

ILLINOIS POLLUTION CONTROL BOARD

PEOPLE OF THE STATE OF)
ILLINOIS,)
)
Petitioner,)
)
)
vs.) PCB 01-135
) (Enforcement-Land)
)
PATRICK ROBERTS LAND TRUST,)
)
Respondent.)

THE IPCB HEARING in the above-entitled matter,
taken before me, Angela M. Jones, CSR-RPR, a Notary Public
in and for the State of Illinois, at Tazewell County
Courthouse, Suite 306, in the City of Pekin, County of
Tazewell, and State of Illinois, on the 12th day of July,
A.D. 2002, commencing at 10:15 a.m.

1 APPEARANCES:

2

ILLINOIS POLLUTION CONTROL BOARD
3 BY: STEVEN C. LANGHOFF, ESQUIRE
Hearing Officer
4 600 South Second Street, Suite 402
Springfield, Illinois 62704
5 (217) 782-2615

6

STATE OF ILLINOIS
7 OFFICE OF THE ATTORNEY GENERAL
BY: SALLY A. CARTER, ESQUIRE
8 Assistant Attorney General
500 South Second Street
9 Springfield, Illinois 62706
(217) 782-9031
10 On Behalf of the Petitioner.

11

BILL LeROY
12 230 Southwest Adams Street
Peoria, Illinois 61602
13 (309) 674-1000
14 Pro Se.

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15

ALSO PRESENT:

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MICHELLE M. RYAN, ESQUIRE (IEPA)

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PHASE TWO

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1 HEARING OFFICER: Good morning, everyone. My
2 name is Steven Langhoff. I'm the Pollution Control Board
3 hearing officer who's been assigned to handle this matter.
4 This is PCB 01-135, People of the State of Illinois v.
5 Patrick Roberts Land Trust. For the record, it is Friday,
6 July 12, 2002, and we are beginning at 10:17 a.m.

7 I want to note for the record that there are
8 members of the public here today. Members of the public
9 are encouraged and allowed to provide public comment if
10 they so choose.

11 On April 3rd, 2001, the People of the State of
12 Illinois, through the Attorney General's Office, filed a
13 three-count complaint against the Patrick Roberts Land
14 Trust. The complaint alleged violations of the
15 Environmental Protection Act, or Act, and Board regulations
16 at a facility known as the Old Weaver Landfill. The
17 landfill is located in Washington Township, Tazewell
18 County.

19 The complaint specifically alleged that the
20 respondent caused or allowed open dumping of waste
21 resulting in litter; caused, allowed, or threatened the
22 discharge of contaminants into the environment so as to
23 cause or tend to cause water pollution; and lacked a permit
24 from the Illinois Environmental Protection Agency, or

1 Agency, to conduct a waste storage, treatment, or disposal
2 facility. This conduct was in alleged violation of
3 Sections 12(a) and 21(a), (d), and (p) of the Act. That's
4 415 ILCS 5/12(a), 21(a), (d), (p), and Section 812.101(a)
5 of the Board's regulations, 35 Ill. Adm. Code 812.101(a).

6 On January 10th, 2002, the complainant filed a
7 motion either for summary judgment or for a determination
8 of certain major issues underlying the respondent's
9 liability for the violations of the Act and the Board's
10 regulations. On April 4th, 2001, the Board granted the
11 complainant's motion for summary judgment. The Board found
12 that the respondent had violated Section 12(a), 21(a), (d),
13 and (p)(1) of the Act, and Section 812.101(a) of the
14 Board's regulations. However, the Board did not have
15 sufficient information to decide the appropriate penalty in
16 this matter. The Board directed the parties to a hearing
17 on the specific issues of the appropriate penalty amount,
18 costs, and attorney's fees in this matter.

19 I want to take a brief moment to let you know
20 what's going to happen today and what's going to happen
21 after the proceeding today. You should know that it is the
22 Pollution Control Board and not me that will make the final
23 decision in this case. My job as a hearing officer

24 requires that I conduct this hearing in a neutral and

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1 orderly manner so that the Board has a clear and concise
2 record of the proceedings here today on which to base their
3 decision. It is also my duty to assess the credibility of
4 any witnesses giving testimony today, and I will do so on
5 the record at the conclusion of the proceedings.

6 We'll begin with an opportunity for an opening
7 statement from the State, and then we will proceed with the
8 People's case followed -- after that, I'll close the
9 proceedings, open it back up as an offer of proof for
10 Mr. LeRoy to put on a case for the benefit of the Patrick
11 Roberts Land Trust. We will conclude with any closing
12 arguments; and then we will discuss off the record a
13 briefing schedule, if any, which will be set on the record
14 at the conclusion of the proceedings.

15 The Board's procedural rules and the Act
16 provide that members of the public shall be allowed to
17 speak or submit written statements at hearing. Any person
18 offering such testimony today shall be subject to
19 cross-examination. Any such statements offered by members
20 of the public must be relevant to the case at hand. And I
21 will call for any statements from members of the public at
22 the conclusion of the proceedings.

23 This hearing was noticed pursuant to the Act

24 and the Board's rules and regulations and will be conducted

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1 pursuant to Sections 101.600 through 101.632 and Part 103
2 of the Board's procedural rules.

3 Before beginning, I want to caution everyone
4 that this Board hearing is much the same as being in court.
5 Please speak clearly for the benefit of the court reporter.
6 Your testimony must be out loud, yes or no, instead of
7 shaking of the head. During the course of the hearing,
8 please feel free to call me Mr. Langhoff or Mr. Hearing
9 Officer. If the attorney has an objection, please just
10 state "objection," and I will ask for the grounds and any
11 argument if I need any.

12 At this time, I would like to discuss some
13 preliminary matters. Mr. LeRoy, the sole beneficiary of
14 the Patrick Roberts Land Trust, represented to me this
15 morning that his attorney, Mr. Clyde Hendricks, is not
16 representing him in this matter. According to the Board's
17 procedural rules, Section 101.400(a)(2), "Any person other
18 than the individuals must appear through an attorney at law
19 licensed and required to practice law." In this case,
20 Mr. LeRoy is not an attorney and, therefore, will not be
21 allowed to practice law in the hearing.

22 In the interest of judicial fairness and

23 ensuring that the Board has a complete record, I have
24 decided to institute kind of a bifurcated proceeding this

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1 morning. I'm going to allow the People to put on their
2 case in total, and then I will allow Mr. LeRoy to put on
3 his case as an offer of proof concerning the practicing
4 attorney question; and I also will allow Mr. LeRoy and any
5 other members of the public to participate as a participant
6 according to the Board's regulations.

7 So, during the second phase of the hearing,
8 Mr. LeRoy will be able to call back the State's witnesses
9 if he so chooses and cross-examine them as an attorney in
10 case the Board should decide that he would be allowed to
11 represent the Patrick Roberts Land Trust today.

12 At this time, I'll ask the parties to make an
13 appearance on the record beginning with the People.

14 MS. CARTER: Thank you, Mr. Hearing Officer.
15 Sally Carter for the People of the State of Illinois.

16 MS. RYAN: Michelle Ryan, Assistant Counsel
17 with Illinois EPA.

18 HEARING OFFICER: Mr. LeRoy, would you make
19 your appearance on the record? Just state your name.

20 MR. LeROY: Bill LeRoy.

21 HEARING OFFICER: Mr. LeRoy, you're not an
22 attorney; is that correct?

23 MR. LeROY: That's correct.

24 HEARING OFFICER: You have elected to proceed

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1 today without benefit of legal counsel; is that correct?

2 MR. LeROY: That's correct.

3 HEARING OFFICER: Thank you very much.

4 Miss Carter, do we have any preliminary matters
5 outstanding, any prehearing motions that we need to discuss
6 before we proceed?

7 MS. CARTER: No, Mr. Hearing Officer.

8 HEARING OFFICER: Thank you. Would the People
9 like to give a brief opening statement?

10 MS. CARTER: Very brief. Just basically, the
11 Board did issue an order back on April 4th, 2002, entering
12 a judgment in this matter; so we are simply here today to
13 present evidence on penalty.

14 What the People will present is not only
15 evidence pertaining to the environmental threats posed by
16 the respondent's actions but will also provide the evidence
17 required pursuant to Section 33(c) and 42(h) of the
18 Environmental Protection Act.

19 Simply, the People will be presenting the
20 testimony of Mr. Ron Mehalic. He is the Illinois EPA
21 Bureau of Land inspector responsible for inspecting the

22 site. His inspections will show that the respondent's
23 actions towards cleaning up the site were dilatory, and
24 thus a significant monetary penalty is appropriate in this

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1 case. Thank you.

2 HEARING OFFICER: Would you like to call your
3 first witness, please?

4 MS. CARTER: Yes. The People call Mr. Ronald
5 Mehalic.

6 HEARING OFFICER: Mr. Mehalic, would you have a
7 seat up here.

8 (Witness sworn.)

9 RONALD MEHALIC,
10 called as a witness, after being first duly sworn, was
11 examined and testified upon his oath as follows:

12 DIRECT EXAMINATION

13 BY MS. CARTER:

14 Q Please state your name.

15 A Ron Mehalic.

16 Q Can you tell me a little bit about your post
17 high school education?

18 A I have a bachelor of science degree from
19 Illinois State University, and the degree is in geology.

20 Q When did you receive that degree?

21 A 1990.

22 Q With whom are you currently employed?

23 A With the Illinois Environmental Protection
24 Agency.

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1 Q What's your position with the Illinois EPA?

2 A I am a field inspector.

3 Q Can you just tell me a little bit about your
4 duties as a field inspector for the Illinois EPA?

5 A The duties that inspectors are required to
6 perform are investigate solid and hazardous waste
7 facilities that generate hazardous waste and store
8 hazardous waste and/or solid waste, transfer stations. We
9 investigate complaints from the general public relative to
10 open dumps, as well as collect groundwater samples, surface
11 water samples, soil samples, and waste samples if
12 determined necessary.

13 Q Do you also determine if facilities are in
14 compliance with the applicable regulations?

15 A Yes, we do.

16 Q Do you also develop compliance strategies for
17 facilities?

18 A Yes, we do.

19 Q How long have you been a field inspector with
20 the Illinois EPA?

21 A Approximately ten and a half years.
22 Q Did you have any prior duties with the Illinois
23 EPA?
24 A Yes, I did.

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1 Q What was your position prior to becoming a
2 field inspector?
3 A Initially, when I began my employment with the
4 Illinois Environmental Protection Agency, I worked in
5 Springfield with the Compliance Unit.
6 Q What were your duties with the Compliance Unit?
7 A The duties performed at the Compliance Unit
8 were reviewing technical documents submitted by solid
9 and/or hazardous waste facilities that pertain to
10 groundwater monitoring.
11 Q Are you familiar with the site of the former
12 Weaver Landfill that is located in Washington Township,
13 Illinois?
14 A Yes.
15 Q How did you first become aware of this site?
16 A Through the Tazewell County Health Department.
17 Q Do you recall when you first became aware of
18 this site?
19 A I believe it was in April of '98.
20 Q At the time that you were informed of the site

21 by the Tazewell County Health Department, did you go on
22 site?

23 A Yes.

24 Q What was the purpose of your site visit in

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1 April of '98?

2 A To collect leachate samples.

3 Q You said the purpose was to collect leachate
4 samples. Did you also make any observations while you were
5 there?

6 A Yes, I did.

7 Q What were those observations?

8 A I observed open dumped refuse in the northeast
9 corner of the property and also exposed refuse from the Old
10 Weaver Landfill at the northeast corner.

11 Q Did you send the sample results that you
12 collected on site to anybody?

13 A Yes, I did.

14 Q Who did you send those sample results to?

15 A To Mr. LeRoy.

16 Q Since that time, do you recall approximately
17 how many times you've been out to the site?

18 A Approximately six times.

19 Q Did you subsequently conduct an inspection on

20 September 17th, 1998?

21 A Yes, I did.

22 Q Mr. Mehalic, what kind of records does your
23 section regularly generate and maintain relating to
24 inspections that you conduct?

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1 A Inspection reports consisting of photographs
2 and checklists.

3 Q May the record reflect I'm showing you what's
4 been marked as People's Exhibit Number 1 for
5 identification. Do you recognize this document?

6 A Yes, I do.

7 Q What is this document?

8 A This is an Open Dump Inspection Checklist
9 generated for the Weaver Landfill on September 17th of
10 1998.

11 Q Does this inspection report have photographs
12 attached to it?

13 A Yes, it does.

14 Q Does it also have a site sketch attached to it?

15 A Yes, it does.

16 Q What use does the field operations section in
17 the Bureau of Land make of this document?

18 A We determine compliance with existing rules and
19 regulations.

20 Q What sort of information do you typically
21 include in such an inspection report?

22 A A checklist, a narrative, site sketch,
23 photographs and, if need be, a letter.

24 Q Who typically enters the information that

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1 appears in the inspection report?

2 A The inspector.

3 Q When is that typically completed?

4 A Within two days to seven days.

5 Q Once you've completed the inspection report,
6 what do you do with it after that, sir?

7 A After the inspection report is completed, it
8 goes on to the Bureau of Land manager at the upper west --
9 in Peoria, and he reviews it.

10 Q After the manager reviews it, is the document
11 placed in any files?

12 A Yes, it is.

13 Q And are these reports regularly generated by
14 the Illinois EPA?

15 A Yes, they are.

16 Q And this inspection report, Complainant's
17 Exhibit Number 1 for identification, was it made under
18 these procedures that you just described?

19 A Yes, it was.

20 Q Was it made at or near the time the events
21 appearing within it were observed?

22 A Yes.

23 Q And was this inspection generated in the
24 ordinary course of business activity?

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1 A Yes.

2 Q Are you familiar with the site as it looked on
3 September 17th, 1998?

4 A Yes.

5 Q If I could direct your attention to the
6 photographs attached to this document, do you recognize the
7 scenes in these photographs?

8 A Yes, I do.

9 Q Can you just generally tell me what the scenes
10 are in these photographs?

11 A The photographs taken of the open dumped waste
12 are shown in photograph 5, 6, 7, 8, 9, and 13, and
13 photographs in here that show the exposed refuse from the
14 former Weaver Landfill are shown in photographs 10, 11, 12,
15 14, 15, 16, and 19.

16 Q Thank you. If I could just direct your
17 attention to the site sketch that precedes those
18 photographs, does this site sketch accurately show the site

19 as it appeared on September 17th, 1998?

20 A Yes, but it's not to scale.

21 Q Will this inspection report help you explain
22 the conditions on site on this date?

23 A Yes.

24 MS. CARTER: At this time, Mr. Hearing Officer,

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1 we move for the admission of Complainant's Exhibit Number 1
2 into evidence.

3 HEARING OFFICER: Is it Complainant's Exhibit
4 Number 1, Miss Carter?

5 MS. CARTER: It actually just says "Exhibit
6 Number 1."

7 HEARING OFFICER: What shall we call it?

8 MS. CARTER: Let's call it People's.

9 HEARING OFFICER: People's Exhibit Number 1
10 will be admitted.

11 BY MS. CARTER:

12 Q When you went on site in September of '98, did
13 anybody accompany you on site?

14 A Yes.

15 Q Can you just tell me generally what you
16 observed in terms of the site's terrain?

17 A All the terrain at the south end of the

18 property was flat with extensive vegetative cover; and as
19 you progressed northward, it sloped down into the tributary
20 that extends toward Ten Mile Creek.

21 Q Maybe I should back up for a second. Who
22 accompanied you on site?

23 A Mr. LeRoy.

24 Q Approximately how many acres does this site

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1 encompass?

2 A Approximately fourteen.

3 Q What is this site adjacent to?

4 A To the north is a tributary to Ten Mile Creek.
5 To the west is suburban -- I think it's Timber Ridge
6 Estates. To the east is a suburban residential home, and
7 to the south is a county road.

8 Q Can you just tell me generally what you
9 observed on site?

10 A I observed open dumped refuse at the northeast
11 corner and --

12 Q I'm sorry to interrupt. But what did you
13 observe that was open dumped specifically?

14 A It consisted of shingles, wood waste, metal
15 waste, mattresses, white goods, and various odds and ends
16 of metal.

17 Q Did you make any additional observations while

18 you were on site?

19 A Yes.

20 Q What were those observations?

21 A I observed exposed refuse protruding from
22 erosional channels at the northeast corner of the landfill.

23 Q Did you make any observations or conclusions as
24 to what caused these erosional channels?

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1 A Yes.

2 Q And what was that, sir?

3 A It was caused by the pervasive force of running
4 water.

5 Q Were these erosion rills in close proximity to
6 the tributary to Ten Mile Creek?

7 A Yes.

8 Q While you were on site, did you have any
9 conversation with Mr. LeRoy?

10 A Yes.

11 Q Can you tell me about your conversation with
12 Mr. LeRoy?

13 A Well, I informed Mr. LeRoy that the open dumped
14 waste observed at the northeast corner will have to get
15 cleaned up and disposed of properly, and also I informed
16 him that the exposed refuse from the former Weaver Landfill

17 will have to get covered up. And also I informed him that
18 he will be receiving a violation notice pertaining to the
19 alleged observed violations as well as remedial actions
20 necessary to resolve the violations.

21 Q Can you just tell me generally what a violation
22 notice is?

23 A Violation notice letter is generated as a
24 result of observed violations, and typically within the

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1 body of the letter itself it has an Attachment A which I
2 will -- I should say it depicts the alleged violations, and
3 also it has a portion that has suggested resolutions that
4 would resolve the ongoing violations observed.

5 Q Was a violation notice subsequently sent to
6 Mr. LeRoy?

7 A Yes.

8 Q Are violation notices generally sent when the
9 Illinois EPA seeks to notify a violator of potential
10 violations observed during an inspection?

11 A Yes.

12 Q May the record reflect I'm showing you what's
13 previously been marked as People's Exhibit Number 2 for
14 identification. Do you recognize that document, sir?

15 A Yes.

16 Q Can you tell me what that document is?

17 A It is an October 6th, 1998, violation notice
18 letter.

19 Q Who typically enters the information that
20 appears in a violation notice letter?

21 A The inspector.

22 Q Once the violation notice letter is completed,
23 what does the Bureau of Land do with this document
24 typically?

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1 A The violation notice letter is sent off to
2 the -- as part of the inspection report. After review of
3 the managers, the violation notice letter as well as the
4 inspection report is sent off to the headquarters in
5 Springfield.

6 Q Is the document also sent to the alleged
7 violator as well?

8 A Yes.

9 Q Are violation notice letters regularly
10 generated by the Illinois EPA?

11 A Yes.

12 Q This violation notice letter, People's Exhibit
13 Number 2 for identification, was it made by you under these
14 procedures that we just described?

15 A Yes. I drafted it.

16 Q Was this generated in the ordinary course of
17 business?

18 A Yes.

19 MS. CARTER: At this time, the People move for
20 admission of People's Exhibit Number 2 into evidence.

21 HEARING OFFICER: It's admitted.

22 BY MS. CARTER:

23 Q Do you recall if you went on site in 1999, sir?

24 A Yes.

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1 Q Did you go on site on March 23rd, 1999?

2 A Yes.

3 Q Why did you conduct an inspection on this date?

4 A To verify compliance with the rules and
5 regulations as well as to see if there has been any attempt
6 at cleanup.

7 Q Did anyone accompany you on site; do you
8 recall?

9 A I can't recall.

10 Q Okay. May the record reflect I'm showing you
11 what's previously been marked People's Exhibit Number 3 for
12 identification. Can you tell me what that document is?

13 A It is a March 23rd, 1999, open dump inspection
14 report.

15 Q Who entered the information that appears on

16 this inspection report?

17 A I did.

18 Q Was it made under those procedures that we
19 previously discussed for the September 1998 inspection
20 report?

21 A Yes.

22 Q And was it made at or near the time the events
23 indicated on this document were observed?

24 A Yes.

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1 Q And was this inspection report generated in the
2 ordinary course of business activity?

3 A Yes.

4 Q And are you familiar with the site as it
5 appeared on March 23rd, 1999?

6 A Yes.

7 Q And if I could just direct your attention to
8 the photographs attached to this document, do you recognize
9 the scenes in these photographs?

10 A Yes, I do.

11 Q Are they consistent with what you observed on
12 site on that date?

13 A Yes.

14 Q Do these photographs fairly and accurately show

15 the site as it appeared on that date?

16 A Yes.

17 Q Directing your attention to the site sketch
18 that precedes those photographs, does it fairly and
19 accurately show the site as it appeared on March 23rd,
20 1999?

21 A Yes, but not to scale.

22 Q Okay. Would these photographs and this
23 inspection report assist you to describe to the Pollution
24 Control Board your observations on this date?

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1 A Yes.

2 MS. CARTER: The People move for the admission
3 of People's Exhibit Number 3 into evidence.

4 HEARING OFFICER: People's Exhibit Number 3 is
5 admitted.

6 BY MS. CARTER:

7 Q Going back to my original questions, did
8 anybody accompany you on site on this date?

9 A No.

10 Q And what did you observe in terms of the site's
11 condition?

12 A The same conditions as previously observed in
13 my initial inspection.

14 Q Did it appear that any activities had taken

15 place on site to, one, remove the open dumped material?

16 A No.

17 Q To cover the erosion rills that were observed
18 in the northeast corner of the property?

19 A No.

20 Q Specifically, did you observe open dumped
21 refuse then?

22 A Yes, I did.

23 Q What did those items include on this date?

24 A I observed on this date open dumped wood waste,

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1 mattresses, shingles, white goods.

2 Q What photographs attached to this inspection
3 report depict what you just described?

4 A Photographs 1, 2, 3, and 4.

5 Q Did you make any other observations while on
6 site?

7 A Yes.

8 Q And what observations did you make?

9 A I observed that there was exposed refuse
10 protruding from the erosional channels from the former
11 Weaver Landfill.

12 Q What photographs depict that observation, sir?

13 A Photographs 5, 6, 7, 8, 9, 10, and 12.

14 Q If I could just direct your attention to
15 photograph number 6, can you describe specifically what you
16 observed in this photograph?

17 A I observed standing water and/or leachate.

18 Q Is that the orange material in the picture?

19 A Yes.

20 Q Again, were these erosion rills and this pool
21 of leachate in close proximity to a tributary to Ten Mile
22 Creek?

23 A Yes.

24 Q After this inspection, sir, did you

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1 subsequently conduct a record search of the Tazewell County
2 Recorder of Deeds?

3 A Yes.

4 Q And what were you looking for in that record
5 search?

6 A I was looking for the owner of the property
7 itself.

8 Q What did you determine from that record search?

9 A That the former Weaver Landfill is now the
10 Patrick Roberts Land Trust.

11 Q Did you make any determinations on who received
12 the tax statement on this property?

13 A Yes.

14 Q What was that determination?

15 A The determination was that Mr. Bill LeRoy
16 receives the tax statement.

17 Q When you went back to your office, did you
18 review the Illinois EPA files for the former Weaver
19 Landfill?

20 A Yes.

21 Q And did you make any determinations in that
22 review?

23 A Yes.

24 Q What did you determine, sir?

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1 A That the property does not have a permit for
2 disposal treatment or storage of wastes.

3 Q Did the property have a permit authorizing
4 development and operation of a landfill by Patrick Roberts
5 Land Trust?

6 A No.

7 Q After this site visit in March of 1999, was a
8 violation notice sent to the Patrick Roberts Land Trust?

9 A Yes.

10 Q May the record reflect I'm handing you what's
11 previously been marked People's Exhibit Number 4 for
12 identification. Can you identify this document for me?

13 A It is an April 13th, 1999, violation notice.

14 Q Who drafted this violation notice dated
15 April 13th?

16 A I did.

17 Q Was it made under the same procedures that we
18 described when we were talking about the October 6th, 1998,
19 violation notice?

20 A Yes.

21 Q And was this violation notice generated in the
22 ordinary course of regularly conducted business activity?

23 A Yes.

24 MS. CARTER: People move for the admission of

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1 People's Exhibit Number 4 into evidence.

2 HEARING OFFICER: People's Exhibit Number 4 is
3 admitted.

4 BY MS. CARTER:

5 Q And this violation notice that you're looking
6 at, who was it directed to?

7 A It was directed to the trustee of the Patrick
8 Roberts Land Trust.

9 Q And why was a second violation notice letter
10 sent for this site?

11 A I thought it best that all parties involved
12 should be aware of the situation.

13 Q Was it based on your review of the Tazewell
14 County Recorder of Deeds?

15 A Yes.

16 Q Does this violation notice direct the Land
17 Trust that certain measures must be completed to bring the
18 site into compliance?

19 A Yes.

20 Q And can you point that out for me in this
21 document?

22 A It's on page 2 under "Suggested Resolutions."

23 Q What measures does it suggest the Land Trust
24 should perform to bring the site into compliance?

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1 A Immediately cease all open dumping, remove all
2 the open dumped waste to a permanent disposal facility or
3 recycling facility, and/or take all the white goods and
4 properly recycle and dispose of them. It also suggests
5 that all the exposed refuse from the former Weaver Landfill
6 be covered with at least 2 feet of soil.

7 Q Are these the same things that you told
8 Mr. LeRoy back in September of 1998?

9 A Yes.

10 Q At the same time, was a continuing violation
11 letter sent to Mr. LeRoy?

12 A Yes.

13 Q What is a continuing violation letter?

14 A It's a letter that informs the operator and/or
15 owner of continued violations observed from a previous
16 inspection.

17 Q Does the Illinois EPA typically provide a
18 continuing violation letter when there are continuing
19 violations observed on site?

20 A Yes.

21 Q And what information is typically provided in
22 such a letter?

23 A The inspection report and the alleged
24 violations.

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1 Q May the record reflect I'm showing you what's
2 previously been marked as People's Exhibit Number 5 for
3 identification. Can you identify this document?

4 A It is an April 13th, 1999, continuing violation
5 letter sent to Mr. LeRoy.

6 Q Who typically enters the information that
7 appears in such a letter?

8 A The inspector.

9 Q Once this information is drafted in this
10 letter, what do you do with the letter?

11 A The letter goes to the person it is addressed

12 to as well as incorporated into the report which is then
13 transmitted down to headquarters in Springfield.

14 Q Is it placed in files then in Springfield?

15 A Yes.

16 Q This continuing violation letter, People's
17 Exhibit Number 5 for identification, was it made under
18 these procedures that you just described?

19 A Yes.

20 Q Was this continuing violation letter generated
21 in the ordinary course of business activity?

22 A Yes.

23 MS. CARTER: The People move for admission of
24 People's Exhibit Number 5 into evidence.

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1 HEARING OFFICER: People's Exhibit Number 5 is
2 admitted.

3 MS. CARTER: Thank you.

4 BY MS. CARTER:

5 Q Did you subsequently conduct an inspection in
6 April of 2000 at the site?

7 A Yes.

8 Q Why was an inspection conducted in April of
9 2000?

10 A To verify compliance with the rules and

11 regulations.

12 Q Would you have been back on site in April of
13 2000 if you had not observed evidence of open dumping in
14 1998 and 1999?

15 A No.

16 Q I'm going to show you what's previously been
17 marked as People's Exhibit Number 6 for identification.
18 Can you tell me what this document is?

19 A It is an April 18, 2000, open dump inspection
20 report.

21 Q And who entered the information that appears on
22 this inspection report?

23 A I did.

24 Q Was it made under those procedures we described

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1 when discussing your September of 1998 inspection report?

2 A Yes.

3 Q And was People's Exhibit Number 6 made at or
4 near the time the events appearing within this document
5 were observed?

6 A Yes.

7 Q And was this inspection report generated in the
8 ordinary course of business activity?

9 A Yes.

10 Q And are you familiar with the site as it

11 appeared on April 18th, 2000?

12 A Yes.

13 Q If I could direct your attention to the
14 photographs attached to this document, do you recognize the
15 scenes in these photographs?

16 A Yes.

17 Q Do these scenes -- do these photographs fairly
18 and accurately depict the site as you observed it on this
19 date?

20 A Yes.

21 Q If I could direct your attention to the site
22 sketch, does the site sketch fairly and accurately show the
23 site on this date?

24 A Yes, but not to scale.

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1 Q Okay. Would this document assist you in
2 explaining the conditions you observed on site on this day?

3 A Yes.

4 MS. CARTER: At this time, the People move for
5 admission of People's Exhibit 6 into evidence.

6 HEARING OFFICER: People's Exhibit 6 is
7 admitted.

8 BY MS. CARTER:

9 Q What did you observe on site on April 18th,

10 2000?

11 A I observed in the northeast corner again open
12 dump refuse and also exposed refuse protruding from
13 erosional channels from the former Weaver Landfill.

14 Q You said you observed open dump refuse. What
15 material did you observe specifically?

16 A Open dumped wood waste, metal waste, shingles,
17 white goods.

18 Q And turning to the photographs, what pictures
19 depict what you've just described?

20 A Photographs 1, 2, 3, 4. That's it.

21 Q I think you just mentioned that you observed
22 the erosion rills again?

23 A Yes.

24 Q What pictures depict these erosion rills that

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1 you were discussing?

2 A Photographs 5, 6, 7, 8, and 9.

3 Q While you were on site, did you observe whether
4 or not water was flowing through these erosion rills?

5 A Yes.

6 Q Are these the same erosion rills that we
7 discussed before that are in close proximity to the
8 tributary to the Ten Mile Creek?

9 A Yes.

10 Q Did you note whether or not any activities had
11 taken place on site since your 1999 inspection?

12 A No.

13 Q Had there been any efforts made towards
14 cleaning up the open dumped waste?

15 A None.

16 Q What about any efforts made to cover the
17 erosion rills?

18 A None.

19 Q After the April 18th, 2000, inspection, was a
20 continuing violation letter sent to the Land Trust?

21 A Yes.

22 Q May the record reflect I'm handing you what's
23 previously been marked People's Exhibit Number 7 for
24 identification. Have you seen this document before?

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1 A Yes.

2 Q Can you identify this document?

3 A It is a July 6th, 2000, continuing violation
4 letter that was sent to the Patrick Land Trust.

5 Q Did you generate this continuing violation
6 letter?

7 A Yes.

8 Q And was it made under those procedures that we

9 discussed when we were talking about the 1999 continuing
10 violation letter?

11 A Yes.

12 Q And was this violation letter generated in the
13 ordinary course of business activity?

14 A Yes.

15 MS. CARTER: At this time, the People move for
16 the admission of People's Exhibit Number 7 into evidence.

17 HEARING OFFICER: People's Exhibit Number 7 is
18 admitted.

19 MS. CARTER: Thank you.

20 BY MS. CARTER:

21 Q Sir, do you recall having a meeting with
22 Mr. LeRoy and representatives of the Illinois EPA and the
23 Attorney General's Office?

24 A Yes.

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1 Q Do you recall the date of that meeting?

2 A It was in March of the year 2001.

3 Q After this meeting at the Attorney General's
4 Office, did you conduct a subsequent inspection of the
5 site?

6 A Yes.

7 Q Was it on approximately April 18th, 2001?

8 A Yes.

9 Q And why was the site visit conducted?

10 A It was conducted at the request of Mr. LeRoy.

11 Q What was your role on site on this day?

12 A We went on site to observe the existing
13 conditions and to determine the best procedure on how to
14 clean the waste up.

15 Q May the record reflect I'm showing you what's
16 previously been marked as People's 8 for identification.
17 Do you recognize this document?

18 A Yes.

19 Q And what is this document?

20 A It is an April 18th, 2001, memorandum to the
21 Bureau of Land Records Unit.

22 Q And who entered the information on this
23 April 18th memo marked People's Exhibit Number 8?

24 A I did.

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1 Q Was it made under similar procedures to those
2 that we discussed when we were discussing the September
3 1998 inspection report?

4 A Yes.

5 Q And was People's Exhibit Number 8 made at or
6 near the time the events occurring in this document
7 occurred?

8 A Yes.

9 Q And was this document generated in the ordinary
10 course of business activity?

11 A Yes.

12 Q If I could just direct your attention to the
13 photographs attached to this document, are you familiar
14 with the site as it appeared on April 18th, 2001?

15 A Yes.

16 Q These photographs, do you recognize these
17 scenes?

18 A Yes.

19 Q Do these photographs fairly and accurately
20 depict the site as you observed it on this date?

21 A Yes.

22 Q What about the site sketch; does this site
23 sketch fairly and accurately show the site as it appeared
24 on this date?

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1 A Yes, but not to scale.

2 Q Okay. And would this site sketch assist you in
3 explaining the conditions on site?

4 A Yes.

5 Q I do want to note that there's something
6 different attached to this inspection report. If I could
7 direct your attention to the April 12th, 2001, letter

8 that's attached to this document, do you see it?

9 A Yes.

10 Q Can you tell me what this is?

11 A It's a letter that Mr. LeRoy received from
12 POWER Engineers.

13 Q Where did you get this letter?

14 A Mr. LeRoy gave it to me.

15 Q Why did you attach it to your inspection
16 report?

17 A Because he gave it to me during the course of
18 my inspection.

19 Q Do you typically attach to your inspection
20 report documentation received from a party in the course of
21 an inspection?

22 A Yes.

23 MS. CARTER: At this time, the People move for
24 the admission of People's Exhibit Number 8 into evidence.

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1 HEARING OFFICER: People's Exhibit 8 is
2 admitted.

3 BY MS. CARTER:

4 Q What did you observe on site on April 18th?

5 A I observed open dump refuse in the northeast
6 corner and exposed refuse from the former Weaver Landfill.

7 Q Perhaps I should back up. Did anybody
8 accompany you on site?

9 A Yes.

10 Q Who accompanied you?

11 A Mr. LeRoy.

12 Q Were you there at his request?

13 A Yes.

14 Q And did the site differ in appearance from your
15 previous site visit in April of 2000?

16 A Yes.

17 Q Can you tell me how it differed on site?

18 A Mr. LeRoy and his son pulled some tires and
19 began to pile them up. He also hired a survey team to come
20 in, and I observed survey stakes along the northeastern
21 portion of the property.

22 Q But I think -- did you mention before that you
23 did again observe open dump refuse at the northeast corner
24 of the property?

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1 A Yes.

2 Q And what did this refuse include?

3 A Wood waste, metal waste, white goods, tires.

4 Q What photographs depict these observations?

5 A Photographs 5, 4, and 6.

6 Q Did you again observe waste from the landfill

7 within erosion channels in the former Weaver Landfill?

8 A Yes.

9 Q And where did you observe those?

10 A At the northeast corner of the former Weaver
11 Landfill.

12 Q Is that where you observed it previously?

13 A Yes.

14 Q And what photographs depict this observation?

15 A Photographs 1 and 3.

16 Q While you were on site, did you have a
17 conversation with Mr. LeRoy?

18 A Yes.

19 Q And can you tell me about that conversation
20 with Mr. LeRoy?

21 A Mr. LeRoy informed me that he began cleanup by
22 pulling out some tires and piling up some of the waste in
23 cans.

24 Q Did you inform Mr. LeRoy of certain measures

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1 that must be completed on site?

2 A Yes.

3 Q What measures were those that you discussed
4 with him?

5 A That the waste will have to be disposed of

6 properly at a permanent landfill and the need to cover the
7 exposed refuse from the former Weaver Landfill with at
8 least 2 feet of soil.

9 Q Is this the same information you provided to
10 Mr. LeRoy back in September of 1998?

11 A Yes.

12 Q Did you subsequently go on site in August of
13 2001?

14 A Yes.

15 Q Why was this inspection conducted?

16 A To verify compliance with the rules and
17 regulations.

18 Q Was this inspection conducted at the request of
19 Mr. LeRoy?

20 A Yes.

21 Q Did he accompany you on site?

22 A Yes.

23 Q May the record reflect I'm handing you what's
24 previously been marked as People's Exhibit Number 9 for

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1 identification. Do you recognize this document?

2 A Yes.

3 Q Can you tell me what this document is?

4 A It is an August 15, 2001, open dump inspection
5 report.

6 Q Was this document generated under the same
7 procedures that we discussed when we were discussing the
8 September 1998 inspection report?

9 A Yes.

10 Q And did you enter the information in this
11 document?

12 A Yes.

13 Q And was this document made at or near the time
14 the events appearing on it were observed?

15 A Yes.

16 Q Was this document generated in the ordinary
17 course of business activity?

18 A Yes.

19 Q Are you familiar with the site as it appeared
20 on August 15th, 2001?

21 A Yes.

22 Q And if I could direct your attention to the
23 photographs, do you recognize the scenes in these
24 photographs?

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1 A Yes.

2 Q Do these photographs fairly and accurately show
3 the site as it appeared on August 15th, 2001?

4 A Yes.

5 Q And what about the site sketch on this
6 document; does it fairly and accurately show the site as it
7 appeared on this date?

8 A Yes, but not to scale.

9 Q I also see that there are some other documents
10 attached to this inspection report. Do you see invoices
11 attached to this document?

12 A Yes.

13 Q Can you tell me a bit about those?

14 A These documents or invoices were given to me by
15 Mr. LeRoy for the cleanup that he initiated and for the
16 materials that were hauled away to the landfill. Some
17 documents also are for cover material that was brought in
18 to cover the erosion rills at the northeast corner.

19 Q Why were these invoices attached to your
20 inspection report, sir?

21 A To document ongoing cleanup.

22 Q Do you typically attach such documentation to
23 your inspection reports?

24 A Yes.

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1 MS. CARTER: At this time, the People move for
2 the admission of People's Exhibit Number 9 into evidence.

3 HEARING OFFICER: People's Exhibit 9 is
4 admitted.

5 BY MS. CARTER:

6 Q While you were on site on August 15th, 2001,
7 what did you observe on this date?

8 A I observed that some of the open dump waste was
9 cleaned up and the majority of the exposed refuse from the
10 rills were covered up. And I also observed a pile of open
11 dump -- remaining open dump trash and exposed refuse from
12 one more erosional rill at the former Weaver Landfill.

13 Q What photographs depict the remaining pile of
14 open dump refuse you observed on site?

15 A Photograph 8.

16 Q What refuse is included in that pile that you
17 see there in photograph 8?

18 A Metal waste, household carpet waste, and
19 shingles.

20 Q I think you mentioned that you again observed
21 waste from the landfill within a few erosional rills still
22 on site?

23 A Yes.

24 Q What photograph depicts that?

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1 A Photograph 7.

2 Q While you were on site, did you have a
3 conversation with Mr. LeRoy?

4 A Yes.

5 Q Did you discuss with him the conditions you
6 observed on site?

7 A Yes.

8 Q What did you talk to him about?

9 A About the need to clean up the open dump waste
10 remaining as well as covering up the exposed refuse from
11 one of the erosional channels from the former Weaver
12 Landfill.

13 Q Is this the same thing you discussed with
14 Mr. LeRoy back in September of 1998?

15 A Yes.

16 Q After this time, was a continuing violation
17 letter sent to the Land Trust?

18 A Yes.

19 Q May the record reflect I'm showing you what's
20 previously been marked People's Exhibit Number 10 for
21 identification. Do you recognize this document?

22 A Yes.

23 Q Can you identify it for me?

24 A It's a September 12, 2001, continuing violation

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1 letter addressed to Mr. Bill LeRoy.

2 Q And did you generate this continuing violation
3 letter?

4 A Yes.

5 Q And was it made under those procedures that we
6 described when we were talking about the April 13th
7 continuing violation letter?

8 A Yes.

9 Q Was this document generated in the ordinary
10 course of business activity?

11 A Yes.

12 MS. CARTER: We move for the admission of this
13 document into evidence at this time.

14 HEARING OFFICER: People's Exhibit 10 is
15 admitted.

16 BY MS. CARTER:

17 Q Sir, did this continuing violation letter, did
18 you attach to it your inspection report?

19 A Yes.

20 Q Are you aware of the current conditions on
21 site?

22 A Yes.

23 Q How are you aware of those conditions?

24 A From a reinspection conducted.

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1 Q Do you recall when you conducted that
2 reinspection?

3 A September of 2001.

4 Q And what did you observe when you were on site
5 on this date?

6 A I observed that the open dump refuse observed
7 during the previous inspection was cleaned up and that the
8 erosional rill also observed during the previous inspection
9 was filled in.

10 Q How long would you estimate, Mr. Mehalic, that
11 it should have taken the respondent to remediate the open
12 dump material and exposed refuse rills?

13 A Given the amount of open dump waste observed
14 and the logistics, the location for the exposed refuse and
15 barring any unforeseen weather events, I would estimate
16 from three to four months.

17 MS. CARTER: Mr. Hearing Officer, can I have a
18 five-minute recess or five minutes to discuss a matter with
19 Miss Ryan before I take him off the stand?

20 HEARING OFFICER: Certainly. We'll be back at
21 17 after, Miss Carter.

22 (Recess in proceedings from 11:12 to 11:17.)

23 HEARING OFFICER: It's 11:17, and we are back
24 on the record, Miss Carter.

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1 MS. CARTER: Thank you.

2 BY MS. CARTER:

3 Q Mr. Mehalic, are you familiar with a notice of
4 intent to pursue legal action letter?

5 A Yes.

6 Q Can you tell me a bit about what that is?

7 A It's a letter addressed to the owner or
8 operator of a given facility that informs them of pending
9 notice for legal enforcement, and it sets up a time frame
10 and a date to come in and have a meeting to discuss the
11 violations observed at a given time frame.

12 Q And are you aware of whether a notice of intent
13 to pursue legal action letter was sent to the Land Trust?

14 A Yes.

15 Q And was a subsequent referral made to the
16 Illinois Attorney General's Office from the Illinois EPA?

17 A Yes.

18 Q And are you aware that Peoria County Landfill
19 allows residents to dispose of one load of waste a week
20 without charge?

21 A Yes.

22 Q Do you recall whether this was communicated to
23 Mr. LeRoy at any time?

24 A I don't remember.

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1 Q Do you know if this information is typically

2 communicated to people who qualify for this service?

3 A Yes.

4 MS. CARTER: Thank you. I have no further
5 questions.

6 HEARING OFFICER: Thank you, Mr. Mehalic. I'll
7 let you step down but ask you to stick around in case you
8 are called by Mr. LeRoy, which I believe you will be.

9 (Pause in proceedings.)

10 HEARING OFFICER: Miss Carter, any additional
11 witnesses?

12 MS. CARTER: No. Thank you.

13 HEARING OFFICER: Do you have anything further?

14 MS. CARTER: No, Mr. Hearing Officer.

15 HEARING OFFICER: Thank you. At this time,
16 we're still in what I would consider Phase One of this
17 hearing, and I would ask for statements from participants.

18 Mr. LeRoy, if you wish to give a statement,
19 come up and give your statement. I'll allow you to
20 testify. You're allowed to testify. You'll be subject to
21 cross-examination by Miss Carter. Same thing goes for
22 Mr. Fuller. At that point, when you're all done with that,
23 at that point, I'm going to stop the record, go into like a
24 Phase Two and let you cross-examine Mr. Mehalic if you wish

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1 and present any other evidence you have.

2 MR. LeROY: When I give my statement, am I
3 allowed to produce documents?

4 HEARING OFFICER: You're allowed to refer to
5 them, but I can't admit them. But you can refer to them
6 all as Respondent's 1, 2, 3, however you have them marked.

7 MR. LeROY: I don't have them marked at all.

8 HEARING OFFICER: Well, we'll mark them.
9 During the second phase, I'll ask for you to move for the
10 admission of all those documents. If you'll have a seat up
11 here, please.

12 (Witness sworn.)

13 HEARING OFFICER: You can go ahead and just
14 give a narrative, testify however you wish to. Whatever
15 you want to refer to there that is evidence that you're
16 going to be offering later, if you'll just tell me what it
17 is, I've got some stickers here; we'll put it on as you
18 refer to it. That way, we'll know what you're talking
19 about. If you want to go ahead and begin your testimony.

20 I want the record to reflect that Mr. LeRoy's
21 testifying as a participant under Section 101.628 of the
22 Board's procedural rules at this time.

23 MR. LeROY: I forgot one page of my notes.
24 It's in my office, so I'm going to have to go without some

1 dates for now. Probably someone else can supply those.

2 I bought the ground known as the Weaver
3 Landfill in '95 or '96. I'm not sure of the date. I was
4 made aware of the ground by Mr. Charles Fuller who is a
5 developer who was buying the surrounding ground. Prior to
6 buying the ground, I obtained some information through the
7 Freedom of Information Act. Actually, it was supplied by
8 the realtor handling the sale. He'd given that information
9 to Mr. Fuller. Mr. Fuller passed it along to me.

10 I was interested in buying the ground. I
11 understood that there had been a landfill, could not be
12 developed. I didn't care about that. I was interested in
13 putting up one home for myself. Among those documents was
14 a letter here from Tazewell County. I believe this is from
15 the Health Department.

16 HEARING OFFICER: Are you --

17 MR. LeROY: Wait a minute.

18 HEARING OFFICER: Do you intend to offer that
19 as evidence later?

20 MR. LeROY: Yes.

21 HEARING OFFICER: Can we put a sticker on it?

22 MR. LeROY: I believe this is the EPA letter.

23 HEARING OFFICER: It's marked as Respondent's

24 1.

1 MR. LeROY: I have copies if you'd like copies.

2 MS. CARTER: I would like copies, please.

3 MR. LeROY: One of the documents highlighted --
4 it's the EPA document, I believe -- it says, "The landfill
5 began operation in 1966 and ceased and closed operations in
6 1974. A letter dated May 18, '76, was sent to Mr. Glen
7 Weaver from Renee VanSumarin (phonetic), Regional
8 Supervisor LPC, FOS, informing him his landfill was
9 satisfactorily closed and covered. No further action is
10 needed if the site is properly closed and covered."

11 I also have a letter here from the Tazewell
12 County Health Department dated December 18, 1992.

13 HEARING OFFICER: Marked Respondent's 2 for the
14 record.

15 MR. LeROY: Highlighted area that says, "The
16 report indicates your property was found to be in apparent
17 compliance. Therefore, no further action by the Health
18 Department will be taken at this time."

19 So, after looking over a great volume of
20 documents and also seeing in the paper approximately at
21 that time period an article -- which I did not clip out,
22 much to my regret -- that the governor had signed into law
23 that if you bought a landfill you were not responsible for
24 cleaning it up. If you did not pollute it, it was not your

1 job to clean it up. Based on that article, these
2 documents, I thought it was safe for me to buy the
3 property.

4 My circumstances changed. Lady I was involved
5 with and I split up, and I decided I really didn't want to
6 build a house out there; so I put it up for sale. After I
7 put it up for sale, then I got the calls. Doesn't matter,
8 but I'm assuming a neighbor out there didn't want anything
9 going on out there. They called the Health Department.
10 They called the EPA. EPA called me. I went out there and
11 met Mr. Mehalic. I thought I had met him on his initial
12 visit in April. He was taking pictures at that time.
13 Perhaps one of us is mistaken. I don't think it's that big
14 of deal.

15 However, the first time I met Mr. Mehalic, we
16 looked over the ground. He found the debris in the back
17 which was there when I bought it; but since they had
18 already passed it, I thought I was in the clear. The law
19 said I didn't have to clean it up since I didn't create the
20 mess. The mess was already there. Obviously, I didn't
21 think it was my responsibility to take care of it. I said
22 that to Mr. Mehalic at the time. We discussed liability.
23 He produced -- just a second -- a copy of the Environmental
24 Protection Act, had it in his vehicle. We looked up the

1 part regarding liability on page 196.

2 HEARING OFFICER: We don't need to mark that.
3 The Board is familiar with that, if you can just read the
4 section.

5 MR. LeROY: The parts I found pertinent -- this
6 was supplied to me by Mr. Mehalic -- "In no event may the
7 Agency, the State of Illinois, or any person bring an
8 action pursuant to this Act" -- I'm paraphrasing here.

9 HEARING OFFICER: Could you read the section?

10 MR. LeROY: Section 58.9, Liability, Cost
11 Assignment.

12 "Notwithstanding any other provisions of this
13 Act to the contrary, including Subsection (f) of
14 Section 22.2, in no event may the Agency, the State of
15 Illinois, or any person bring an action pursuant to this
16 Act or the Groundwater Protection Act to require any person
17 to conduct remedial action or to seek recovery of costs for
18 remedial activity conducted by the State of Illinois or any
19 person beyond the remediation of releases of regulated
20 substances that may be attributed to be proximately caused
21 by such person's act or omission or beyond such person's
22 proportionate degree of responsibility."

23 Skipping down to paragraph (a), "A person who
24 neither caused nor contributed to any material aspect or

1 release of regulated substances on, in, or under the site
2 that was identified and addressed by the remedial action
3 taken pursuant to this title." I skipped a paragraph.
4 Basically says if you didn't do it, you don't have to clean
5 it up.

6 Mr. Mehalic supplied me with this at our first
7 meeting. I asked him to give me a copy of it. In fact, he
8 had the secretary send me the Act itself. That's where I
9 got this. This was supplied to me by the EPA. Made it
10 pretty clear to me, I thought, since I didn't make the
11 mess, I didn't have to clean up the mess.

12 I've also got letters -- I'm getting ahead of
13 myself. After that, there were a series of visits to the
14 site by Mr. Mehalic. I was there, I think, for most of
15 them. Getting away from my notes.

16 October 6th, 1998, I received -- this is one of
17 the exhibits that was introduced earlier. I'm not sure
18 which number.

19 HEARING OFFICER: Going to go ahead and mark it
20 with a respondent's, Respondent's 3. Can you give a copy
21 to Miss Carter, please?

22 MR. LeROY: (Tendering document.) This is my
23 copy of your exhibit.

24 HEARING OFFICER: For the record, that is the

1 October 6th, 1998, violation notice which has been admitted
2 as People's Exhibit Number 2. Go ahead, Mr. LeRoy.

3 MR. LeROY: I drafted a response to them. Told
4 Mr. Mehalic and EPA -- I failed to put a date on it. It
5 should be familiar to him.

6 HEARING OFFICER: Let the record reflect that
7 I'm marking Mr. LeRoy's response as Respondent's Exhibit 4.
8 Go ahead.

9 MR. LeROY: All right. This letter, which I
10 drafted myself and had my secretary type -- failed to put a
11 date on it -- I responded to the complaint. If you'll read
12 1 through 8, basically it's saying I didn't do it. There's
13 no open dump. No reason for me to apply for a dump. I
14 didn't run a dump. This is all preposterous.

15 If you'll read the final paragraph, it says,
16 "Regarding your compliance commitment agreement, is this a
17 form to be filled out or will this letter do?" It
18 indicates I was trying to comply. "I have tentatively
19 hired a man to assemble a small crew to remove all exposed
20 waste material and debris from the site. He has prior
21 commitments at this time but should be free by December 1,
22 1998. Since he is using a dump truck to remove the waste,
23 it will be necessary for him to wait for the ground to
24 harden anyway. He will, of course, take the debris to an

1 approved site for disposal, and I will have receipts for
2 same. As for me covering the site with dirt, this is
3 economically impossible. If the EPA has any monies for
4 such action or if the EPA can tell me how to apply for such
5 monies, I would be very grateful for the assistance. I
6 would also appreciate any information as to where I can get
7 broken concrete to help stop the erosion."

8 Now, the original complaint was dated
9 October 6th. This is in response to that. On
10 November 20th, they rejected me outright. So between
11 October 6th and November 20th is best I can put a date on
12 this. Say November 1 for the sake of argument.

13 November 1, 1998, I offered to comply. I asked
14 for help. Their response, "Rejection of compliance
15 commitment agreement." That's something they neglected to
16 give you.

17 HEARING OFFICER: I will mark this as
18 Respondent's Exhibit 5.

19 MR. LeROY: So, since November 1, more or less,
20 1998, I denied all the allegations; yet I agreed to clean
21 it up, and I asked them for help.

22 I'd like to point out, while this was going on,
23 I thought I had -- you can't tell from these diagrams, but
24 the back of the ravine -- back of the property, there's a

1 huge, monstrous ravine. I thought that was one of the
2 ravines I had to fill. This would take thousands of
3 truckloads. That's why I'm saying this is economically
4 infeasible for me. I thought they wanted a tremendous,
5 huge, extensive cleanup job there was no way in the world I
6 could handle.

7 Their response, which I just gave everybody a
8 copy of, "The proposed" -- postmarked November 16th, so
9 that puts a date on it -- "is rejected because it fails to
10 adequately address the violations and suggested resolutions
11 in the violation notice. Because the violations remain the
12 subject of disagreement, this will be considered to the
13 Office of the Attorney General." So, since it's postmarked
14 November 16th, I probably wrote it November 16th.

15 I denied running a dump. I denied all that
16 stuff. It's ridiculous. We'll talk about that a little
17 more when Mr. Mehalic testifies. Tentatively hired a man.
18 Can't do it until November. The ground has a very high
19 water table, very mushy. It's like a swamp in there. You
20 cannot get a truck back there in the spring. You have to
21 wait until the heat of summer or even when it freezes over
22 in the wintertime.

23 I said I would agree. I asked them for help.
24 "Where can I get concrete? Is there any money available?"

1 Their response was an outright rejection to my plea. Since
2 then -- since I offered to clean it up, I asked them for
3 help cleaning it up, I asked if this was the right form,
4 their response was nothing but a rejection. Since then,
5 became a series of letters from them, which you've seen a
6 lot of, accusing me of doing all these heinous crimes and a
7 series of letters from me or my lawyers denying it and
8 saying I didn't do it; it's not right. "I think you're
9 punishing this guy for doing something he had no control
10 over."

11 It wasn't until we actually sat down in the
12 Attorney General's Office in the spring of 2001 where
13 things were aired out as much as they are right now. I
14 talked to Mr. Mehalic and Mr. Tripses. Miss Carter was
15 there, and Miss Ryan was there. I got everything off my
16 chest. I explained my side. I sat next to Miss Carter.
17 At least four times she said, "Well, I didn't know that.
18 Well, I didn't know that. Well, I didn't know that."
19 Nobody knew my side until spring of 2001. Nobody cared.

20 Once I got everything out and we started
21 talking around the table, they explained to me the areas I
22 had to clean which were minor areas. They were not the
23 areas I thought I had to clean. Once we did that, I agreed
24 to take care of it. At that time, we talked about dates.

1 Mr. Tripses gave me until the end of the building season of
2 2001, which would be the fall. I said, "I can do that." I
3 did that.

4 Mr. Mehalic subsequently went out to the
5 property many times because I invited him out there for
6 progress reports. As he said, I also had the property
7 lines marked. Most of the debris was on my property. A
8 lot of it wasn't. That's why I had the sites lined,
9 because when we were down over the hill, you couldn't tell
10 if you were on my property or the neighbor's property.
11 Once we sat down, talked to each other, explained to me
12 exactly what needed to be done, I took care of it.

13 I had Mr. Mehalic out a number of times. "I've
14 done this. What more do you want?" His previous testimony
15 sounded like he was out there checking up on me when, in
16 fact, he was there at my request. Once I knew what they
17 wanted, I did it. I have a clean bill of health.

18 The total expenses involved -- he has a copy of
19 the receipts; I'm sure everybody does -- it was less than
20 \$2,000. If I had known it was a minor job, if we had
21 communicated clearly from day one, this wouldn't have come
22 to all these nasty letters, wouldn't have come to court
23 hearings, wouldn't have come to me having to hire lawyers.
24 I am not the villain here. I have people that will testify

1 that the debris was there prior to me purchasing it.
2 They'll also testify I did nothing to make the situation
3 worse.

4 My point is, one, I checked the ground before I
5 bought it. It had a clean bill of health from the Tazewell
6 County Health Department and Illinois EPA. Two, the debris
7 that was there was there prior to me purchasing it. Three,
8 in 1998, I offered to clean it up; and I was rejected,
9 outright flat rejection. There was no help offered
10 whatsoever. Four, when we finally did sit down, talk it
11 all out, we came to a meeting of minds. Five, I took care
12 of the problem. That's it.

13 HEARING OFFICER: Do you have any other --
14 anything else you'd like to add?

15 MR. LeROY: Not until I get to question people.

16 HEARING OFFICER: Thank you, Mr. LeRoy. At
17 this time, I'll ask Miss Carter if she has anything on
18 cross.

19 MS. CARTER: Yes, Mr. Hearing Officer. If you
20 can just give me a moment.

21 MR. LeROY: The reason I'm here without an
22 attorney is because we all know I've been fighting this for
23 several years. My attorney was served, I guess, earlier
24 this year with the motion for summary judgment. Told me at

1 the time it was just a matter of course, a normal thing,
2 wasn't anything to worry about. He would respond to it in
3 time, and it would not be an issue. He neglected to do
4 that. I think he thought it was just going to get tossed
5 out. That's why I didn't have my day in court. That's why
6 I'm trying to bring some things out today. As far as I
7 knew, he had responded to the motion for summary judgment
8 and things were going to be carried on to the next level.
9 It was only when it was denied and I was found guilty of
10 all these charges, it was only then that I found out he
11 didn't even respond. In my opinion, he was very negligent.
12 That's why he's not here today.

13 HEARING OFFICER: One last time. Anything
14 further, Mr. LeRoy?

15 MR. LeROY: I don't think so.

16 HEARING OFFICER: Thank you.

17 Miss Carter?

18 MS. CARTER: Thank you.

19 CROSS-EXAMINATION

20 BY MS. CARTER:

21 Q I'd like to direct your attention, Mr. LeRoy,
22 to your Exhibit Number 3, Respondent's 3. You should have
23 it up there. It's the October 6th, 1998, violation notice

24 letter. It looks like this. It's the same as People's 2.

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1 I can hand you People's 2, sir, if that would be simpler.

2 It's the same document.

3 If I could direct your attention to the fourth
4 page of the document, sir, under "Suggested Resolutions,"
5 are you there, sir?

6 A Yes.

7 Q In paragraph 5, can you read that aloud,
8 please?

9 A There is no paragraph 5. Oh, Suggested
10 Resolutions?

11 Q Yes, underneath there.

12 A "By December 31, 1998, cover all exposed refuse
13 from the Old Weaver Landfill with 2 feet of soil."

14 Q And you're telling me before that you construed
15 "cover all exposed refuse" as a large ravine in the
16 northeast corner of the property?

17 A Yes, everything including that ravine.

18 Q Does it say "ravine" in this paragraph?

19 A No.

20 Q Why did you assume that, sir?

21 A From conversations with Mr. Mehalic.

22 Q Did you question Mr. Mehalic on what exposed
23 refuse meant?

24 A No.

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1 Q It's not clear from the language here what is
2 exposed refuse?

3 A In one of our conversations, one of the early
4 conversations, he made it clear to me that I had to cover
5 the entire landfill because it was not done correctly.
6 That was the impression I got from his conversation. I
7 thought I had a major, major job here.

8 Q I'm going to direct your attention, sir, to
9 People's Exhibit Number 3. I believe you testified or
10 stated earlier, sir, that it was very marshy out there in
11 the spring of 1999; is that correct?

12 A Every spring.

13 Q Can you show me where in these photographs it
14 depicts marshy conditions on site?

15 A You have to walk on it. It's --

16 Q Sir, my question, can you please respond to my
17 question?

18 HEARING OFFICER: Do you want a yes or no
19 answer, Miss Carter?

20 MS. CARTER: I would like an indication of
21 where in these photographs it depicts a marshy condition;
22 so it would be a numerical answer, if there is one.

23 A You cannot tell by looking at the photograph
24 whether or not the conditions are marshy or not.

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1 Q So it does not appear in these photographs?

2 A No.

3 Q Before, you said Mr. Mehalic handed you a copy
4 of the Act. Did he simply hand you one section or the
5 entire copy of the Act?

6 A We opened it up to the part where it said
7 "Liability."

8 Q Sir, my question was: Did he hand you an
9 entire copy of the Act?

10 A He mailed it to me.

11 Q Was it all the provisions of the Illinois
12 Environmental Protection Act?

13 A This book right here.

14 HEARING OFFICER: Let the record reflect that
15 that's a valid copy of the Environmental Protection Act
16 distributed by the IEPA.

17 BY MS. CARTER:

18 Q Sir, if I can direct your attention to what's
19 previously been marked Respondent's Exhibit Number 4, that
20 is your response to the violation notice that is undated?

21 A Uh-huh.

22 Q Again, it doesn't indicate anywhere in here

23 that you were willing to undertake any measures to cover
24 the erosion rills?

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1 A Let's see. "This is economically impossible."

2 Q So, again, sir, it does not indicate in here
3 that you were willing to undertake any measures to deal
4 with the erosion rills, does it?

5 A It says -- I'm asking them for help to take
6 care of that problem.

7 Q Sir, it's a yes or no question.

8 HEARING OFFICER: Miss Carter, you need to make
9 that clear because sometimes you're asking him
10 cross-examination questions that call for a yes or no
11 answer. So I think if you want a yes or no answer, if you
12 would preface it, "Please answer yes or no," and then state
13 your question.

14 Q Sir, I'll ask the question again. Please
15 answer yes or no. It doesn't indicate in Respondent's
16 Exhibit Number 4 that you were willing to do anything on
17 site concerning the erosion rills, does it?

18 A I think it does. Yes.

19 HEARING OFFICER: I'll give you a chance when
20 Miss Carter is done to allow you what we would call
21 redirect to address anything that you feel needs to come

22 out.

23 Q How, sir, does it say you're willing to do
24 anything regarding the erosion rills?

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1 MR. LeROY: Is that a yes or no, or can I
2 actually respond?

3 HEARING OFFICER: You can respond.

4 A "If the EPA has any monies for such an action
5 or if the EPA could tell me how to apply for such monies, I
6 would be very grateful for the assistance. I would also
7 appreciate any information as to where I can get broken
8 concrete to help stop the erosion." That sounds
9 affirmative to me.

10 Q Sir, I think you mentioned before that you met
11 Mr. Mehalic on site on several occasions?

12 A Yes.

13 Q And during those several occasions, did you
14 discuss the conditions observed on site?

15 A Yes.

16 Q Did you also discuss what needed to be done on
17 site?

18 A Yes.

19 Q Sir, you did not take any action physically on
20 site to remove the open dump material in 1998, did you?

21 A No.

22 Q In 1999, you did not take any action to remove
23 the open dump material on site?

24 A No.

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1 Q And in 2000?

2 A No.

3 Q In 1998, you did not take any action to cover
4 the erosion rills, did you?

5 A No.

6 Q In 1999, you didn't take any action to cover
7 the erosion rills?

8 A No.

9 Q In 2000, you did not take any action to cover
10 the erosion rills?

11 A No.

12 MS. CARTER: Just a moment, Mr. Hearing
13 Officer.

14 (Pause in proceedings.)

15 MS. CARTER: Nothing further. Thank you.

16 HEARING OFFICER: Mr. LeRoy, you'll now have an
17 opportunity to briefly address anything that Miss Carter's
18 questions brought out that you feel the Board needs to
19 hear.

20 MR. LeROY: Thank you. In my letter of

21 November 16th, 1998, I made it clear that I wanted this to
22 be solved, that I would do what it would take, that I had
23 tentatively hired a man to do the work, told them it was
24 economically infeasible for me to cover it because at that

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1 time I thought it was a huge, huge undertaking,
2 miscommunication error -- or a communication error. I
3 asked them for help, "Tell me how to get some money to take
4 care of this because I can't do it on my own. Do you have
5 any information on where I can get broken concrete?" This
6 all indicates I wanted this problem solved. This is in
7 November of 1998. Their response was an outright
8 rejection. There was no hint of any help. It was an
9 outright rejection. That's Respondent's Exhibit Number 5.

10 From there, things deteriorated into nothing
11 but a series of letters of them accusing me of all sorts of
12 things that I didn't do, was not responsible for, and a
13 series of letters from my attorneys stating just that; I
14 did not create the mess, it is not my responsibility to
15 pick it up.

16 As I said, as of November 16th of '98, I tried.
17 From there, it was nothing but a series of letters and
18 accusations back and forth until we sat down in the spring
19 of 2001, got everything ironed out. Once it was ironed
20 out, I agreed to do what they wanted because at that point

21 it was made clear to me what they wanted for the first time
22 despite what this letter or thing says; and I went, and I
23 did it. I called Mr. Mehalic out on a number of times for
24 progress reports to specify exactly what had to be done.

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1 He showed me. He helped me, not physically but he let me
2 know what needed to be done. I did it. The ground was
3 cleaned, covered, and it passed. If there had been fewer
4 letters and more talking, it wouldn't have come to this.

5 HEARING OFFICER: Anything further?

6 MR. LeROY: No.

7 HEARING OFFICER: Okay. You can step down.

8 Thank you. I believe -- Mr. Fuller, do you wish to testify
9 as a participant? Go ahead and step up, sir.

10 Just so you know, Mr. LeRoy, I'll let
11 Mr. Fuller give his narrative testimony as a participant
12 and will be subject to cross-examination, brief redirect if
13 he feels he needs any. I'll ask him to step down and hear
14 closing arguments if there are any. At that point, we'll
15 go into what I would term Phase Two; and if you feel you
16 need any additional information from anyone, then I'll have
17 you call them back up at that time.

18 (Witness sworn.)

19 HEARING OFFICER: Go ahead, Mr. Fuller.

20 MR. FULLER: I'm very familiar with this piece
21 of property since it's directly adjacent to a development
22 that I had both on the west and north boundaries of
23 Mr. LeRoy's property. From 1995 until 2000, mid 2001, I
24 probably was on my development probably three to six times

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1 a week. I understand that the accusations against
2 Mr. LeRoy are that he has continued to operate an open dump
3 on the property after he purchased it. I have never seen
4 anyone dumping anything on that property, nor heard of
5 anyone dumping on that property since 1995. It was a
6 landfill for a number of years operated by Mr. Weaver. I
7 have walked that property. It would appear to me that
8 there was probably never 2 feet of cover on the property
9 when it was closed.

10 If the accusations against Mr. LeRoy is he has
11 allowed open dumping on that property, I don't think that
12 is correct.

13 HEARING OFFICER: Anything further?

14 MR. FULLER: I don't think so.

15 HEARING OFFICER: Thank you.

16 Miss Carter, do you have any questions for
17 Mr. Fuller?

18 CROSS-EXAMINATION

19 BY MS. CARTER:

20 Q Mr. Fuller, are you currently employed?
21 A Yeah.
22 Q What's your occupation, sir?
23 A I'm a land developer.
24 Q And when was the first time you went on site;

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1 do you recall?

2 A It would have been around 1995, about the time
3 he purchased it. It's immediately adjacent to my
4 development, and I've never had a complaint from anybody
5 that I sold a lot to that backs up to this property since
6 the subdivision has been there going back to 1995.

7 Q Sir, can you just tell me a little bit about
8 your educational background?

9 A I'm wondering whether or not I'm employed and
10 what my educational background has to do with this.

11 MS. CARTER: I can elaborate, sir, if you'd
12 like, Mr. Hearing Officer.

13 HEARING OFFICER: I would.

14 MS. CARTER: The reason why I'm asking is
15 because you provided testimony, sir, in terms of your
16 opinion as to whether or not adequate cover was on site at
17 the landfill. I'm trying to understand what the basis of
18 your opinion is, if you have an expertise in environmental

19 science. That's all I'm looking for.

20 HEARING OFFICER: Miss Carter, why don't you
21 rephrase the question to reflect that?

22 MS. CARTER: Okay.

23 BY MS. CARTER:

24 Q Do you have any educational background in

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1 environmental sciences, sir?

2 A No.

3 MS. CARTER: I have nothing further.

4 HEARING OFFICER: Mr. Fuller, is there anything
5 you feel Miss Carter's cross-examination questions -- any
6 issues you'd like to address?

7 MR. FULLER: No.

8 HEARING OFFICER: Okay. You may step down.
9 Thank you.

10 Mr. LeRoy, I think you indicated you had a
11 letter from someone, Mr. Shelander (phonetic), perhaps?

12 MR. LeROY: Yes. Mr. Shelander owns the
13 property immediately to the east of the landfill. He could
14 not be here today. He very much wanted to be here today.

15 HEARING OFFICER: Okay. Thank you.

16 Miss Carter, you have in front of you a letter
17 from a Mr. William B. Shelander, and I'm going to treat
18 this as a public comment.

19 MS. CARTER: Okay.

20 HEARING OFFICER: It will become part of the
21 record.

22 Miss Carter, do you have closing now, or are
23 you going to reserve that for your brief?

24 MS. CARTER: The People will be reserving

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1 closing for a brief.

2 HEARING OFFICER: Thank you. Is there anything
3 further we need to do?

4 MS. CARTER: The People have nothing further.

5 HEARING OFFICER: Do you rest?

6 MS. CARTER: The People rest.

7 HEARING OFFICER: Thank you. Because of the
8 question about -- or the issue whether a Land Trust can be
9 represented by a non-attorney, in this case, a sole
10 beneficiary of that Land Trust, and I had ruled that it may
11 not, I believe Mr. LeRoy now, as sort of an offer of proof,
12 would like to kind of begin this, what I call, Phase Two of
13 the hearing, call witnesses, cross-examination,
14 introduction of evidence and possibly arguments. So I want
15 to make sure the record is clear and the Board understands
16 that I've ruled that Mr. LeRoy cannot represent himself in
17 this matter and that this is all on sort of a motion by

18 Mr. LeRoy to represent himself in this matter. Hope that's
19 clear as mud.

20 Mr. LeRoy, you can call your witness, call
21 Mr. Mehalic if you want, and ask him your questions.

22 (Interruption in proceedings.)

23 HEARING OFFICER: Five minutes.

24 (Recess in proceedings 11:58 to 12:04.)

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1 HEARING OFFICER: Mr. LeRoy, you can call your
2 first witness.

3 MR. LeROY: Mr. Fuller.

4 HEARING OFFICER: Mr. Fuller, will you take the
5 stand? I'll remind you that you're under oath.

6 CHARLES FULLER,
7 called as a witness, after being first duly sworn, was
8 examined and testified upon his oath as follows:

9 DIRECT EXAMINATION

10 BY MR. LEROY:

11 Q Do you recognize these letters?

12 A Yes, I do.

13 Q Can you read them out loud, please? They're
14 very brief.

15 A "To whom it may concern." This is dated March
16 28, '01. "When Bill LeRoy bought the Weaver Landfill from
17 Saint Mark's Lutheran Church in November of 1995, there was

18 already debris in the back portion of the property" --
19 which would be the northeast. "It had been dumped there
20 prior to Mr. LeRoy's purchase."

21 "May 15th, 2001, To whom it may concern. As
22 former developer of the ground adjacent to the Weaver
23 Landfill, I had many opportunities to visit my subdivision.
24 To my knowledge, there has been no dumping on the property

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1 since its purchase in 1955 (sic) by Bill LeRoy. My ground
2 was located to the west and north of the landfill."

3 MR. LeROY: I just wanted that brought out
4 because I'm not sure when he was speaking previously if he
5 mentioned the debris was there. He talked about the
6 erosion and that type of thing. I believe the date was
7 1995 on the second letter. I think you misspoke. That's
8 all. I just wanted to --

9 MR. FULLER: 1995 on both of them.

10 MR. LeROY: There was debris already existing
11 on the landfill when I bought it?

12 THE WITNESS: Yes.

13 MR. LeROY: That's all.

14 HEARING OFFICER: Do you intend to submit these
15 exhibits to the Board?

16 MR. LeROY: They're already in everybody's

17 file, but I suppose that would be the thing to do. Yes.

18 HEARING OFFICER: Okay. I'm going to mark them
19 Respondent's Exhibits 5 and 6.

20 MS. CARTER: I think we have a 5 unless we -- I
21 thought Respondent's 5 was the rejection of the compliance
22 commitment agreement dated November 20th, 1998.

23 HEARING OFFICER: I don't have that, Miss
24 Carter.

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1 MS. CARTER: For some reason, I have it.

2 MR. LeROY: That's correct. We already have a
3 5. Their response to my response is Number 5.

4 HEARING OFFICER: I apologize. I'm marking
5 these two letters of Mr. Fuller Respondent's 6 and 7.

6 Thank you, Miss Carter.

7 MS. CARTER: You're welcome.

8 HEARING OFFICER: Anything further for
9 Mr. Fuller, Mr. LeRoy?

10 MR. LeROY: No. Thank you.

11 HEARING OFFICER: Miss Carter?

12 MS. CARTER: No. Thank you.

13 HEARING OFFICER: Thank you, Mr. Fuller.

14 Mr. LeRoy?

15 MR. LeROY: It's not necessary to introduce
16 Mr. Shelander's letter again?

17 HEARING OFFICER: No, sir. It's admitted into
18 the record as Public Comment Number 1 for the record.

19 MR. LeROY: Can we have Mr. Mehalic, please?

20 HEARING OFFICER: I'll remind you that you're
21 under oath, Mr. Mehalic.

22

23

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1 RONALD MEHALIC,
2 called as a witness, having been previously sworn, was
3 examined and testified upon his oath as follows:

4 DIRECT EXAMINATION

5 BY MR. LeROY:

6 Q You stated earlier that your first visit to the
7 site was April of '98; is that correct?

8 A Correct.

9 Q I wasn't there on your initial visit?

10 A No. You were not.

11 Q First time you met me was September?

12 A I believe so.

13 Q September of '98?

14 A Yes.

15 Q You were taking photographs at that time as

16 well?

17 A Yes.

18 Q You've been there many times since then?

19 A Approximately six.

20 Q When you first met me there, was I polite? Was
21 I angry? Did I try to stop you from being there?

22 A You were amiable.

23 Q I was cooperative; I was amiable? Is
24 cooperative a good word?

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1 A Yes.

2 Q We walked the site together; is that correct?

3 A Correct.

4 Q You pointed out some things to me?

5 A Correct.

6 Q Debris and tires and whatever?

7 A Correct.

8 Q As we were leaving the site, did I ask you some
9 questions about liability?

10 A Yes.

11 Q And did you, indeed, show me -- take this book
12 out of your vehicle and look up liability?

13 A Yes.

14 Q Did we find the section on liability? Did we
15 address that as far as it said if you didn't create the

16 mess, you don't have to clean it up? You remember that?

17 A That reference to the Act doesn't pertain to
18 your facility.

19 Q Do you remember talking, the conversation?

20 A Yes.

21 Q Thank you. You subsequently visited the site
22 many times with or without me?

23 A Yes.

24 Q Did I ever deny you access to the site?

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1 A No. You did not.

2 Q Was I ever uncooperative to you?

3 A No, you weren't.

4 Q Did I ever threaten you, call you names?

5 A No. You did not.

6 Q Could you identify this form for me?

7 A The title of it is Environmental Disclosure
8 Document for Transfer of Real Property.

9 Q What is that? Where does it come from?

10 A I have no idea.

11 Q It didn't come from your office?

12 A No. It did not.

13 Q Had you visited the site prior to April of '98?

14 A No. I had not.

15 Q What's the procedure for visiting closed
16 landfills? Do you reinspect them every two years or every
17 five years?

18 A Closed landfills are inspected once a year.
19 Certified closed, I might add.

20 Q Is this a certified closed landfill?

21 A No.

22 Q It was never certified closed?

23 A It was closed well before certification was
24 allowed.

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1 Q So what do you do in a situation like that? Do
2 you ignore it?

3 A No, unless there's a complaint.

4 Q You don't ignore it unless there's a complaint?

5 A Correct.

6 Q Are you sure that's what you meant; you don't
7 ignore it unless there's a complaint?

8 A Correct.

9 Q Perhaps you mean you do ignore it unless
10 there's a complaint?

11 A I really don't know what you're stating. Could
12 you kind of rephrase it?

13 Q You stated you don't ignore the landfill unless
14 there's a complaint. I think you meant you do ignore it

15 unless there's a complaint.

16 MS. CARTER: I'll have to object at this time.

17 HEARING OFFICER: On what grounds?

18 MS. CARTER: Asked and answered.

19 HEARING OFFICER: Overruled.

20 Can you answer the question?

21 A Could you rephrase it?

22 HEARING OFFICER: I'll rephrase it. Do you
23 ignore reinspection of landfills unless there is a
24 complaint?

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1 THE WITNESS: No.

2 BY MR. LeROY:

3 Q So this was not a certified closure because it
4 was closed prior to some date?

5 A There is a letter in the file that -- in the
6 agency's file related to the Weaver Landfill that closed it
7 out.

8 Q But was it certified closed?

9 A Not to my knowledge.

10 Q I'm confused now. So it's closed but not
11 certified closed because it closed prior to a certain date;
12 is that correct?

13 A Correct.

14 Q What date?
15 A I do not know.
16 Q When did they start certifying? That's my
17 question. What date did they start certifying closed
18 landfills?
19 A When the 807 regulations came into effect.
20 HEARING OFFICER: Do you know the date?
21 THE WITNESS: No. I do not.
22 HEARING OFFICER: The Board will take judicial
23 notice of that date, whatever it may be.
24

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1 BY MR. LeROY:
2 Q As far as you know, was this landfill ever
3 inspected by the EPA since it was closed?
4 A That, I do not know.
5 Q What's the normal procedure when a landfill is
6 closed for reinspection?
7 MS. CARTER: Objection, asked and answered.
8 HEARING OFFICER: Overruled.
9 A Could you rephrase that?
10 Q What's the normal procedure for reinspecting
11 landfills once they've been closed?
12 A Certified closed landfills closed with 807
13 regulations are inspected once a year.

14 Q But if it's not a certified 807 landfill, do
15 you inspect them at all?

16 A No.

17 Q So, as far as we know, this may have never been
18 inspected since it was closed until someone complained
19 about it?

20 A It was inspected, most likely, well before it
21 was closed.

22 Q Before it was closed. I mean, since the
23 landfill was closed in 1976 -- "ceased and closed
24 operations in '94." A letter dated May 18th, '76, says it

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1 was satisfactorily closed and covered. That's Respondent's
2 Exhibit 1. So, since 1976, we don't know that it had been
3 inspected?

4 A Not to my knowledge.

5 Q Until you went out there in 1998?

6 A Correct.

7 Q 22 years it was never inspected?

8 A Not to my knowledge.

9 Q As far as you know?

10 A As far as I know.

11 Q Let's get back to the original complaint dated
12 October 6, 1998. I'm trying to find which number that was.

13 HEARING OFFICER: The violation notice,
14 Mr. LeRoy?
15 MR. LeROY: Yes.
16 HEARING OFFICER: That's People's Number 2.
17 BY MR. LeROY:
18 Q People's Number 2 --
19 HEARING OFFICER: The witness has a copy.
20 MR. LeROY: I'm sorry. That's not the one.
21 All these are similar, open dump inspection checklist prior
22 to me starting my cleanup. I've got Exhibit Number 3. I
23 think they're all very similar.
24 HEARING OFFICER: Let the record reflect the

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1 witness is looking at my copy.
2 BY MR. LeROY:
3 Q When you started going out to the ground in
4 April of '98, did you see anything there, any roads going
5 from the front to the back of the property where the debris
6 was located?
7 A Old roads, yes.
8 Q Old can be five years. It can be 100 years.
9 Did you see any signs of recent activity?
10 A No.
11 Q Did you ever see any signs of recent activity
12 until I started the cleanup in 2001?

13 A No.

14 Q You had no indication anyone had been back
15 there?

16 A Not from what I observed.

17 Q You saw lots of debris back there, or you have
18 pictures of debris?

19 A Yes.

20 Q Could you tell how old that was, if it had been
21 there a week or ten years?

22 A Couldn't tell.

23 Q It's your testimony -- from others saying that
24 the debris was there prior to my purchase, do you think

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1 that's possible?

2 A Yes.

3 MS. CARTER: Objection, calls for speculation.

4 HEARING OFFICER: Overruled.

5 A Possibility.

6 Q It was possible it was there prior to my
7 purchasing the property?

8 A Possibility.

9 Q Did you ever find on any of your many visits
10 any debris that indicated anything had been dumped there
11 after my purchase of the property, anything with any date,

12 anything that looked fresh or new?

13 A No.

14 Q No letters postmarked, nothing at all, right?

15 A Yes.

16 Q When you started coming back to the property in
17 2001, you visited four or five times according to your
18 testimony, 2001?

19 A I don't think that many.

20 Q Of the times you visited, did I ask you to come
21 and look at the property?

22 A Yes.

23 Q Were most, if not all, of those at my request,
24 most of those visits?

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1 A Correct.

2 Q What was the purpose of those visits?

3 A Those visits were at your request to verify
4 compliance.

5 Q You gave me status reports verbally, "You have
6 to do this. You have to do this"?

7 A Correct.

8 Q And I apparently did what you asked because
9 it's since been passed?

10 A Eventually.

11 Q Yes, eventually. At any time prior to our

12 meeting in the spring of 2001 when you and Mr. Tripses and
13 Miss Carter and Miss Ryan were all in Springfield at the
14 Attorney General's Office, at any time prior to that, did
15 you and I walk over the ground and you explain to me
16 specifically what you wanted done?

17 A Yes.

18 Q In person?

19 A Yes.

20 Q Prior to that meeting?

21 A Yes.

22 Q You're sure?

23 MS. CARTER: Objection, asked and answered.

24 HEARING OFFICER: Overruled, Miss Carter. You

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1 can answer if you know.

2 A I believe so.

3 HEARING OFFICER: Thank you.

4 BY MR. LeROY:

5 Q Do you remember at any time telling me that I
6 had to cover the entire landfill with 2 feet of earth in a
7 personal conversation?

8 A No. I do not.

9 MR. LeROY: I'd just like to summarize a little
10 bit. Bear with me.

11 HEARING OFFICER: Do you have any more
12 questions for Mr. Mehalic?

13 MR. LeROY: Yes. My questions are in the
14 form -- I just want to -- I'm probably going to get told
15 it's asked and answered.

16 BY MR. LeROY:

17 Q Since our first meeting in September '98, I
18 have been cooperative to you on every occasion; is that
19 correct?

20 MS. CARTER: Objection, asked and answered.

21 HEARING OFFICER: Overruled, Miss Carter.

22 BY MR. LeROY:

23 Q Is that correct?

24 A Can you say that again, please?

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1 Q I've been cooperative on every occasion we've
2 met?

3 A On the site, you have.

4 Q Is there anyplace I haven't been cooperative?

5 A No.

6 Q In fact, I met you in your office on one
7 occasion for -- I can't even remember why. Didn't we meet
8 in your office at one point?

9 A Correct.

10 Q I was cooperative at that point also?

11 A Yes.

12 Q So I've never been uncooperative?

13 A Correct.

14 MR. LeROY: I suppose I'm finished.

15 HEARING OFFICER: Thank you.

16 Miss Carter, do you have any cross or redirect,

17 I guess? Do you have any questions?

18 MS. CARTER: I'm sorry, Mr. Hearing Officer. I

19 have one question for the witness.

20 CROSS-EXAMINATION

21 BY MS. CARTER:

22 Q Mr. Mehalic, do you have any idea where

23 Mr. LeRoy got the idea or the impression that you wanted

24 the whole landfill covered?

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1 A No, I don't.

2 MS. CARTER: Nothing further.

3 HEARING OFFICER: Do you have any additional

4 questions?

5 MR. LeROY: No.

6 HEARING OFFICER: Thank you. You may step

7 down.

8 Mr. LeRoy, did you want this document that you

9 handed to Mr. Mehalic, the environmental disclosure

10 document, marked as an exhibit?

11 MR. LeROY: No. I thought I had gotten that
12 from his office, but apparently it appeared from --

13 HEARING OFFICER: Do you want the Board to
14 consider this?

15 MR. LeROY: No.

16 HEARING OFFICER: Any further witnesses?

17 MR. LeROY: No.

18 HEARING OFFICER: Thank you.

19 MS. CARTER: May I ask a question, Mr. Hearing
20 Officer?

21 HEARING OFFICER: Certainly.

22 MS. CARTER: Thank you. These other documents
23 that have been marked Respondent's 1 through 7, have they
24 been admitted into evidence?

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1 HEARING OFFICER: They have not.

2 MS. CARTER: Thank you.

3 HEARING OFFICER: I was just about to get to
4 them.

5 MS. CARTER: Okay. Thank you.

6 HEARING OFFICER: Actually, they won't be
7 admitted, but I'm going to go through the process right
8 now.

9 MS. CARTER: Thank you.

10 HEARING OFFICER: Mr. LeRoy, did you want to
11 offer all these exhibits that I marked that you referred
12 to?

13 MR. LeROY: Sure.

14 HEARING OFFICER: Could you compile them for
15 me, 1 through 7?

16 (Pause in proceedings.)

17 HEARING OFFICER: They should all have the
18 brown mark on the corner at the top.

19 MR. LeROY: Yes. I'm looking for 3.

20 HEARING OFFICER: 3 is the People's 2 which you
21 really don't need to offer. Would you like the Board to
22 consider these exhibits?

23 MR. LeROY: Yes, please.

24 HEARING OFFICER: Miss Carter, if the Board

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1 overrules my decision that Mr. LeRoy is not able to
2 represent himself and considers this as part of the record,
3 do you have any objections?

4 MS. CARTER: Can we take them one at a time,
5 Mr. Hearing Officer?

6 HEARING OFFICER: Certainly.

7 MS. CARTER: Thank you.

8 HEARING OFFICER: Number 1.

9 MS. CARTER: Number 1, the People do have an
10 objection to the document, executive summary.

11 HEARING OFFICER: What grounds?

12 MS. CARTER: We don't have a basis for what
13 this document is. There hasn't been adequate foundation
14 and authorship.

15 HEARING OFFICER: Overruled. It would be
16 admitted.

17 MS. CARTER: Okay. No objection on 2, no
18 objection on 3, no objection on 4, no objection on 5, no
19 objection on 6 or 7.

20 HEARING OFFICER: Thank you. Then I would
21 admit Respondent's 1 through 7 if the Board overrules me.
22 So it's not officially part of the record until the Board
23 does so.

24 We have had discussions regarding the filing of

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1 post-hearing briefs. The transcript of these proceedings
2 will be available from the court reporter by July 24th.
3 The People's brief will be due by August 14th, and the
4 mailbox rule will apply. The respondent's brief, if any,
5 will be due by September 4th, and the mailbox rule will
6 apply. The transcript is usually put on the Board's
7 website within a day or two of its availability. I would
8 like to note that our website address is www.ipcb --

9 stands for Illinois Pollution Control Board --
10 .state.il.us.

11 Any post-hearing comments must be filed in
12 accordance with Section 101.628 of the Board's procedural
13 rules. These public comments must be filed within fourteen
14 days or by July 26th. The mailbox rule set forth at 35
15 Ill. Adm. Code 101.102(D) and 101.144(C) will apply to
16 these post-hearing filings.

17 Is there anything further from the parties
18 before we conclude?

19 MS. CARTER: No, Mr. Hearing Officer.

20 MR. LeROY: No.

21 HEARING OFFICER: Thank you. At this time, I
22 want to note that there are no members of the public
23 present that want to make statements on the record.

24 I'm required to make a statement as to the

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1 credibility of witnesses testifying during this hearing.
2 The statement is to be based upon my legal judgment and
3 experience. Accordingly, I state that I have found all of
4 the witnesses testifying today to be credible in both Phase
5 One and Phase Two. Credibility should not be an issue for
6 the Board to consider in rendering a decision in this case.

7 At this time, I'll go ahead and conclude the

8 proceedings. It is still Friday, July 12th, 2002, and it
9 is approximately 12:26 in the afternoon. We stand
10 adjourned.

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15 HEARING ADJOURNED AT 12:26 P.M.

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1 COUNTY OF TAZEWELL)
) SS
2 STATE OF ILLINOIS)

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5 CERTIFICATE OF REPORTER

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7

I, ANGELA M. JONES, CSR-RPR, Notary Public in

8 and for the State of Illinois, do hereby certify that the
9 foregoing transcript consisting of Pages 1 through 96, both
10 inclusive, constitutes a true and accurate transcript of
11 the original stenographic notes recorded by me of the
12 foregoing proceedings had before Hearing Officer Steven
13 Langhoff, on the 12th day of July, 2002.

14

15

16 Dated this day of , 2002.

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Angela M. Jones, CSR-RPR
Notary Public, CSR #084-003482

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