,
16 therefore, the change, meaning that there was this wedge or this
17 soil area in an area that had previously been sited for being
18 allowed to have waste in it, it appeared that that modified the
19 1982 siting approval.

20 Q. In both instances it was the Saline County Board that
21 acted?

22 A. Yes.

23 Q. Now, I am going to call your attention to Petitioner's

24 Exhibit 8 just briefly.

178

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. Okay.

2 Q. And I would ask you -- I apologize. I should have asked
3 this question of Mr. Inman. But within the large rectangle that
4 is colored green, that was referenced to being approximately 30
5 acres and is in the legend of the diagram, as referring to the
6 1982 sited waste limits, there is a dark line, not roughly
7 rectangular in shape, but irregular in spots. Do you see the
8 line I am referring to?

9 A. Yes.

10 Q. Can you tell me what that is or what that refers to?

11 A. I believe it is the waste boundaries, the actual waste
12 boundaries.

13 Q. Now, how did the actual waste boundaries come about when
14 the siting approval was apparently a large rectangle in 1982?

15 A. The waste boundaries can be smaller than the area that
16 is sited for waste disposal. In this case I believe that is what
17 has happened.

18 Q. The waste boundary would be determined by what, for that
19 existing unit?

20 A. Where the actual waste is.

21 Q. Who made the ultimate decision that there was an
22 inconsistency with the local siting application and the -- the

23 local siting approval, rather, and the application that was
24 pending before the Agency?

179

KEEFE REPORTING COMPANY
1-800-244-0190

1 A. I did.

2 Q. And that decision was made, in fact, even after the
3 information with respect to the 1982 siting approval was called
4 to the Agency's attention?

5 A. Yes.

6 Q. For the reasons you have previously testified?

7 A. Yes.

8 Q. You have testified earlier this morning that the
9 Agency's role is to review proof of siting approval, site
10 location approval presented as a part of the application; is that
11 correct?

12 A. That's correct.

13 Q. And so what we were presented with was a very old 1982,
14 nearly 20 year old, very brief siting resolution, as appears in
15 the record, I believe it is about a paragraph or so, and the 1996
16 siting resolution incorporating the hearing transcript and
17 exhibits and the application?

18 A. That's correct.

19 MR. MERRIMAN: Okay. I don't think I have any other
20 questions.

21 THE WITNESS: Thank you.

22 HEARING OFFICER LANGHOFF: Thank you, Mr. Merriman.

23 Mr. Hedinger?

24 MR. HEDINGER: I don't believe I have any.

180

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER LANGHOFF: All right. Thank you, Mr.
2 Hedinger.

3 Mr. Konzen?

4 MR. KONZEN: Yes, Mr. Hearing Officer.

5 CROSS EXAMINATION

6 BY MR. KONZEN:

7 Q. If I understand your testimony, Ms. Munie, both earlier
8 today and just now, you are the ultimate permit decision maker
9 for the Bureau of Land?

10 A. Yes.

11 Q. Even with authority over and above the head of the
12 Agency?

13 A. That authority has been delegated by the head of the
14 Agency to me.

15 Q. So even if the head of the Agency disagreed with you
16 about it, until it is revoked, it is your authority?

17 A. Yes.

18 Q. Directing your attention to this tan and green drawing,
19 which was previously marked as Exhibit 8, correct me if I am
20 wrong, but you have no reason to question the accuracy of that
21 drawing?

22 A. No, I do not.

23 Q. Okay. There is no dispute in the Agency's mind as to
24 whether or not the 50 foot berm area did receive local siting for

181

KEEFE REPORTING COMPANY
1-800-244-0190

1 waste placement in 1982? You believe it did?

2 A. Yes.

3 Q. But the Agency's position in this case, as you just
4 articulated, is that my client can timely get a permit, but still
5 give up air space that received local siting approval for waste
6 placement?

7 A. Yes.

8 Q. And you believe that happened in this case by -- I am
9 coining a phrase -- resiting, R-E-S-I-T-I-N-G, the 50 foot area
10 in question for dirt fill, as opposed to waste placement?

11 A. Yes.

12 Q. That sums up the Agency's position both legally and
13 factually on the 1982 local siting?

14 A. Yes.

15 MR. KONZEN: Just a moment, please.

16 HEARING OFFICER LANGHOFF: Okay.

17 (Mr. Konzen and Mr. Inman confer briefly.)

18 Q. (By Mr. Konzen) You testified that the permit
19 application in this matter was deemed consistent with the 1996
20 siting. That was not for any environmental reason, though, was
21 it?

22 A. No.

23 MR. KONZEN: Okay. No further questions of this witness.

24 Thank you.

182

KEEFE REPORTING COMPANY
1-800-244-0190

1 HEARING OFFICER LANGHOFF: Okay. Thank you. Any redirect,
2 Mr. Merriman?

3 MR. MERRIMAN: No.

4 HEARING OFFICER LANGHOFF: Thank you. Mr. Hedinger?

5 MR. HEDINGER: Nothing.

6 HEARING OFFICER LANGHOFF: Okay. Thank you, Ms. Munie.

7 THE WITNESS: Thank you.

8 (The witness left the stand.)

9 HEARING OFFICER LANGHOFF: Mr. Merriman?

10 MR. MERRIMAN: I am sure, much to everyone's great
11 disappointment, I have no other witnesses to call. So that
12 concludes the Agency's presentation.

13 HEARING OFFICER LANGHOFF: Thank you. Mr. Hedinger?

14 MR. HEDINGER: I will be presenting no witnesses. I will
15 reserve my argument for written briefs.

16 HEARING OFFICER LANGHOFF: Thank you. Mr. Konzen?

17 MR. KONZEN: No rebuttal.

18 HEARING OFFICER LANGHOFF: Thank you. At this point I
19 would like to go off the record to discuss availability of the
20 record and to discuss the schedule of the submission of briefs to

21 the Board.

22 (Discussion off the record. Ms. Joyce Munie not present in
23 the hearing room after the off-the-record discussion.)

24 HEARING OFFICER LANGHOFF: Okay. We are back on the

183

KEEFE REPORTING COMPANY
1-800-244-0190

1 record. We have just had an off-the-record discussion regarding
2 the filing of post hearing briefs. The parties have agreed to a
3 briefing schedule.

4 Before we get to any closing arguments, which I don't
5 expect to have any, I will go ahead and read that schedule into
6 the record. The transcript of these proceedings will be
7 available from the court reporter on an expedited basis by
8 Friday, April 26th of 2002.

9 I will establish a short public comment period of seven
10 days. All the parties briefs will be due by May 1st of 2002, and
11 the mailbox rule will not apply. A reply brief, if any, will be
12 due by May 3rd of 2002, and the mailbox rule will not apply. The
13 Board has ordered that an expedited transcript be ordered in this
14 matter.

15 The transcript is usually put on the Board's web site
16 within a few days after its availability. In this case, the
17 transcript will be put on the Board's web site the day of its
18 availability. I would just like to note that our web site
19 address is www.ipcb.state.il.us.

20 Back to post hearing comments, post hearing comments must

21 be filed in accordance with Section 101.628 of the Board's
22 Procedural Rules. These public comments must be filed by May 1st
23 of 2002. The mailbox rule, set forth at 35 Illinois
24 Administrative Code 101.102(d) and 101.144(c) will apply to any

184

KEEFE REPORTING COMPANY
1-800-244-0190

1 post hearing public comments.

2 Is there anything further from any of the parties before we
3 conclude?

4 Okay. At this time I want to note again for the record
5 that there are no members of the public that want to make a
6 statement on the record.

7 I am also required to make a statement as to the
8 credibility of witnesses testifying during this hearing. This
9 statement is to be based upon my legal judgement and experience
10 and, accordingly, I state that I have found all of the witnesses
11 testifying today to be credible. Credibility should not be an
12 issue for the Board to consider in rendering a decision in this
13 case.

14 At this time, I would like to conclude the proceedings. Do
15 any of the parties wish to make a short closing argument now, or
16 would they prefer to reserve that for their briefs? Mr. Konzen?

17 MR. KONZEN: I will reserve it for the brief.

18 HEARING OFFICER LANGHOFF: All right. Thank you. Mr.
19 Merriman?

20 MR. MERRIMAN: Reserve.
21 MR. HEDINGER: Reserve.
22 HEARING OFFICER LANGHOFF: All right. Thank you, Mr.
23 Merriman and Mr. Hedinger.
24 Okay. It is Tuesday, April 23rd, 2002, at approximately

185

KEEFE REPORTING COMPANY
1-800-244-0190

1 3:30 in the afternoon. We will stand adjourned.
2 I thank you all for your participation, and wish everyone
3 to have a good day and drive safely. Thank you.
4 MR. MERRIMAN: Thank you.
5 MR. KONZEN: Thank you.
6 MR. HEDINGER: Thank you.
7 (Whereupon the hearing exhibits were
8 retained by Hearing Officer Langhoff.
9 The proceedings concluded at
10 approximately 3:30 p.m.)
11
12
13
14
15
16
17
18
19

20
21
22
23
24

KEEFE REPORTING COMPANY
1-800-244-0190

1 STATE OF ILLINOIS)
2) SS
3 COUNTY OF MONTGOMERY)

C E R T I F I C A T E

4

5 I, DARLENE M. NIEMEYER, a Notary Public in and for the
6 County of Montgomery, State of Illinois, DO HEREBY CERTIFY that
7 the foregoing 186 pages comprise a true, complete and correct
8 transcript of the proceedings held on the 23rd of April A.D.,
9 2002, at 600 South Second Street, in the Library Room,
10 Springfield, Illinois, in the case of Saline County Landfill,
11 Inc., versus the Illinois Environmental Protection Agency, in
12 proceedings held before Hearing Officer Steven C. Langhoff, and
13 recorded in machine shorthand by me.

14 IN WITNESS WHEREOF I have hereunto set my hand and affixed
15 my Notarial Seal this 25th day of April A.D., 2002.

16
17
18

19

20

Notary Public and
Certified Shorthand Reporter and
Registered Professional Reporter

21

22

CSR License No. 084-003677

23

My Commission Expires: 03-02-2003

24

187

KEEFE REPORTING COMPANY
1-800-244-0190