

1                   BEFORE THE POLLUTION CONTROL BOARD  
2                   OF THE STATE OF ILLINOIS  
3   PEOPLE OF THE STATE OF ILLINOIS           )  
4                   vs.                            ) PCB 93-250  
5   CLARK OIL & REFINING CORPORATION        )

6                   The following is a transcript of a  
7   hearing held in the above-entitled matter, at James  
8   Thompson Center, 100 West Randolph Street, Room 11-500,  
9   Chicago, Illinois, on the 26th of July, 1996 A.D.,  
10   commencing at the hour of 2:00 o'clock p.m.

11   BEFORE:  
12                   MS. DEBORAH L. FRANK, Hearing Officer.

13   PRESENT:  
14                   Mr. Emmett Dunham II, Board Member

15   APPEARANCES:

16                   Mr. James Lee Morgan  
17                   Senior Assistant Attorney General  
18                   Environmental Bureau  
19                   State of Illinois  
20                   Office of the Attorney General  
21                   500 South Second Street  
22                   Springfield, IL 62706  
23                   appeared on behalf of the  
24                   State of Illinois;

25                   Mr. Russell R. Eggert  
26                   Mayer, Brown & Platt  
27                   180 South LaSalle Street  
28                   Chicago, Illinois 60603  
29                   appeared on behalf of the  
30                   Clark Oil & Refining Corporation.

1     ALSO PRESENT:

2                     Mr. Lionel P. Trepanier  
3                     12601 Mapie  
4                     Blue Island, Illinois  
5                     708/396-1624

6                     Members of the Public.

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1 HEARING OFFICER FRANK: Good afternoon. My name  
2 is Deborah Frank and the case before us today is People  
3 of the State of Illinois versus Clark Illinois &  
4 Refining Corporation PCB 93-250.

5 To my right is Board Member Emmett  
6 Dunham.

7 And would the attorneys want to go  
8 ahead and make their appearances on the record.

9 MR. MORGAN: James Morgan, Assistant Attorney  
10 General, here on behalf of Complainant, People of the  
11 State of Illinois.

12 MR. EGGERT: I'm Russell Eggert on behalf of  
13 Clark.

14 HEARING OFFICER FRANK: Okay. Since we have some  
15 members of the public here, I'll just explain so that  
16 you know what what's going on.

17 The Board's Rules and the  
18 Environmental Protection Act allow you to make  
19 statements on the record which are relevant to the  
20 proceedings before us. It does not allow you to  
21 question witnesses. Although, it doesn't look like the  
22 parties have any witnesses today, anyway.

23 I will ask that if you guys aren't  
24 planning on doing an opening statement, that you at

1 least plan on giving a little bit of a background and  
2 explain the stipulation in summary fashion for the  
3 members of the public who are here.

4 Are there any questions before we  
5 begin?

6 (No response.)

7 HEARING OFFICER FRANK: Go ahead and begin.

8 MR. MORGAN: James Morgan.

9 OPENING STATEMENT

10 BY

11 MR. MORGAN: We're here today because of a  
12 stipulation and proposal for settlement submitted by  
13 the parties in this case.

14 The underlying complaint focuses  
15 primarily on Clark's Hartford Refinery down in Madison  
16 County.

17 There is one portion of the Complaint  
18 that did deal with the Blue Island facility and that  
19 dealt with a dispute over whether a Form R should have  
20 been filed by that facility for the compounds benzene  
21 and toluene. The other counts of the Complaint deal  
22 with a similar problem with the Form Rs for the  
23 Hartford Plant. And both of those were for the year  
24 1988.

1                   There are also allegations regarding  
2   excessive emissions from Clark's FCCU. And then some  
3   problems with their recordkeeping and equipment  
4   required to control organic emissions from the  
5   facility. And those recordkeeping requirements and  
6   equipment installation requirements were required by  
7   their permit.

8                   The settlement agreement that was  
9   filed by the parties reflects what has occurred since  
10   the Complaint was filed and before the majority of the  
11   problems were previously taken care of, at or near the  
12   time of filing of the Complaint.

13                  The stipulation requires Clark to pay  
14   a \$40,000 penalty and to cease and desist from future  
15   violations.

16                  They have corrected the equipment and  
17   the recordkeeping violations alleged in the Complaint  
18   and their Form Rs are now being filed for benzene and  
19   toluene.

20                  HEARING OFFICER FRANK: Okay. Mr. Eggert, did  
21   you have anything you wanted to add?

22                                OPENING STATEMENT

23                                       BY

24                  MR. EGGERT: A couple of things, really. One is

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7  
1 I agree that what Mr. Morgan has just described is an  
2 accurate description of both the case, as well as the  
3 terms of the settlement.

4 One housekeeping detail, which is  
5 that the majority of the claims in this case, all but  
6 really a narrow portion of one claim, are with respect  
7 to the Hartford Refinery.

8 Ordinarily, Clark would have a right  
9 to have had this hearing in Madison County. I'll waive  
10 that. Just so we are clear on the record.

11 HEARING OFFICER FRANK: Right.

12 MR. EGGERT: Secondly, to the extent this does  
13 involve issues of Blue Island, the allegations really  
14 go to years, the majority of which were prior to the  
15 filing -- or prior to the discharge of a bankruptcy  
16 petition regarding a former owner of Clark.

17 So, in that sense, a lot of the  
18 claims go to a corporation other than the party that's  
19 before you today. And our petition has been,  
20 throughout, that claims as to that party involving  
21 these kinds of issues are barred by the Free and Clear  
22 Order that was entered on November 9th, 1988.

23 That said, there's really no  
24 remaining issues. We've resolved everything in the

1 case to the State's satisfaction and I simply would  
2 urge the Board to adopt the settlement as a fair and  
3 complete settlement of all the outstanding issues  
4 raised in this case, recognizing that there is other  
5 litigation involving other issues between Clark and the  
6 State, both before the Board and in other forums as  
7 well.

8 HEARING OFFICER FRANK: Did you wish to enter the  
9 Stipulation and Proposal for Settlement as an Exhibit?  
10 It's been filed so you don't have to. I'm just asking.

11 BOARD MEMBER DUNHAM: It's before the Board.

12 MR. EGGERT: It's in the record. I see no reason  
13 to burden the record with more paper.

14 HEARING OFFICER FRANK: Okay. That's fine.

15 Do you have anything further? Either  
16 one of you, then?

17 MR. EGGERT: Not on behalf of Clark at this time.

18 BOARD MEMBER DUNHAM: For the record, there was a  
19 motion to bifurcate this case initially filed, so I  
20 think your waiver is misplaced. We agreed to hold  
21 hearings in both counties at one point.

22 MR. EGGERT: Just so that there is no doubt,  
23 ever, I'm waiving any right that Clark would have to a  
24 hearing in Madison County.



1 HEARING OFFICER FRANK: And since the objection  
2 was up here, I think it makes sense that we are here  
3 instead of Madison County.

4 Mr. Trepanier?

5 MR. TREPANIER: Yes.

6 HEARING OFFICER FRANK: Is that how you pronounce  
7 it?

8 MR. TREPANIER: Trepanier.

9 HEARING OFFICER FRANK: Trepanier. You need to  
10 be sworn by our court reporter and then you will be  
11 able to make statements on the record regarding the  
12 Stipulation and Proposal for Settlement.

13 (The witness was sworn.)

14 LIONEL P. TREPANIER

15 called as a witness, having been first duly sworn, was  
16 examined and testified in narrative form as follows:

17 NARRATIVE

18 BY

19 MR. TREPANIER: Good afternoon. And I appreciate  
20 the Hearing Officer sending me out notice of this. And  
21 I appreciate the Pollution Control Board taking their  
22 time to order this hearing today and I think it's  
23 well-deserved.

24 What we have in this situation, I'm

1     wanting to bring before the Board that the  
2     circumstances justify a denial of this proposed  
3     settlement, that this settlement would not be a just  
4     settlement, is not in the interest of people of  
5     Illinois.

6                     What I want to specifically bring to  
7     the Board's attention is my concern that this  
8     stipulation, as well as what we heard here today from  
9     the parties, that together the stipulation and  
10    today's -- the words from today don't fairly apprise  
11    the Board -- don't fairly apprise the public nor the  
12    Directors of the Agency, Environmental Protection  
13    Agency, of the impact and the implications that our  
14    State laws, in this case, were frustrated and were not  
15    upheld by the Clark Oil Refinery, which I've seen  
16    operate in this community for years and my  
17    understanding is that that operation has continued for  
18    many years.

19                    What I'm bringing before the Board  
20    here is stated as something different. It's facts that  
21    I'm going to show that are stated out in the  
22    stipulation that are just untrue.

23                    And what I'm wanting to tie these to,  
24    the purpose for showing these, is to the end of the

11  
1 factors in determining a civil penalty. I think it's a  
2 grossly unfair penalty in this case and now I'm going  
3 to bring forward my reasons to support that.

4 First, I'm going to point to a  
5 Section 6 that I have of the Stipulation and Proposal  
6 for Settlement. Section 6 is entitled: "Impact on the  
7 Public Resulting from Non-compliance."

8 Specifically, under that Title 6, I  
9 want to point there to the paragraphs referring -- I'm  
10 looking at four and five. Paragraphs that are  
11 referring to the Respondent's, Clark Oil's, failure to  
12 file toxic chemical release forms.

13 In paragraph six -- and this is the  
14 incorrect information and I'm wanting to bring to the  
15 Board's attention -- In paragraph five, excuse me, the  
16 second sentence reads: "The Agency has not received  
17 any requests from any member of the public to review  
18 Respondent's toxic chemical release forms."

19 Now, this is incorrect.

20 Now, what I want to show the Board,  
21 to show them it's incorrect, so they also can see that,  
22 first, I'm offering a report produced by an  
23 environmental organization active in Blue Island. It's  
24 the Citizens for a Better Environment Report.

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1 "Subject: on the Annual Source Emission Reports of  
2 Clark, Blue Island."

3 Specifically, the reason that I offer  
4 this report to the Board, is that, in the second  
5 paragraph of the Board they state: "We requested from  
6 Illinois EPA the annual facility emissions data reports  
7 of Clark Refining & Marketing, Blue Island Refinery,  
8 for the three-year period '92, '93, and '94."

9 And then, as you'll see on the  
10 document, what it shows and tells is that the Illinois  
11 EPA indicated they did not receive a report for the '93  
12 emissions from Clark.

13 I offer this to the Board, so that  
14 they may see that not only has interested community  
15 groups requested this toxic release information from  
16 the Agency, but, this community group was told that  
17 such information is not held by the Agency.

18 Further, I want to just continue, you  
19 know, in bringing to the Board's attention on this one  
20 certain point regarding requests from the public to  
21 review the Respondent's toxic chemical release forms.  
22 And what I want to bring to the Board's attention, and  
23 I ask that I be allowed to submit a photocopy in lieu  
24 of the original, June 27th, '95 letter to Lionel

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1     Trepanier, spelled T-r-e-e-p-a-n-i-e-r, being myself.

2                     And they're acknowledging the receipt  
3     of my letter requesting information on Clark Refining,  
4     Blue Island, Illinois, and informing me that they were  
5     forwarding my request to Julie Armitage, Legal Counsel,  
6     Division of Legal Counsel for response. And it's  
7     signed by Donald E. Sutton, P.E., Manager of Permit  
8     Section, Division of Air Pollution Control.

9                     I ask that I be allowed to substitute  
10    a copy of that original.

11                    HEARING OFFICER FRANK: That's fine. Do you have  
12    the copy here with you or is this the copy?

13                    MR. TREPANIER: That's the original.

14                    HEARING OFFICER FRANK: That's the original. Do  
15    you have the copy with you?

16                    MR. TREPANIER: I would like to make a copy of  
17    that to submit to the Board so they might see it.

18                    HEARING OFFICER FRANK: Okay. Well, before we  
19    get more confused with the information. I'm going to  
20    mark the first document you gave us from Citizens for a  
21    Better Environment as Public Comment Number 1.

22                    And this document from Don Sutton  
23    will be marked as Public Comment Number 2 when we get a  
24    copy of it.

1 (Whereupon, Public Comment Exhibit  
2 No. 1 was marked for  
3 identification.)

4 MR. TREPANIER: Thank you.

5 HEARING OFFICER FRANK: Okay.

6 MR. TREPANIER: Third, I would like to let the  
7 Board have a copy of the letter from a Mr. Trepanier to  
8 the Cook County Local Emergency Response Committee,  
9 dated June 17th, 1995. And that's a letter requesting  
10 the TRI information. That's the Toxic Materials  
11 Inventory and released, et cetera, by Clark Oil. And  
12 that request was mailed to the Local Emergency Response  
13 Committee June 17th, '95.

14 HEARING OFFICER FRANK: That will be marked  
15 Public Comment Number 3.

16 (Whereupon, Public Comment Exhibit  
17 No. 3 was marked for  
18 identification.)

19 MR. TREPANIER: I'd like the Board also to note  
20 that I did receive a response from the Illinois  
21 Environmental Protection Agency to my request for the  
22 pollution records of Clark Oil. And there I would show  
23 them a document from the EPA dated February 18, 1994 --  
24 Excuse me for a moment. I'm looking for the second

1 page of a two-page letter.

2 I can offer to the Board the cover  
3 page of the February 18, 1994 letter addressed to  
4 Mr. Bernbaum of Clark Oil that was screened 1/24/95 for  
5 the purpose of establishing that I did have a response  
6 to the Environmental Protection Agency from my request  
7 for the pollution records of Clark Oil.

8 MR. EGGERT: Excuse me. It's double-sided.

9 MR. TREPANIER: It's double-sided. Thank you.

10 HEARING OFFICER FRANK: So it is both pages?

11 (The document was tendered.)

12 HEARING OFFICER FRANK: Thank you.

13 The letter to Mr. Bernbaum from Doug  
14 Clay will be marked as Public Comment Number 4.

15 (Whereupon, Public Comment Exhibit  
16 No. 4 was marked for  
17 identification.)

18 MR. TREPANIER: Having pointed this out to the  
19 Board and I appreciate your taking this time for this  
20 presentation, I want to express -- continue in  
21 expressing my concern that the penalty proposed in this  
22 settlement. I want to express that concern.

23 The penalty proposed in the  
24 settlement is way too low in that this penalty doesn't,

16  
1 you know, doesn't fairly implement Subsection 42(h) of  
2 the Act. And I'm reading here from Section 10 of the  
3 Proposed Settlement Agreement of that Act 415 ALCS 5/42  
4 Sub H regarding the determination of the appropriate  
5 civil penalty.

6 And the reason that I bring to the  
7 Board the fact that this is not an appropriate civil  
8 penalty is that the community is suffering greatly.  
9 They're attempting to raise their voice regarding the  
10 suffering that's being heaped upon them by this oil  
11 refinery and they're being interfered with.

12 The people in Blue Island are being  
13 muzzled. And this penalty, this proposed penalty will  
14 only encourage this oil refinery to further flaunt the  
15 laws, the environmental laws of the State of Illinois.

16 Now, so that the Board would have  
17 some supporting information regarding the fact that the  
18 people of Blue Island are attempting to raise their  
19 voice regarding this refinery and to support that in  
20 that this proposed monetary penalty wouldn't deter  
21 further violations by Clark Oil, I would bring to the  
22 Board's attention a newspaper article that appeared in  
23 the Daily Southtown one year ago. It was July 29,  
24 1995.

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1                                   And, there, in this article written  
2   by Kevin Carmody of the Daily Southtown, a copy of  
3   which I will offer to the Board, quotes:

4                                   "When Mr. O'Neil of Blue Island Park  
5   District" and for him to say "explain his lack of  
6   apologies for ordering the arrest of Trepanier," --  
7   "he" being I -- "for holding what was said to be an  
8   anti-Clark poster at a Blue Island Park Festival,"  
9   O'Neil said "If he has something to say about Clark,  
10  maybe he should go down and do it over by the Clark  
11  Refinery."

12                                  I don't know how the Blue Island Park  
13  Festival has anything to do with what he was talking  
14  about. And I offer that.

15                   BOARD MEMBER DUNHAM: Can you explain the  
16  relevance of this to a reporting violation from 1988 on  
17  behalf of Clark?

18                   MR. TREPANIER: Yes. What I want to bring  
19  forward is, that regards the penalty that's proposed  
20  for these violations.

21                                  Understanding that this reporting  
22  violation is being handled in the same case and, there,  
23  with the same penalty as some rather severe violations,  
24  in the words of myself, that occurred at the refinery

1 in Hartford.

2 So, understanding that both of these  
3 are being handled together, I'm bringing -- I want to  
4 bring to the Board's attention that this amount of a  
5 monetary penalty will not deter further violations.

6 And the reason that this particular  
7 article and incident is relevant to that, and I want to  
8 bring it forward to the Board's attention is, that the  
9 people of Blue Island are attempting to raise their  
10 voice and have been shunted.

11 And if when the Agency does bring the  
12 polluter before the Pollution Control Board, if the  
13 polluter isn't given a penalty that's going to give a  
14 deterrent -- and I suggest this penalty won't give a  
15 deterrent because the people in the community are being  
16 shunted from bringing their voice. Their voice is  
17 illegally being suppressed -- and in an era where  
18 enforcement dollars are limited, the opportunity to  
19 bring Clark back before the Pollution Control Board  
20 would be expensive.

21 And in the community I don't expect  
22 to see the Agency to be able to bring the polluter back  
23 before the Board without a lot of consideration and, in  
24 fact, weighing out where they're going to put their

1 enforcement dollars. And this type of a penalty will  
2 not deter a polluter who, from -- And, now, what I  
3 wanted to point to is the fact that what we're talking  
4 about is both a Federal and a State law in this  
5 reporting information.

6 So what we have, what we're going to,  
7 is the very purpose of the Illinois Emergency Planning  
8 and Community Right To Know Act, as well as the federal  
9 legislation that requires the filing of the pollution  
10 reports.

11 In my reading of that public act,  
12 86.449, that was effective August 30, 1989, the intent  
13 of the legislature was to allow the residents -- those  
14 people who are exposed to the toxic contaminations --  
15 to gain a familiarity with the substances that they're  
16 being exposed to. That the legislature believed that  
17 individuals themselves would be able to detect and  
18 minimize the affects of exposure, if they had the  
19 knowledge about what chemicals they're being exposed  
20 to.

21 And, in this instance, what we see  
22 from the record was that Clark was not informing the  
23 community on what they were exposing them to. And  
24 beyond not informing the people what they're being

1 exposed to, they're coming out and, in this community,  
2 a voice that raises up and says this refinery is doing  
3 wrong and injuring people, that voice is silenced.

4 And that's what this article is  
5 showing. An actual incident in 1995. When a person,  
6 standing near the refinery, within eyesight of that oil  
7 refinery and held up a sign that said "It's unfair to  
8 trade our children's health for jobs and a parade.  
9 Close Clark." They were arrested within four minutes  
10 of holding the sign and the charges subsequently  
11 dropped.

12 And the Board would be interested to  
13 know that the President of that Park Board is a high  
14 ranking manager of the Clark Oil Refinery.

15 Now, to show this community's  
16 concern, I brought forward, and here I could only offer  
17 copies, of a petition that was circulated on the 4th of  
18 July through the 11th of July. And 300 Blue Island  
19 residents have signed this petition. And this petition  
20 specifically addresses the Clark Oil Refinery.

21 And I bring it to the Board's  
22 attention so that they might understand the level of  
23 concern that people in this community have, and the  
24 fact that they want this information regarding what the

1 refinery has been emitting, and that it was not true as  
2 put forward in the stipulation, and that the Agency has  
3 not received any request from any member of the public  
4 to review the Respondent's Toxic Chemical Release  
5 Forms, as was stated in paragraph five, Section 6 of  
6 the stipulation.

7 HEARING OFFICER FRANK: Okay. I'm going to have  
8 the newspaper articles, then, be Public Comment Number  
9 5.

10 (Whereupon, Public Comment Exhibit  
11 No. 5 was marked for  
12 identification.)

13 HEARING OFFICER FRANK: And the petitions will be  
14 Group Public Comment Number 6. You are planning on  
15 giving that to the Pollution Control Board?

16 MR. TREPANIER: The petitions, I can offer a copy  
17 to the Pollution Control Board. This is a petition to  
18 place a question of public policy on the ballot in Blue  
19 Island, so the originals will be turned in.

20 HEARING OFFICER FRANK: So we need to make  
21 copies.

22 MR. TREPANIER: So I offer those to the Board so  
23 that they could see the level of concern in this  
24 community, as well as to offer them a blank copy of the

1 petition, because I can give them an original there.

2 (The document was tendered.)

3 (Whereupon, Public Comment Group  
4 Exhibit No. 6 was marked for  
5 identification.)

6 MR. TREPANIER: And for the Board, also, I want  
7 to bring to their attention that when I attempted to  
8 inform my neighbors in Blue Island, at the recent  
9 festival -- Thousands of people were out in the park  
10 within eyesight of the oil refinery, and I wanted to  
11 inform my neighbors about the hearing on this matter  
12 today, that was prevented.

13 I've brought in this board that I had  
14 prepared to show in Blue Island, but was denied the  
15 opportunity to show.

16 And I just want the Board to know  
17 that what I wanted to hold up so people could read is a  
18 small sign that said: People versus Clark Oil, Public  
19 Hearing, 2 p.m., 11-500 Thompson Center, where we are  
20 today, 100 West Randolph. And, further, it read.

21 "In response to agreed demand, the  
22 Pollution Control Board will allow persons to address  
23 the case, question the most polluting refinery in the  
24 nation. For more info: Blue Island Greens."

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1                   And then I gave my phone number in  
2     Blue Island. 708/396/1624.

3                   And I wanted to show persons a  
4     newspaper article also from the Daily Southtown written  
5     by Kevin Carmody dated 10/12/95 that related that  
6     Eisenhower students filed suit against Clark Oil for  
7     injuries that they had suffered in a release.

8                   And, further, I was prevented from  
9     showing persons this blowup picture that I had of the  
10    front cover of the Complaint that the Attorney General  
11    has filed against Clark Oil, where the Count I was  
12    under a substantial endangerment, a substantial danger  
13    to the environment, public health and welfare.

14                  BOARD MEMBER DUNHAM: What case is that?

15                  MR. TREPANIER: That's the case number 95 CH  
16     2311.

17                  BOARD MEMBER DUNHAM: That's a case in the  
18     Chancery Court of the Circuit Court of Cook County?

19                  MR. TREPANIER: That's correct.

20                  BOARD MEMBER DUNHAM: Can you tie that into the  
21     reporting violation for 1988 for Clark Oil Blue Island?

22                  MR. TREPANIER: Yes. What I would offer as the  
23     relevance, why I offer this information to the Board,  
24     is, that the Board could gauge the concern in this

1 community, in regards to this specific polluter and the  
2 lengths that have been taken in the community this  
3 polluter is in to prevent information that's critical  
4 of the refinery -- critical of the polluter, of Clark  
5 Oil, that prevented that information from being  
6 disseminated. And that's why I brought in this board  
7 today, just to show the certain piece that I had  
8 intended to and was prevented from displaying on public  
9 property in Blue Island.

10 I very much appreciate this  
11 opportunity to bring my concerns regarding the proposed  
12 settlement. And I urge that the Board find that the  
13 provisions of Subsection 42(h), the determination of an  
14 appropriate civil penalty, have not been fulfilled  
15 because of a failure to establish the record that no  
16 economic benefits accrued to the violator because of a  
17 delay in compliance with requirements, when, in fact,  
18 reasonably, we can expect that this Clark Oil Refinery  
19 is able to stay open only because they're capable of  
20 suppressing public dissent towards their operations.

21 And, also, factor number four, that  
22 the amount of penalty proposed here will not serve to  
23 deter further violations.

24 And I urge the Board consider factor



1     number two, as we look at the settlement before us  
2     regarding the Hartford Refinery, and find that there  
3     was no due diligence in attempting to comply with the  
4     requirements of the Environmental Protection Act where  
5     the violations continued for a number of years.

6                     Just as an appendix to my comments  
7     regarding the stipulations. One of the stipulations  
8     characterized the neighborhood or the community in  
9     which the oil refinery operates, and I think that this  
10    has misinformed the Board regarding just the type of --  
11    just the situation where we find this oil refinery in.

12                    As this was one of the original  
13    issues that I had raised in my April 22nd request for  
14    this public hearing and, thereafter, I received the  
15    response from the Attorney General dated April 24th,  
16    and there he responds to my concerns regarding Section  
17    6, paragraph six, which states that the Clark facility  
18    is located in a mixed industrial and residential area.

19                    HEARING OFFICER FRANK: Is that somewhere in the  
20    stipulation?

21                    MR. TREPANIER: Yes. That's in the stipulation  
22    under Section 6. "Impact on the public resulting from  
23    non-compliance."

24                    In the Attorney General's letter of

1 April 24th, it says that: "Section 6, paragraph six  
2 refers to the Hartford refinery and not the Blue Island  
3 facility."

4 What I want to bring to the Board's  
5 attention is the fact that the Clark Oil Refinery in  
6 Blue Island, we have got 380,000 people within a range  
7 of five miles. That's within the range of a hydrogen  
8 fluoride leak. And the reason I know that number is  
9 because that's what the EPA reported to the U.S.  
10 Congress in 1993 in their Hydrogen Fluoride Report to  
11 Congress.

12 But what I wish to bring to the  
13 Board's attention is that, here, this Blue Island  
14 facility, is next to an extremely dense residential  
15 area. This is just the type of an area, where if  
16 people had the information on what kind of pollution  
17 they were being exposed to, they could look at not only  
18 their own symptoms, but those of their neighbors and  
19 realize patterns.

20 We've got an extremely polluting  
21 facility in an extremely dense urban area, and that  
22 information was not brought forward in the settlement.

23 And I felt that it was extremely  
24 important to bring that to the Board's attention,

1 specifically given the fact that Section 6, paragraph  
2 six, didn't clearly state that that referred to the  
3 Hartford Refinery, and, in my reading, had apparently  
4 spoke to the Blue Island facility as well.

5 But the fact that the Blue Island  
6 facility is in a residential and urban area, including  
7 public parks where thousands of people are within a  
8 mile, and a very large public high school within one  
9 mile, as well as other elementary schools.

10 Well, I thank you very much for  
11 taking your time to hear from me.

12 HEARING OFFICER FRANK: Okay. Are there any  
13 questions from either of the attorneys?

14 MR. MORGAN: May I see Public Comment Number 1?

15 HEARING OFFICER FRANK: Certainly you can look at  
16 all of them.

17 This is the one that the Agency  
18 wants, but that one we need to make a copy of.

19 BOARD MEMBER DUNHAM: Should we go off the  
20 record?

21 MR. MORGAN: I just have one question.

22 Mr. Trepanier?

23 MR. TREPANIER: Yes.

24 MR. MORGAN: Your Public Comment that consists of

1 a response from Donald Sutton of the Environmental  
2 Protection Agency.

3 MR. TREPANIER: Yes.

4 MR. MORGAN: Did you happen to bring the original  
5 request?

6 MR. TREPANIER: This is the original.

7 (The document was tendered.)

8 MR. MORGAN: The only reason I ask is, the Public  
9 Comment you submitted didn't really describe what your  
10 request was, so I thought for a complete record you  
11 might want to actually submit your request so that  
12 there will be no question as to what it covered.

13 It's up to you, but I just make that  
14 suggestion.

15 MR. TREPANIER: Well, I'm hearing you saying  
16 something.

17 You're characterizing my response  
18 without having read it. I saw it. This is a three  
19 -page request for information. You just pointed to the  
20 first page and said that I didn't ask for those  
21 pollution records.

22 BOARD MEMBER DUNHAM: He did not say that.

23 HEARING OFFICER FRANK: No. Mr. Trepanier, what  
24 he was stating was, from the response which you gave

1 the Pollution Control Board, we can't tell what it was  
2 you did request. So he's suggesting that you also  
3 submit your letter, so that the Pollution Control Board  
4 can see what it is that you did request from the  
5 Agency.

6 MR. TREPANIER: I just did bring along the  
7 original, but, if we could, like the earlier exhibit,  
8 just forward a copy to the -- That would be fine.

9 HEARING OFFICER FRANK: Why don't we make both of  
10 those Public Comment Number 2. It will be a Group  
11 Exhibit, since they seem to go together. And we will  
12 make copies of both of those at the end of the hearing.

13 MR. TREPANIER: And the Board should know that  
14 the letter I submitted under the signature of Donald  
15 Sutton is not the only response from the EPA that I  
16 received to my letter dated June 15th for open records.

17 HEARING OFFICER FRANK: Okay. Are there any  
18 other questions? Mr. Eggert?

19 MR. EGGERT: Nothing. No.

20 HEARING OFFICER FRANK: Okay. Mr. Trepanier, do  
21 you have anything further?

22 MR. TREPANIER: Just that I appreciate this  
23 opportunity, you know, that the Board is taking the  
24 time to look into these matters. And I'm with you all

1 the way in making this a healthier and a more pleasing  
2 world, so we might continue to enjoy it.

3 Thank you.

4 HEARING OFFICER FRANK: Okay. Do any other  
5 members of the public wish to speak?

6 (NO RESPONSE.)

7 HEARING OFFICER FRANK: No?

8 Do either of you want a briefing  
9 schedule?

10 MR. EGGERT: Not on behalf of Clark. I don't  
11 think there's any open issues.

12 MR. MORGAN: No. I don't think so.

13 HEARING OFFICER FRANK: Okay. Let's go off the  
14 record for a moment.

15 (Whereupon, a discussion was held  
16 off the record.)

17 HEARING OFFICER FRANK: Okay. Let's go back on  
18 the record then.

19 Then, at the close of this hearing,  
20 the record will be closed and the Board will then have  
21 all of this information to consider for its decision.

22 Is there anything further before we  
23 close the record?

24 BOARD MEMBER DUNHAM: Yes. Give him seven days

1 to submit the Group Exhibit.

2 HEARING OFFICER FRANK: We will just copy it  
3 here.

4 MR. TREPANIER: I would offer the Board, when  
5 they have taken time for all these exhibits, one  
6 additional thing that refers to the Referendum Petition  
7 that was earlier discussed regarding Clark Oil, and  
8 that's a recent article reported in the community paper  
9 that the petition drive was underway and that  
10 signatures were being gathered.

11 That's a June 23rd, '96 article from  
12 the Blue Island Forum, published by the Blue Island  
13 Development Corporation.

14 HEARING OFFICER FRANK: That will be Public  
15 Comment Number 7 then.

16 (Whereupon, Public Comment Exhibit  
17 No. 7 was marked for  
18 identification.)

19 HEARING OFFICER FRANK: Okay. Well, Thank you  
20 for coming and the hearing is adjourned.

21 If you could give me the petitions, I  
22 will make copies of those and all the other things.

23 (Whereupon, Public Comment Group  
24 Exhibit No. 2 was marked for

1 identification.)

2 (HEARING CLOSED.)

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1     STATE OF ILLINOIS             )  
  )     SS:  
2     COUNTY OF C O O K            )

3                     Sally A. Guardado hereby certifies that  
4     she is the Certified Shorthand Reporter who reported in  
5     shorthand the proceedings had in the above-entitled  
6     matter, and that the foregoing is a true and correct  
7     transcript of said proceedings.

8

9

10                    Certified Shorthand Reporter  
                      Notary Public, County of Cook, State of illinois

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Sally A. Guardado, C.S.R.   \*   (708) 479-6664

