

1           BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3       PEOPLE OF THE STATE OF ILLINOIS,

4                   Petitioner,

5               vs.   No. PCB 95-091

6       BELL SPORTS, INC. and WASTE HAULING

7       LANDFILL, INC., and WASTE HAULING, INC.,

8                   Respondents.

9               vs.

10       WASTE HAULING LANDFILL, INC.,

11       and WASTE HAULING, INC.,

12                   Cross-claimants,

13               vs.

14       BELL SPORTS, INC.,

15                   Cross-Respondents.

16

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18                   Proceedings held on March 4, 1997 at 9:30  
19       a.m., continuing from March 3, 1997, at the  
20       Illinois State Library, Illinois Authors Meeting  
21       Room, 300 South Second Street, Springfield,  
22       Illinois, before the Honorable Michael L. Wallace,  
23       Hearing Officer.

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

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P R O C E E D I N G S

(March 4, 1997; 9:30 a.m.)

HEARING OFFICER WALLACE: Pursuant to adjournment, I now call Docket PCB 95-91.

This is the matter of The People of the State of Illinois versus Bell Sports, Inc., Waste Hauling Landfill, Inc. and Waste Hauling, Inc. and the counter complaint cross-claim of Waste Hauling Landfill, Inc., Waste Hauling, Inc. versus Bell Sports, Inc.

Show the same appearances as yesterday.

I see no new appearances.

Are there any preliminary matters, Ms. Menotti?

MS. MENOTTI: Nothing.

HEARING OFFICER WALLACE: Mr. Van Ness?

MR. VAN NESS: No.

HEARING OFFICER WALLACE: Mr. Taylor?

MR. TAYLOR: No.

HEARING OFFICER WALLACE: All right.

Then we will recall Mr. Townsend to the stand.

Mr. Townsend, you are still under oath.

THE WITNESS: Okay.

HEARING OFFICER WALLACE: And you may

1 begin your redirect.

2 MS. MENOTTI: Thank you.

3 REDIRECT EXAMINATION

4 BY MS. MENOTTI:

5 Q Mr. Townsend, what is the general purpose  
6 of a landfill?

7 A It is disposal of refuse by burial.

8 Q Have you had the opportunity -- in the  
9 course of your contact with the Waste Hauling  
10 Landfill, have you reviewed the permit for the  
11 contours of the landfill?

12 A Yes, I have. For the permitted contours,  
13 as the approved permit?

14 Q Correct.

15 A Yes, I have.

16 Q Does this permit show the boundaries, the  
17 permitted boundaries of the landfill?

18 A Yes, it does.

19 Q Is the Waste Hauling Landfill constructed  
20 within these boundaries?

21 A No, I do not believe it is.

22 Q Could you please tell me where it is not  
23 constructed within the boundaries?

24 A Yes. It is higher than the permitted

1 contours allow it to be. Well, starting on the  
2 south end, if you wanted to go from there, it would  
3 be higher. It goes upward where it shouldn't. And  
4 along the northwest corner or the corner of the  
5 landfill on the northwest part of fill area number  
6 two, the higher area was also fill area number  
7 two. It is too wide.

8 Q Have you ever seen refuse deposited in  
9 these areas that you just mentioned?

10 A Yes, I have seen refuse as late as Friday  
11 on the vertical area. I have seen refuse along the  
12 west edge, I think, in 1987. That is the only time  
13 I have actually seen exposed refuse there. I may  
14 have, but I don't recall seeing it any other time.

15 Q Have you ever, during the course of your  
16 inspection, cited unpermitted disposal as a  
17 violation at this landfill?

18 A Yes.

19 Q Regarding the area to the west and  
20 northwest, have you observed any leaks of leachate  
21 from this area?

22 A From the northwest portion?

23 Q From the west, northwest edge of the --

24 A I have seen leaks along the western edge

1 of the north slope, and the northern portion of the  
2 west slope both.

3 Q In general, what does a leachate leak --  
4 or a leachate seep indicate to you?

5 A Well, the leachate seep indicates to me  
6 that there is a problem managing the liquid that  
7 you would want to have contained or at least  
8 controlled by the landfill as it is leaking out.

9 Q What causes the buildup of leachate?

10 MR. LATSHAW: I think I am going to have  
11 to impose an objection. I think -- it is my  
12 recollection, and maybe I am wrong, but I think we  
13 have been through all of this, haven't we?

14 MS. MENOTTI: I am sorry? I didn't  
15 hear.

16 MR. LATSHAW: I think we have been  
17 through all of this yesterday with this gentleman's  
18 testimony. I don't see the point of revisiting  
19 it. He has testified to those very things, I  
20 believe, in some detail with regard to those  
21 inspection reports.

22 MS. MENOTTI: I am sorry. I can't hear  
23 him.

24 HEARING OFFICER WALLACE: He is objecting

1 that this was all covered yesterday on his direct  
2 testimony.

3 MS. MENOTTI: I am just clarifying --  
4 trying to clarify for the record in response to Mr.  
5 Latshaw's cross-examination yesterday, and I don't  
6 think that this is the same questions that I asked  
7 yesterday. We were not talking about the west edge  
8 of the landfill at that point in time.

9 HEARING OFFICER WALLACE: Do you have a  
10 lengthy series of questions concerning leachate?

11 MS. MENOTTI: I just have two more  
12 questions.

13 HEARING OFFICER WALLACE: All right.  
14 Then finish up with this line.

15 MS. MENOTTI: Okay.

16 Q (By Ms. Menotti) Mr. Townsend, I will  
17 repeat the last question. What causes the buildup  
18 of leachate?

19 A What causes the buildup of leachate? In  
20 essence, leachate is water or liquid that soaks  
21 through what is buried, the refuse, and removes  
22 some of what those constituents are, and it  
23 varies.

24 There are several factors. One is the



1 amount of water that gets into the leachate. Two  
2 would be the construction of the fill's management  
3 system or a way of containing the leachate, as it  
4 is constructed to either contain or remove and  
5 control the leachate.

6 For instance, if there was a removal  
7 system, you wouldn't have a buildup, like a  
8 leachate well, for instance. Basically, it is  
9 controlled by the liquid that comes in. That would  
10 be the major factor that would control the volume.

11 MS. MENOTTI: Thank you. I have nothing  
12 further.

13 HEARING OFFICER WALLACE: Nothing further  
14 on redirect?

15 MS. MENOTTI: Right.

16 HEARING OFFICER WALLACE: Re-cross?

17 MR. LATSHAW: One question, please.

18 RE-CROSS EXAMINATION

19 BY MR. LATSHAW:

20 Q Mr. Townsend, are you aware that the --  
21 whether the permit of the Waste Hauling Landfill  
22 requires a leachate retraction or extraction system  
23 or removal system?

24 A I don't recall any in their permit.

1                   MR. LATSHAW: Okay. Thank you. That's  
2 all I have.

3                   HEARING OFFICER WALLACE: Mr. Taylor?

4                   MR. TAYLOR: No, no further questions.

5                   MR. DAVIS: Excuse me just a moment,  
6 please.

7   (Mr. Davis and Ms. Menotti  
8   confer briefly.)

9                   MS. MENOTTI: I just have one follow-up  
10 question, if that's all right.

11                   HEARING OFFICER WALLACE: What is it in  
12 regard to? I normally don't --

13                   MS. MENOTTI: In regard to Mr. Latshaw's  
14 question.

15                   HEARING OFFICER WALLACE: Go ahead and  
16 ask it. Go ahead and ask your question.

17                   MS. MENOTTI: Okay.

18   FURTHER REDIRECT EXAMINATION

19   BY MS. MENOTTI:

20                   Q     Mr. Townsend, in response to Mr.  
21 Latshaw's question, you said that you were not  
22 aware of any requirement in the permit for a  
23 leachate system. Would this be a requirement for a  
24 closure or a post-closure care plan?

1                   MR. LATSHAW: I will object to the  
2 question. I am not sure he is here to offer  
3 testimony with regard to closure, post-closure  
4 requirements. I am not sure that that is -- well,  
5 it is certainly beyond the scope of my re-cross.

6                   HEARING OFFICER WALLACE: Sustained.

7                   MS. MENOTTI: That was the only question.

8   EXAMINATION

9   BY HEARING OFFICER WALLACE:

10            Q     Mr. Townsend, before you get off, in your  
11 response to Ms. Menotti's second to the last  
12 question, I was a little confused.

13                                   Does leachate occur from water going from  
14 the top down in the landfill? Is that what you  
15 were trying to say?

16            A     Not necessarily. Leachate occurs from  
17 water entering the landfill and coming in contact  
18 with the garbage. If the water is prevented from  
19 entering the landfill, which is pretty much -- some  
20 water is going to get in, unless you are using a  
21 completely impermeable cover, which nobody I know  
22 of uses. If water gets in, leachate can be  
23 generated, because that is what happens, the water  
24 comes in contact with the garbage.

1 Q All right.

2 A It could come in either from the top via  
3 rain or, for instance, if you had a flood it could  
4 come in from the side. It could also be if there  
5 is a lot of liquid in the waste there could be some  
6 generated just from that.

7 Q Then the extraction -- in an extraction  
8 system, you put a well in to bring the liquid up  
9 and then dispose of it?

10 A Yes, that's done on a lot of the more  
11 modern -- like a Subtitle D type site would have  
12 something like that. Older sites generally just  
13 put additional cover down or something like that or  
14 recompact and recover areas, and then have a plan  
15 to monitor and do that over again, if necessary.

16 Q What does the monitoring consist of?

17 A The easiest way to do it would be in  
18 addition to a monitor well system, to determine if  
19 anything is getting beyond the borders underground,  
20 would be to have someone periodically, for  
21 instance, maybe once a quarter, go out and look at  
22 the site and see if something is popping out of the  
23 fill itself.

24 HEARING OFFICER WALLACE: All right.

1 Thank you, Mr. Townsend. You may step down.

2 (The witness left the stand.)

3 MS. MENOTTI: I was unable to reach Mr.  
4 Turner last evening to tell him that the hearing  
5 had been pushed back to 9:30 this morning, so he is  
6 due to arrive shortly.

7 HEARING OFFICER WALLACE: Okay.

8 MS. MENOTTI: He is the next witness that  
9 the State intended to call.

10 HEARING OFFICER WALLACE: All right.

11 Let's go off the record and wait for Mr. Turner,  
12 then.

13 (Whereupon a short recess was  
14 taken.)

15 HEARING OFFICER WALLACE: Back on the  
16 record.

17 Please call your next witness.

18 MS. MENOTTI: The People call Mr. Jeff  
19 Turner.

20 (Whereupon the witness was  
21 sworn by Hearing Officer  
22 Wallace.)

23 HEARING OFFICER WALLACE: Speak clearly  
24 and loudly so we all can here.

1 THE WITNESS: Okay.

2 HEARING OFFICER WALLACE: You may begin.

3 J E F F R E Y S T E W A R T T U R N E R ,

4 having been first duly sworn by the Hearing

5 Officer, saith as follows:

6 DIRECT EXAMINATION

7 BY MS. MENOTTI:

8 Q For the record, could you please state

9 your name.

10 A Jeffrey Stewart Turner.

11 Q What is your educational background, Mr.

12 Turner?

13 A I have a Bachelor's Degree in Geology

14 from the University of Illinois, and a Master's

15 Degree in Geology from the University of Missouri.

16 Q And who is your current employer?

17 A The Illinois Environmental Protection

18 Agency.

19 Q How long have you worked for the Illinois

20 EPA?

21 A It will be ten years in October.

22 Q What is your current position?

23 A I am a regional geologist. Also, the

24 title -- the payroll title is Environmental

1 Protection Specialist with the Bureau of Land, the  
2 Champaign Regional Office.

3 Q What does your position involve?

4 A Inspecting various types of sites  
5 including landfills, open dumps, RCRA facilities,  
6 injection well facilities.

7 Q Okay. How long have you been in this  
8 position?

9 A It will be six years in June.

10 Q Did you hold any positions prior to that?

11 A Yes, I used to work in the Division of  
12 Labs, also in Champaign.

13 Q Have you, during the course of your  
14 employment with the Agency, participated or  
15 received any training?

16 A Yes, I have.

17 Q Could you please describe it?

18 A I have received in-house training on  
19 various aspects of Bureau of Land programs. I have  
20 also attended a number of seminars outside of the  
21 Agency.

22 Q Could you generally describe your duties  
23 as a field inspector?

24 A Basically I am assigned various sites to

1 do inspections at by my supervisor. I determine  
2 what the compliance requirements are for those  
3 sites. It is basically a matter of what program  
4 the site is regulated under, whether it is a solid  
5 waste landfill, a hazardous waste facility or  
6 whatever. I go out and take a look at the site and  
7 verify if it is complying with the appropriate  
8 Regulations and its permit, and generally then I  
9 produce an inspection report that is submitted to  
10 the Agency.

11 Q Is it your general practice to record  
12 your observations that you make during a site  
13 investigation for that report?

14 A Yes.

15 Q Do you record these observations while  
16 you are actually at the site or do you record them  
17 after you complete your visit?

18 A I take some field notes during an  
19 inspection which are later converted into the  
20 inspection report.

21 Q What happens once you generate the  
22 inspection report?

23 A It is submitted to my supervisor, who  
24 reviews it. It is then passed on to headquarters



1 in Springfield, and depending on the content of the  
2 report, some type of letter may be issued to the  
3 facility that is the subject of the report.

4 Q Do you keep a copy of the report for your  
5 own file?

6 A Yes, we do.

7 Q Are these the type of reports that the  
8 Agency has you prepare in the ordinary course of  
9 your inspections of facilities?

10 A Could you run that by me again, please?

11 Q All right. The inspection reports that  
12 we have been talking about, are they the type of  
13 reports that the Agency has you prepare in your  
14 regular course of conducting inspections?

15 A Yes.

16 Q Are these inspection reports something  
17 that in the regular course of Agency business are  
18 kept within the Agency files?

19 A Yes.

20 Q Mr. Turner, are you familiar with the  
21 Waste Hauling Landfill?

22 A Yes.

23 Q Were you ever assigned to inspect it?

24 A Yes.

1 Q Can you give me a span of time during  
2 which you have conducted inspections of this  
3 landfill?

4 A Do you want exact dates?

5 Q If you know the exact dates.

6 A I can produce them if I can look at my  
7 records, my notes.

8 Q Before we get into exact dates, generally  
9 when did you start inspecting it?

10 A Roughly it would be July of 1991 was the  
11 first time that I was there, and then again in  
12 April of 1992, and twice in May of 1992, and once  
13 in July of 1992, and once in September of 1992.

14 Q During the course of the inspections that  
15 you conducted at the Waste Hauling Landfill, did  
16 you note conditions that existed at the landfill?

17 A Yes.

18 Q And did you, during the course of these  
19 inspections, generally ever find violations at this  
20 landfill?

21 A Yes.

22 Q Are these the types of things that you  
23 would include in your inspection reports?

24 A Yes.

1 Q Did you have the opportunity to visit the  
2 landfill specifically on July 15th, 1991?

3 A Yes, I believe I did.

4 Q Did you generate a report regarding that  
5 inspection?

6 A Yes, I did.

7 Q If I showed you the report, would you be  
8 able to identify it?

9 A Yes, I would.

10 MS. MENOTTI: Would you mark this,  
11 please.

12 (Whereupon said document was  
13 duly marked for purposes of  
14 identification as People's  
15 Exhibit 8 as of this date.)

16 Q (By Ms. Menotti) Mr. Turner, I show you  
17 what has been marked as People's Exhibit Number 8.  
18 Would you please identify this document?

19 A Yes. That's my inspection report as a  
20 result of my July 15, 1991 inspection.

21 Q Did you personally generate this report?

22 A Yes, I did.

23 Q Is this the type of inspection report  
24 that you would generate for Agency files?

1           A     Yes, it is.

2           Q     Is this the type of report that is  
3     ordinarily prepared in the regular course of Agency  
4     business?

5           A     Yes, it is.

6           Q     When you prepared this report, did you  
7     prepare it contemporaneously with or shortly after  
8     conducting the inspection of July 15th of 1991?

9           A     It was within a number of months  
10    afterwards.

11          Q     Could you please look at the report and  
12    tell me if it appears to be a true and accurate  
13    copy of the report you generated?

14          A     By and large it is.  It doesn't appear to  
15    have my site sketch, but it has the narrative and  
16    the photo mount ups that I prepared.

17          Q     I am sorry.  What was the last part of  
18    your answer?

19          A     It does have the narrative and the photos  
20    that I prepared.  It doesn't seem to have the  
21    little map of the site that I prepared, or the  
22    checklist, for that matter.

23                   MS. MENOTTI:  I apologize for the delay,  
24    Mr. Hearing Officer.  The Attorney General's copy

1 did not match the Agency's original copy. I would  
2 ask that the original be attached to the exhibit,  
3 for identification, and I will take it and show it  
4 to opposing Counsel.

5 HEARING OFFICER WALLACE: All right.  
6 What are you -- are there pieces missing?

7 MS. MENOTTI: The document that Mr.  
8 Turner just looked at it was not included as part  
9 of the Attorney General's files, and I have the  
10 original, the Agency original.

11 HEARING OFFICER WALLACE: Okay. Why  
12 don't you -- how many are -- is that what he called  
13 the site sketch and the checklist?

14 THE WITNESS: Yes.

15 HEARING OFFICER WALLACE: Okay. Do you  
16 wish to include that as part of People's Exhibit  
17 Number 8?

18 MS. MENOTTI: Correct. That would be a  
19 complete copy of the report.

20 HEARING OFFICER WALLACE: All right.  
21 Show the copies that you have or the documents that  
22 you have to the opposing Counsel, and then let's  
23 see if the witness has a complete inspection report  
24 then.

1 (Ms. Menotti showed the  
2 documents to Mr. Taylor, Mr.  
3 Latshaw and Mr. Van Ness.)

4 Q (By Ms. Menotti) Mr. Turner, I am going  
5 to hand you the documents that you said did not  
6 appear with the copies that I had marked. Could  
7 you please look at them and tell me if that would  
8 make your inspection report complete?

9 A (Witness reviewed documents.) I believe  
10 it would.

11 Q Does this report reflect the observations  
12 you noted during your inspection on July 15th,  
13 1991?

14 A Yes, it does.

15 MS. MENOTTI: At this point, Mr. Hearing  
16 Officer, I would ask that this be admitted as a  
17 record of the Agency.

18 HEARING OFFICER WALLACE: Any objection?

19 MR. VAN NESS: No.

20 HEARING OFFICER WALLACE: I am sorry?

21 MR. VAN NESS: No. I am sorry.

22 HEARING OFFICER WALLACE: Mr. Taylor?

23 MR. TAYLOR: No.

24 HEARING OFFICER WALLACE: People's

1 Exhibit Number 8 is admitted into evidence.

2 (Whereupon said document was  
3 admitted into evidence as  
4 People's Exhibit 8 as of this  
5 date.)

6 MS. MENOTTI: Thank you.

7 Q (By Ms. Menotti) Mr. Turner, could you  
8 please summarize what you saw during your visit on  
9 this date at the landfill?

10 A The site consists of what at that time  
11 was an active landfill plus an older portion to the  
12 east of the active landfill. And along that older  
13 portion a trench had been dug along the west side  
14 of it. There was leachate in the trench and there  
15 was exposed refuse hanging in the wall of the  
16 trench.

17 The main landfill, the active landfill at  
18 that time, had exposed refuse on it in various  
19 places, as well. Also, the active landfill  
20 appeared to be, as I later learned from the  
21 approved plans, it appeared to be quite a bit  
22 larger than it should have been. In other words,  
23 it was outside its permitted bounds.

24 Q In what respect --

1                   MR. LATSHAW: Again, if I may, just for  
2 the record, I want to again interpose an objection  
3 to testimony with regard to leachate as being going  
4 to the issues that are not alleged in Counts 5 and  
5 6, and in order to -- I would like that shown as a  
6 continuing objection to that line of questioning,  
7 sir.

8                   HEARING OFFICER WALLACE: All right. I  
9 will note for the record that a continuing  
10 objection has been made to questions concerning  
11 leachate.

12                   At this time I shall overrule the  
13 objection, and you may continue to ask questions  
14 about the leachate. But keep in mind to save some  
15 time we won't go through each and every question,  
16 but an objection will be noted for each one.

17                   MR. LATSHAW: Thank you.

18                   MR. VAN NESS: Okay. Thank you.

19                   Q     (By Ms. Menotti) Can you characterize  
20 what you -- specifically what you mean by  
21 unpermitted -- or disposal beyond the limits? You  
22 said there was unpermitted disposal and that the  
23 landfill appeared larger. Can you explain that?

24                   A     According to the approved plans, if you



1 are entering the property from the access road on  
2 the south, the approved slope and contours of the  
3 landfill should cause the fill to slope downward  
4 toward the north, toward the river. If you are  
5 standing at the south, at no point should you have  
6 to look up to see the top of the landfill. That  
7 was not the case, however. You would have to look  
8 up from the south to see the top of it.

9 Q Did you cite that as a violation in your  
10 report?

11 A I don't recall that I did on this first  
12 one. At the time that I made that inspection I  
13 don't believe I was familiar with that  
14 requirement. I knew there was an allegation that  
15 it was overheight, but I had not yet seen the  
16 approved plans, and not knowing the details of it,  
17 I didn't really know any way to ascertain on the  
18 overheight allegation at that time.

19 Q Do any of the photographs attached to  
20 your report illustrate the violations that you had  
21 just talked about?

22 A Are you referring to the overheight or  
23 just in general?

24 Q In general, the violations that you just

1 summarized, do any of the pictures depict those  
2 violations?

3 A This picture here on roll number 11,  
4 photo number 9, depicts uncovered refuse.

5 Q Does it show -- indicate where the  
6 picture was taken or what area of the landfill we  
7 are looking at?

8 A Yes, this was in the trench that I  
9 referred to that had been excavated, and that  
10 particular photo -- I believe that this is it  
11 here. Due to the xeroxing of it, my numbering for  
12 the photo has gone off the edge of the page, but I  
13 believe that is it.

14 MR. VAN NESS: Could we ask the witness  
15 to hold it up so we can see it? We have quite poor  
16 copies of the photos.

17 Oh, you are referring to the map, too.  
18 Okay. Thank you.

19 HEARING OFFICER WALLACE: Would you also  
20 hold the photo up that you are referring to?

21 THE WITNESS: Yes, sure. It is the top  
22 photo.

23 MR. LATSHAW: Does that have a page?

24 MR. VAN NESS: Does it have a page

1 number?

2 THE WITNESS: No, it does not have a page  
3 number, but there is a number 14 beside the photo.

4 MR. LATSHAW: That's our problem, because  
5 the copy is so bad we can't see the numbers.

6 HEARING OFFICER WALLACE: Mr. Turner,  
7 could you hand me that report?

8 THE WITNESS: Certainly.

9 MR. VAN NESS: Okay. Here it is.

10 HEARING OFFICER WALLACE: Let's go off  
11 the record a minute.

12 (Discussion off the record.)

13 HEARING OFFICER WALLACE: Back on the  
14 record.

15 All right. Please continue.

16 Q (By Ms. Menotti) Were there any other  
17 photographs, besides the one that you just  
18 mentioned?

19 A Yes, I believe there are. The one I have  
20 here numbered is number 18, and it was from my roll  
21 number 12, the first photo of that roll. Again, it  
22 shows uncovered refuse. That photo -- let me see  
23 if I can identify that on the map for you. That  
24 one was taken here toward the southeast.

1                   MR. VAN NESS: Show the photo again,  
2 please, if I can find it. Okay. Thank you.

3                   THE WITNESS: Uh-huh. My photo number  
4 21, which was roll 12, exposure number 4, shows  
5 exposed refuse on the south face of the main  
6 landfill. It would also be inadequate depth of  
7 final cover. That was taken in this area  
8 (indicating).

9                   HEARING OFFICER WALLACE: Would you  
10 describe the area that you are pointing at, Mr.  
11 Turner?

12                   THE WITNESS: It is the south face of the  
13 active landfill at that time.

14                   Q     (By Ms. Menotti) Mr. Turner, in your  
15 opinion, do any of these violations have an impact  
16 upon the environment?

17                   MR. LATSHAW: I will object to the  
18 question as being -- not stated in the form of the  
19 proper standard. If this man is being offered as  
20 an opinion witness, he certainly has to base his  
21 opinion upon a scientific basis.

22                   MS. MENOTTI: I didn't hear the last  
23 part. I am sorry. Mr. Latshaw's voice is getting  
24 lost. I am having problems hearing him.

1 HEARING OFFICER WALLACE: Would you  
2 repeat your objection, please, sir.

3 MR. LATSHAW: My objection is that the  
4 question is framed in terms of the improper  
5 standard. I believe he was disclosed to us as an  
6 opinion witness and the opinions must be expressed  
7 on a basis -- or a reasonable basis of scientific  
8 certainty, at least.

9 HEARING OFFICER WALLACE: Response?

10 MS. MENOTTI: The opinions -- excuse me.  
11 The witness' opinion is based on his firsthand  
12 observations at the landfill. I am asking if, in  
13 his opinion, he saw any -- if he -- I am trying to  
14 think -- I don't remember what my exact word was,  
15 but does he think there were any environmental  
16 impacts as a result of the violations that he saw.  
17 Based on his experience he should be able to give  
18 some kind of technical opinion as to whether or not  
19 these things have any kind of impact. That's his  
20 job.

21 HEARING OFFICER WALLACE: The objection  
22 is overruled.

23 Mr. Turner, please answer the question.

24 THE WITNESS: The uncovered refuse can

1 create an attraction for disease factors, such as  
2 birds or rodents, insects. Also by being exposed,  
3 they present potential for the creation of  
4 contaminated runoff.

5 MS. MENOTTI: Before I move on -- we are  
6 finished with that exhibit, Mr. Turner.

7 Just for the record, Mr. Hearing Officer,  
8 I understand that opposing Counsel does not have  
9 actual copies of these pictures, but I would like  
10 to note that at all times they have had the  
11 opportunity to pay for actual photographs to be  
12 made of the pictures that are attached to the  
13 inspection report.

14 The photocopies that were tendered during  
15 discovery are the best that we could make by making  
16 photocopies of them. And I just wanted that  
17 reflected for the record.

18 HEARING OFFICER WALLACE: All right.  
19 Thank you.

20 Q (By Ms. Menotti) Directing your attention  
21 to a different date, Mr. Turner, you indicated that  
22 during May of 1992 you had the opportunity to visit  
23 the landfill?

24 A That's correct.

1           Q     Did you have the opportunity on May 8th  
2     and 12th to conduct an inspection of the Waste  
3     Hauling Landfill?

4           A     Yes, I did.

5           Q     Did you generate a report with regard to  
6     this inspection?

7           A     Yes, I did.

8           Q     Would you be able to identify it if I  
9     showed you --

10          A     Yes, I would.

11          Q     -- the report?

12                   MS. MENOTTI:  Could you mark this,  
13     please.

14                                   (Whereupon said document was  
15                                   duly marked for purposes of  
16                                   identification as People's  
17                                   Exhibit 9 as of this date.)

18                   MS. MENOTTI:  Did you gentlemen want to  
19     look at the exhibit?

20                   MR. LATSHAW:  I beg your pardon?

21                   MS. MENOTTI:  Would you like to look at  
22     the exhibit?

23                                   (Ms. Menotti showed Exhibit  
24                                   Number 9 to Mr. Latshaw, Mr.

1 Van Ness and Mr. Taylor.)

2 Q (By Ms. Menotti) I hand you what has been  
3 marked as People's Exhibit Number 9. Do you  
4 recognize that document?

5 A Yes.

6 Q Could you please identify it for the  
7 record?

8 A That is an inspection report that I  
9 prepared based on inspections conducted on the 8th  
10 and 12th of May of 1992.

11 Q Is this a report that you personally  
12 generated?

13 A Yes, it is.

14 Q Is this the type of report that is  
15 generated and maintained for Illinois EPA files?

16 A Yes, it is.

17 Q Is this report the type of report that is  
18 ordinarily prepared in the regular course of Agency  
19 business?

20 A Yes, it is.

21 Q Was this report prepared  
22 contemporaneously with or shortly after you  
23 conducted your inspection at the landfill on May  
24 8th and May 12th, 1992?



1           A     Yes, it was.

2           Q     Could you look at the document and tell  
3 me if it is a true and accurate copy of the report  
4 that you generated for the inspection of those  
5 dates?

6           A     Yes, it is.

7                   MS. MENOTTI:  The State moves to have the  
8 document admitted into evidence as a business  
9 record of the Agency.

10                   HEARING OFFICER WALLACE:  Any  
11 objections?

12                   MR. VAN NESS:  No objection.

13                   HEARING OFFICER WALLACE:  Mr. Taylor?

14                   MR. TAYLOR:  No.

15                   HEARING OFFICER WALLACE:  People's  
16 Exhibit Number 9 is admitted into evidence.

17                                   (Whereupon said document was  
18 admitted into evidence as  
19 People's Exhibit 9 as of this  
20 date.)

21           Q     (By Ms. Menotti) Mr. Turner, could you  
22 briefly describe what you observed at the landfill  
23 on these dates?

24           A     On those dates the landfill was no longer

1 accepting waste. It had begun activities to cover  
2 existing waste at the site and to close or seal the  
3 trenches that had been excavated that had been  
4 observed previously.

5 Q Do you recall citing any violations  
6 during these two dates of inspection?

7 A Yes, I did. Yes, I do recall. The  
8 landfill was still outside its permitted contours.  
9 There was still uncovered refuse from previous  
10 operating days. I believe there were still  
11 leachate flows. It did not have an approved  
12 closure plan, post-closure plan, financial  
13 assurance, or a groundwater monitoring system.

14 Q Regarding the permitted boundaries, can  
15 you explain what the violation was in detail?

16 A Well, the approved plans call for the  
17 landfill to have a certain shape and extent. By  
18 extent I mean both laterally and vertically. You  
19 know, based upon the approved plans, as I mentioned  
20 before, you should not have had to look up to see  
21 the top of the fill entering the property from the  
22 south, yet that was the case. Also, there were  
23 materials that had been deposited on the ground in  
24 areas away from the landfill.

1           Q     Are there any pictures attached to this  
2 report that would illustrate the unpermitted  
3 disposals, and if so could you identify them for  
4 the record?

5           A     Basically photos from roll 55, exposures  
6 2, 3, 4, 5, 6, 7, 8 and 9, which were all taken  
7 along the south perimeter of the landfill looking  
8 towards the north, are all looking up to show the  
9 top of the landfill. Also on photos 6 and 7 of  
10 roll 55, uncovered waste is visible. Also photo  
11 number 9 and 8 of that roll, photo number 5 of roll  
12 57 shows uncovered refuse. Photos number 8 and 9  
13 of roll 57 show uncovered refuse.

14                     Photo number 12 of roll 57, photo number  
15 1 of roll 58 show uncovered refuse. Photo number 7  
16 of roll 58 shows uncovered refuse, as does photo  
17 number 9 of roll 58. Photo number 8 of roll 58  
18 shows waste piles that are out away from the main  
19 landfill. Photo number 12 of roll 58 shows  
20 uncovered refuse.

21           Q     In what area of the landfill was this  
22 uncovered refuse?

23                     MR. LATSHAW: Again, for purposes of  
24 preserving the record, I need to interpose an

1 objection that the testimony with regard to this  
2 exhibit having to do with uncovered refuse or,  
3 again, leachate, which do not -- are not material  
4 to allegations of wrongdoing in Counts 5 and 6 and,  
5 therefore, should not be permitted. The same  
6 objection.

7 HEARING OFFICER WALLACE: Well, in terms  
8 of the leachate I will go ahead and note your  
9 standing objection, and on the uncovered refuse, I  
10 think that does go to Counts 5 and 6.

11 MS. MENOTTI: Okay. My response was just  
12 that not only was the landfill, according to Mr.  
13 Turner's observations, already closed, it is -- it  
14 goes to the lack of closure activity that is cited  
15 in Counts 5 and 6 of the complaint.

16 HEARING OFFICER WALLACE: Right, and that  
17 part of the objection is overruled.

18 MR. LATSHAW: Okay.

19 Q (By Ms. Menotti) Mr. Turner, could you  
20 please indicate what areas of the landfill you  
21 found this uncovered refuse?

22 A Uncovered refuse was observed in  
23 scattered areas in the south part of the landfill.  
24 There was a pile of uncovered refuse atop the

1 landfill and another one toward the southwest  
2 corner, and there was some uncovered refuse along  
3 the perimeter of the old cell to the east of what  
4 had been the active landfill in the trench area  
5 that was discussed previously.

6 Q The landfill -- was the landfill  
7 operating on these dates when you visited it?

8 A It was not accepting waste.

9 Q Do you know when the landfill ceased  
10 accepting waste?

11 A It ceased accepting waste on or about May  
12 the 6th of that year.

13 Q I will direct your attention to the date  
14 of July 9th, 1992. Do you recall visiting the  
15 landfill on that day?

16 A Yes, I do.

17 Q Do you recall conducting an inspection of  
18 the landfill during that visit?

19 A Yes, I do.

20 Q Did you generate a report regarding that  
21 visit?

22 A Yes, I did.

23 Q Would you be able to identify the report  
24 if I showed it to you?

1           A     Yes, I would.

2                     MS. MENOTTI:  Would you mark this,  
3 please.  Thank you.

4                                     (Whereupon said document was  
5                                     duly marked for purposes of  
6                                     identification as People's  
7                                     Exhibit 10 as of this date.)

8                     MS. MENOTTI:  Would you gentlemen like to  
9 review this first?

10                                    (Ms. Menotti showed People's  
11                                    Exhibit 10 to Mr. Latshaw, Mr.  
12                                    Van Ness and Mr. Taylor.)

13           Q     (By Ms. Menotti) Mr. Turner, I hand you  
14 what has been marked as People's Exhibit Number  
15 10.  Do you recognize this document?

16           A     Yes, I do.

17           Q     Could you please identify it?

18           A     It is an inspection report that I  
19 prepared as a result of my inspection on July the  
20 9th, 1992.

21           Q     Is this the type of report that is  
22 generated and maintained for Agency files?

23           A     Yes, it is.

24           Q     Is this a type of report that is

1 ordinarily prepared in the regular course of Agency  
2 business?

3 A Yes, it is.

4 Q Was this report prepared  
5 contemporaneously with or shortly after you  
6 conducted your inspection on this date?

7 A Yes, it was.

8 Q Could you please look at the report and  
9 tell me if it is a true and accurate copy of the  
10 report you generated regarding this inspection?

11 A Yes, it is.

12 MS. MENOTTI: At this point I would move  
13 to admit this document into evidence as a business  
14 record of the Agency.

15 HEARING OFFICER WALLACE: Any objection,  
16 Mr. Van Ness?

17 MR. VAN NESS: No objections but, again,  
18 we might as well at this point note our continuing  
19 objection to anything related to the leachate.

20 HEARING OFFICER WALLACE: All right. So  
21 noted. Any objection, Mr. Taylor?

22 MR. TAYLOR: No.

23 HEARING OFFICER WALLACE: People's  
24 Exhibit Number 10 is admitted into evidence.

1 (Whereupon said document was  
2 admitted into evidence as  
3 People's Exhibit 10 as of this  
4 date.)

5 Q (By Ms. Menotti) Mr. Turner, could you  
6 please tell me what you observed during your  
7 inspection on this date?

8 A The landfill was still not accepting  
9 waste. It was making continued progress toward  
10 covering exposed waste and consolidating waste from  
11 around the site onto the -- onto what had been the  
12 active landfill, and making progress toward filling  
13 in the trench that had been previously excavated  
14 along the boundary of the old landfill.

15 Q Did you site any violations at the  
16 landfill?

17 A Yes, I did.

18 Q Could you summarize those?

19 A Once again, the permit violations, due to  
20 the unpermitted -- the deposition of waste in  
21 unpermitted parts of the landfill, due to being  
22 overheight and out of bounds, uncovered refuse  
23 remaining from previous operating days, inadequate  
24 daily cover, no closure plan, no post-closure plan,



1 no financial assurance, no groundwater monitoring  
2 program.

3 Q You mentioned that you observed overflow,  
4 out of bounds, and too high. Could you please tell  
5 me which areas of the landfill you observed these  
6 violations?

7 A Could you repeat that, please?

8 Q You said that you cited violations for  
9 unpermitted disposal, that the landfill was still  
10 too high, and it was out of bounds?

11 A Okay. Yes.

12 Q Could you tell me in which area of the  
13 landfill you observed these violations?

14 A Okay. Basically, once again, at the  
15 south of the landfill looking up to see the top of  
16 it, would indicate it was above its permitted  
17 contours. There was some amount of remaining  
18 scattered waste piles out away from the landfill  
19 that were in the process of being consolidated at  
20 the main landfill. Those were along the east side  
21 of the main landfill, what had been the active  
22 fill.

23 Q Did you observe refuse that was not -- or  
24 exposed refuse during this visit?

1           A     Yes, I did.  They were making progress  
2 toward filling in the trench that had been along  
3 the old cell.  There was still some parts of that  
4 that were open with exposed refuse.  Also, in some  
5 of the parts that had been filled in, there was  
6 still some exposed refuse visible after the filling  
7 in of the trench.

8           Q     Based on your knowledge, is there any  
9 Regulation that addresses uncovered or exposed  
10 refuse at a site?

11          A     Yes, there are.

12          Q     Can you tell me what those Regulations  
13 require?

14          A     Basically they require that all refuse be  
15 covered within certain time frames.  Refuse should  
16 be covered with a daily cover of at least six  
17 inches of suitable material by the end of the  
18 operating day, the day in which it was received.

19          Q     Based on your observations on this date,  
20 you cited that there was no closure or post-closure  
21 plan.  In your opinion -- well, let me ask you this  
22 first.  With regard to that, is the plan -- is  
23 there anything that distinguishes that the closure  
24 and post-closure plan from actual -- I take that

1 all back. Excuse me. I am going to start over.

2 That was going to be a confusing question.

3           During your visit, did you observe any  
4 activity that you would characterize as closure  
5 care?

6           A     Could you rephrase that possibly?

7           Q     Well, let's start with this, then. The  
8 observations that you made regarding some of the  
9 waste being covered, would that be characterized as  
10 a maintenance or operational step that the landfill  
11 would take?

12          A     What I observed were activities of  
13 consolidating and covering the waste. I don't know  
14 that those could be necessarily construed as  
15 closure activities, since there was no approved  
16 closure plan to specify in details what activities  
17 needed to be conducted.

18          Q     All right. Did --

19               MR. LATSHAW: I think I will object and  
20 move to strike. It is unresponsive, and I think  
21 this witness can testify to what he observed the  
22 activity to be, and the ultimate determination as  
23 to what that is or is not is left to the trier of  
24 fact, I think.

1                   MS. MENOTTI: I believe that it is based  
2 on his direct observation, and it is Mr. Turner's  
3 job to observe conditions at a facility and decide  
4 whether or not they are in accordance with the Act  
5 and the Regulations. It is part of his normal job  
6 description and his inspection report should  
7 reflect this information.

8                   MR. VAN NESS: Mr. Hearing Officer, if I  
9 may, that is really not the question that Counsel  
10 asked this witness. I believe she is asking him to  
11 characterize the activity and I am not sure,  
12 frankly, what the question is, but it seems like  
13 she is asking him to characterize whether the  
14 activity taken under the court order constitutes  
15 closure, which sounds like, to me, a legal  
16 conclusion.

17                   Maybe I misunderstood the question, but  
18 it sounds like she is trying to extract a legal  
19 conclusion from this witness. I think it is  
20 objectionable on that grounds, as well.

21                   HEARING OFFICER WALLACE: Do you care to  
22 rephrase your question?

23                   MS. MENOTTI: I will rephrase, if you  
24 would like.

1           Q     (By Ms. Menotti) While you were visiting  
2 the site, on this date, was there any activity  
3 occurring involving movement of waste?

4           A     Waste -- some waste had been moved on to  
5 the top of the landfill by this point. I don't  
6 recall if I actually saw something physically being  
7 moved at an exact moment, but some movement had  
8 occurred by this point.

9           Q     Did you observe anyone placing any dirt  
10 or soil or other material on top of any of the  
11 exposed refuse?

12          A     Some soil had been placed by this point.  
13 If you want to know if I actually saw it happening  
14 at the time I was there, I would need to look at my  
15 narrative for a moment to refresh my memory.

16          Q     Please take a moment and see if you  
17 directly observed that.

18          A     (The witness reviewed document.) It does  
19 not record that I observed it, so I would say that  
20 I probably did not at that point observe it  
21 actually happening.

22          Q     Directing your attention to what you  
23 referred to as the vertical overfill, are there any  
24 pictures attached to the report that would

1 illustrate the vertical unpermitted disposal of  
2 waste that you cited?

3 A I don't have any pictures from the south,  
4 which would really be the only ones that would show  
5 it in an obvious manner for the layperson.  
6 Basically any of the photos that do show the  
7 landfill profile, though, you know, if you could  
8 generate a three-dimensional model of what the --  
9 of the permitted contours from that perspective,  
10 that would show it was not meeting the permitted  
11 contours.

12 Q Is there a picture attached to this  
13 document that shows the uncovered refuse that you  
14 were referring to?

15 A Roll 62, number 2, and roll 62, number 3,  
16 number 4 of roll 62, roll 62, number 5, roll 62,  
17 number 6, roll 62, number 7 and 8, roll 62, number  
18 9.

19 Q In your opinion, based on the violations  
20 that you observed on this date, were there any  
21 impacts upon the environment as result of the  
22 violations that you cited?

23 A The uncovered refuse would still have  
24 constituted an attraction, and the potential for

1 contaminated runoff. Also, that the landfill was  
2 not meeting its permitted limits would tend to  
3 cause increased potential for erosion or for it to  
4 behave in a manner not necessarily considered  
5 during the permitting process.

6 MR. LATSHAW: Again, let me note an  
7 objection to the question as being -- eliciting an  
8 opinion without applying the proper standard. And  
9 I move to strike the response.

10 HEARING OFFICER WALLACE: The objection  
11 is noted and overruled.

12 Q (By Ms. Menotti) Mr. Turner, I would like  
13 to direct your attention away from that document.

14 Did you have the opportunity to visit the  
15 landfill again after this inspection?

16 A Yes, I did.

17 Q Do you recall being at the site on  
18 September 22nd, 1992?

19 A Yes, I do.

20 Q Did you conduct an inspection on this  
21 date?

22 A Yes, I did.

23 Q Did you generate a report regarding this  
24 inspection?

1           A     Yes, I did.

2           Q     Would you be able to identify that  
3 report?

4           A     Yes, I would.

5                   MS. MENOTTI:  Would you mark this,  
6 please.

7                                   (Whereupon said document was  
8                                   duly marked for purposes of  
9                                   identification as People's  
10                                  Exhibit 11 as of this date.)

11                  MS. MENOTTI:  I will show this to  
12 opposing counsel.

13                                  (Ms. Menotti showed People's  
14                                  Exhibit 11 to Mr. Latshaw, Mr.  
15                                  Van Ness and Mr. Taylor.)

16           Q     (By Ms. Menotti) Mr. Turner, I will hand  
17 you what has been marked as People's Exhibit Number  
18 11.  Do you recognize this document?

19           A     Yes, I do.

20           Q     Could you please identify it, for the  
21 record?

22           A     It is the inspection report that I  
23 prepared as a result of my inspection on the 22nd  
24 of September of 1992.



1 Q And you personally generated this report?

2 A Yes, I did.

3 Q Is this the type of report that is  
4 generated and maintained for Agency files?

5 A Yes, it is.

6 Q Is it the type of report that is  
7 ordinarily prepared in the regular course of Agency  
8 business regarding inspections?

9 A Yes, it is.

10 Q Was this report prepared or generated  
11 contemporaneously with or shortly after you  
12 conducted your inspection on this date?

13 A Yes, it is.

14 Q Could you please look at it and tell me  
15 if it is a true and accurate copy of the report  
16 that you generated?

17 A Yes, it is.

18 MS. MENOTTI: At this point, Mr. Hearing  
19 Officer, I would move to admit People's Exhibit  
20 Number 11 into evidence as a business record of the  
21 Agency.

22 HEARING OFFICER WALLACE: Any objection?

23 MR. VAN NESS: No, I have no objection,  
24 but I would note that we did not discover until a

1 second ago that we were missing pages out of that.

2 We have a set in front of us now that is complete.

3 HEARING OFFICER WALLACE: What part is  
4 missing?

5 MR. VAN NESS: The first three pages. I  
6 am sorry. The first two pages.

7 MR. LATSHAW: The first two pages of the  
8 narrative.

9 MR. VAN NESS: It was not readily  
10 apparent, because of the numbering system. So we  
11 were not able to tell, evidently, that there were  
12 two pages missing of the narrative part of the  
13 report.

14 HEARING OFFICER WALLACE: Was that not  
15 disclosed?

16 MS. MENOTTI: I believe that we sent  
17 copies of everything we had. I didn't personally  
18 send the document to Counsel for Waste Hauling, but  
19 I have an extra copy right now, if they would like  
20 it. To the best of my knowledge every bit of  
21 information we had has been disclosed to both  
22 respondents regarding the inspection reports.

23 HEARING OFFICER WALLACE: All right. Mr.  
24 Taylor, do you have any objection?

1                   MR. TAYLOR: No, I don't. We did get the  
2 first two pages of the narrative, but not the  
3 pictures.

4                   HEARING OFFICER WALLACE: All right. We  
5 will admit People's Exhibit Number 11.

6                                 (Whereupon said document was  
7 admitted into evidence as  
8 People's Exhibit 11 as of this  
9 date.)

10                   HEARING OFFICER WALLACE: Let's go off  
11 the record and take about a five-minute break.

12                                 (Whereupon a short recess was  
13 taken.)

14                   HEARING OFFICER WALLACE: Back on the  
15 record.

16                   Ms. Menotti, you may continue.

17                   MS. MENOTTI: Thank you.

18           Q        (By Ms. Menotti) Can you please summarize  
19 what you observed during this inspection, Mr.  
20 Turner?

21           A        At this point, the site had completed  
22 consolidating miscellaneous waste that had not been  
23 on the main landfill onto it. All waste had been  
24 covered with approximately six inches of soil and

1 the trenches near the old landfill had been filled  
2 in.

3 Q During this inspection, did you note any  
4 violations at the facility?

5 A Yes, I did.

6 Q Could you please summarize what those  
7 were?

8 A The landfill still did not conform to the  
9 permitted contours. Final cover had not been  
10 applied and had not been applied in the requisite  
11 time. There was no groundwater monitoring program,  
12 and there still was no closure, post-closure plans  
13 or financial assurance.

14 Q Regarding the first violation, could you  
15 describe what you observed regarding failure to  
16 comply with the permits?

17 A Sure. Basically, once again, the  
18 landfill was supposed to have a certain shape  
19 sloping downward toward the north from a natural  
20 grade downward, and that was not the case. It was  
21 mounded up.

22 Q You are looking at a picture in your  
23 report. Could you please identify the picture?

24 A Sure.

1 Q Could you tell me what it shows?

2 A These are photos 76 -- roll 76, photos  
3 number 2 through 4. They show the mound of the  
4 landfill.

5 Q Regarding the next violations that you  
6 cited, can you please first describe what final  
7 cover is?

8 A Final cover is a minimum of two feet of  
9 compacted suitable material.

10 Q Is that required by either the  
11 Environmental Protection Act or a Regulation?

12 A It is required by Title 35, Subtitle G,  
13 807.305 C.

14 Q Can you please tell me what you observed  
15 that made you cite the violation for inadequate  
16 final cover?

17 A There was not two feet of cover on the  
18 site. I mean, parts of the site had two feet, but  
19 parts of it had less than two feet.

20 Q Okay. At what point was the landfill  
21 required to have this material covering the site?

22 A I don't recall the precise time frame,  
23 but it is either 30 or 60 days after final receipt  
24 of waste that it should have final cover applied.

1           Q     Had that time period elapsed on the date  
2 of this visit?

3           A     Yes, it would have. It would have  
4 elapsed approximately three -- the receipt of --  
5 the last receipt of waste was more than three  
6 months -- actually, more than four months before  
7 the inspection, and the final cover still had not  
8 been applied.

9           Q     Based on your observations on this date,  
10 would you say that the violations you cited were  
11 having any kind of effect upon the environment?

12          A     Well, once again, the landfill was not  
13 built in the shape that it was planned and  
14 permitted to be, so it can't be known how it will  
15 behave, since it can't be known to behave the way  
16 it would be modeled.

17                   By not having final cover applied within  
18 the necessary time, the daily cover, which is only  
19 six inches, has the potential to begin to erode  
20 off. By not having the closure plan, which was  
21 specified in details for a vegetative layer over  
22 the final cover, there is no provision there for  
23 the vegetation to be in place to stabilize and  
24 protect the cover on the landfill.

1 MR. LATSHAW: Again, let me interpose an  
2 objection that the question elicits an opinion  
3 without the appropriate standard, and I think it is  
4 beyond the scope of his testimony.

5 HEARING OFFICER WALLACE: Overruled.

6 MR. LATSHAW: And also move to strike.  
7 Excuse me.

8 MS. MENOTTI: At this point, Mr. Hearing  
9 Officer, I have nothing further for this witness.

10 Mr. Turner may need to be recalled when  
11 the hearing continues in April.

12 HEARING OFFICER WALLACE: All right.  
13 Cross-examination, Mr. Latshaw, Mr. Van Ness? Are  
14 you flipping coins?

15 MR. VAN NESS: We were flipping a coin  
16 here. I lost.

17 CROSS EXAMINATION

18 BY MR. VAN NESS:

19 Q Mr. Turner?

20 A Uh-huh.

21 Q You began your inspections of the Waste  
22 Hauling Landfill in July of 1991, I believe you  
23 said?

24 A That's correct.

1           Q     And turning your attention to People's  
2 Exhibit Number 8, do you recall or do you see  
3 anywhere in that report any mention of a  
4 conversation with Mr. Brad Brown?

5           A     Since I interviewed Mr. Brown, there are  
6 probably several mentions in here of conversations  
7 with him or statements made by him. Do you need  
8 specific examples?

9           Q     Yes. For the sake of expediency, I  
10 wanted to make sure you recalled that  
11 conversation. Do you recall any conversation with  
12 Mr. Brown regarding the lateral boundaries of the  
13 landfill?

14          A     On one of the inspections I believe I do.  
15 I don't know if it was this particular one,  
16 although I could review my report, if you would  
17 like.

18          Q     Would you please do so?

19          A     Sure.

20          Q     I will represent to you that I believe it  
21 is that date.

22          A     (The witness reviewed document.) Yes, I  
23 have found a reference to it.

24          Q     Okay. Would that be in paragraph number



1 seven?

2 A Yes, it would.

3 Q Thank you. Do you recall that  
4 conversation now, sir?

5 A Pardon me?

6 Q Do you recall the conversation  
7 memorializing that paragraph now?

8 A Very, very vaguely. I mean, this has  
9 been on the order of six years ago.

10 Q Do you recall that Mr. Brown represented  
11 to you that perhaps the lines, as had been  
12 previously understood, were incorrect in terms of  
13 the boundaries?

14 MS. MENOTTI: Mr. Hearing Officer, I  
15 would object. It appears that -- I am anticipating  
16 the witness' answer, but it appears that the answer  
17 is going to be hearsay.

18 MR. VAN NESS: I am sorry? Oh, hearsay.

19 MS. MENOTTI: It appears that you are  
20 asking for an answer that --

21 MR. VAN NESS: No, I am not asking -- Mr.  
22 Hearing Officer, I am not asking for the witness to  
23 authenticate whatever Mr. Brown told him. I am  
24 just asking him regarding the conversation, asking

1 him if he recalls the conversation and the tenor of  
2 that conversation.

3 HEARING OFFICER WALLACE: The objection  
4 is overruled.

5 THE WITNESS: I recall that the  
6 conversation occurred. I don't recall in great  
7 detail what was said. I mean, I only really know  
8 what I have in writing before me.

9 Q (By Mr. Van Ness) Have you read paragraph  
10 seven?

11 A Yes.

12 Q Okay. And is it fair to characterize  
13 that Mr. Brown represented to you that the boundary  
14 line was in a different place than had been  
15 previously understood?

16 A Yes, that's correct.

17 Q Okay. Is it fair to say that your report  
18 suggests that you had no means by which to  
19 ascertain whether what he stated was true or not?

20 A In regard to that particular instance of  
21 that boundary line, that is correct.

22 Q Did you ever obtain the means to  
23 ascertain the boundary?

24 A On that particular score there, the issue

1 of the boundary on the south limb of the site, no.

2 Q Now, turning your attention to your  
3 inspection in May of 1992, and I believe that is  
4 People's Exhibit Number 9. You agree that the  
5 landfill was no longer taking in waste on that day?

6 A That's correct.

7 Q And did you not conclude, sir, that the  
8 landfill was in the process of complying with the  
9 court order?

10 A That's correct.

11 Q In your experience, sir, does it take  
12 time for a landfill -- once out of compliance, does  
13 it take time for a landfill to get in compliance?

14 A Depending on the nature and extent of how  
15 they were out of compliance, yes, it would take  
16 some amount of time, you know, a short time, a long  
17 time, dependent upon the nature of the violations.

18 Q All right. When we talked about  
19 violations, we are talking about apparent  
20 violations, are we not?

21 A We are talking about observations that I  
22 saw that in my interpretation were not in  
23 accordance with the Regulations and/or the permit.

24 Q You characterize these in your report as,

1 I believe, apparent violations; isn't that right?

2 A That's our standard terminology. Yes.

3 Q Thank you. Now, turning your attention  
4 now to the People's Exhibit Number 10, and that's  
5 the July 9, 1992 inspection.

6 Did you not conclude, sir, at that time  
7 that the landfill had made great strides in  
8 complying with the court order?

9 A That is correct, I believe.

10 Q Okay. And is that -- was that an  
11 accurate depiction of your impressions at that  
12 time?

13 A Yes.

14 Q Turning to People's Exhibit Number 11,  
15 that is dated September 22, 1992; is that correct?

16 A That's correct.

17 Q And isn't it true that based on your  
18 observations you reported that the landfill had  
19 essentially complied with the court order?

20 A That's correct.

21 Q Okay. And isn't it true that on that day  
22 activity continued? On the day you arrived there,  
23 was there not continuing activity underway at the  
24 landfill?

1           A     I don't recall. I can review my notes,  
2 my report here, if you would like.

3           Q     Okay. Would you turn to your report,  
4 please, and let's take a look at -- you probably --  
5 let me back up.

6                     Do you recall seeing whether there was  
7 any equipment being utilized at that time?

8           A     Not off the top of my head. I don't  
9 recall.

10          Q     Okay. Would your report note that in any  
11 way?

12          A     It might be noted in the narrative.  
13 There may be photos that depict it.

14          Q     Let's take a quick look through it and  
15 see if you see anything that jogs your memory in  
16 there?

17          A     Okay. Short of reading every word right  
18 now, which I am sure we don't want to do, I don't  
19 see any ready reference to other people on site,  
20 other than Mr. Brown and myself.

21          Q     Okay. Did you understand that Mr. Brown  
22 was performing the work there at the site?

23          A     Meaning that he was operating the  
24 equipment himself?

1 Q Right.

2 A I know he was overseeing the operation.  
3 I don't recall if he had actually done any of the  
4 work himself. I believe he had a heart condition,  
5 so I don't know.

6 Q Okay. Without belaboring the point,  
7 could you turn to photo number 9 on roll 76?

8 A Okay.

9 Q I see what appears to be two pieces of  
10 equipment there. They look like they may be  
11 operating. Does that jog your memory?

12 A No, it doesn't jog my memory.

13 Q Okay. I don't want to beat a dead horse  
14 here. Let's turn our attention to the weather  
15 conditions on September 22, 1992. It looks like it  
16 was pretty sunny.

17 A It was a beautiful day.

18 Q Do you recall making a note in your  
19 report of that date that it hadn't always been that  
20 way?

21 A I know I made a note in one of the  
22 reports. It may be this one.

23 Q Let me turn your attention to paragraph  
24 number one of your narrative. Do you see your

1 narrative?

2 A The introductory paragraph?

3 Q Paragraph number one.

4 A Oh, item number one. Okay.

5 Q Yes, item one.

6 A Okay.

7 Q Isn't it true that you make note there,

8 sir, that July of 1992 was the wettest month on

9 record in this area?

10 A That's correct.

11 Q And did you report the amount of rainfall

12 that had fallen in that area?

13 A Yes.

14 Q Do you consider it feasible for a

15 landfill operation to be conducted when there is 17

16 inches of rain coming down?

17 A I don't know.

18 Q Would you agree it would have an impact?

19 A It would tend to make the soil more

20 difficult to work with due to becoming muddy.

21 Q Did you have an occasion to visit the

22 landfill later in 1992?

23 A Later after September 22nd?

24 Q Yes.

1           A     No.

2           Q     So you don't know for a fact that the  
3     entirety of the landfill was not ultimately covered  
4     with two feet of material; is that correct?

5           A     I do not know the current condition of  
6     the site.

7           Q     Okay.  Now, it has been your opinion  
8     throughout that the landfill exceeded its vertical  
9     boundary, and I guess I would call it the  
10    horizontal boundary; is that correct?

11          A     That's correct.

12          Q     Did you ever undertake any measurements  
13    to confirm that?

14          A     On the -- let's separate that into the  
15    vertical and lateral.  On the vertical, according  
16    to the approved plans, the maximum elevation should  
17    have been natural grade, natural topography at the  
18    sound end of the landfill and sloping downward from  
19    that point.

20                 I did not actually measure, but if you  
21    stand at south of the landfill you have to look up  
22    to see the top of it.  Therefore, it could not have  
23    been sloping continuously down from grade toward  
24    the river.



1                   On the lateral issue, I personally did  
2 not undertake any type of measurement to ascertain  
3 that, although I believe it was done by another  
4 member of the Agency.

5           Q       But not by you?

6           A       But not by me personally, no.

7           MR. VAN NESS:   Okay.  Thank you.  Nothing  
8 further.

9           HEARING OFFICER WALLACE:  Mr. Taylor?

10          MR. TAYLOR:  We have no questions for the  
11 witness.

12          HEARING OFFICER WALLACE:  Redirect?

13          MS. MENOTTI:  Can we take a couple minute  
14 break?

15          HEARING OFFICER WALLACE:  All right.

16                               (Whereupon a short recess was  
17 taken.)

18          HEARING OFFICER WALLACE:  Back on the  
19 record.  Any redirect?

20          MS. MENOTTI:  Yes.  Can I have one  
21 moment, please, to confer.

22          HEARING OFFICER WALLACE:  Yes.

23                               (Mr. Davis and Ms. Menotti  
24 confer briefly.)

1 MS. MENOTTI: Can I proceed?

2 HEARING OFFICER WALLACE: Pardon me?

3 MS. MENOTTI: Can I proceed now?

4 HEARING OFFICER WALLACE: Yes.

5 REDIRECT EXAMINATION

6 BY MS. MENOTTI:

7 Q I just have a couple of questions to  
8 clarify the record. First, I would like to talk a  
9 little bit about Agency procedures. Is it part of  
10 your job description to conduct inspections of  
11 facilities?

12 A Yes, it is.

13 Q And is it also part of your job to make  
14 observations during those inspections?

15 A Yes, it is.

16 Q Do you document those observations?

17 A Yes, I do.

18 Q And in what format do you document them?

19 A Field notes, which are later transformed  
20 into an inspection report, and by photos and other  
21 form of documentation.

22 Q And as part of those inspection reports,  
23 do you note if you find any violations at the  
24 facility?

1           A     Yes, I do.

2           Q     In your experience with the Agency, does  
3 the Agency depend on your observations and reports  
4 in assessing whether or not a violation may exist  
5 at a particular site?

6           A     Yes, it does.

7                   MR. LATSHAW: I think I will object to  
8 that. It is beyond the scope of cross. It is  
9 certainly calling for an opinion about what might  
10 or might not occur within the thinking processes of  
11 certain people inside the Agency, which that is --

12                   HEARING OFFICER WALLACE: This does seem  
13 to be beyond the scope of cross-examination.

14                   MS. MENOTTI: This line of questioning is  
15 in response to Mr. Van Ness' questions regarding  
16 the citations in the inspection report as to  
17 whether they were apparent violations or  
18 violations. I just wanted to clarify how the  
19 Agency treats these inspection reports in regard to  
20 whether or not they are -- the violation exists or  
21 are apparent.

22                   MR. VAN NESS: I think the witness has  
23 already given his testimony on this point, Your  
24 Honor. I don't see what this adds to it. It is

1 argumentative.

2 HEARING OFFICER WALLACE: All right. The  
3 objection is sustained.

4 MS. MENOTTI: The other questions that I  
5 have for Mr. Turner are regarding Mr. Van Ness'  
6 questions regarding the court order.

7 Q (By Ms. Menotti) Do you know what the  
8 terms of the court order closing the landfill  
9 required?

10 A In general I do. If you would like them  
11 specifically recounted I would like to refer to one  
12 of my reports where I have them enumerated, so I  
13 don't misspeak.

14 Q You have the conditions of the court  
15 order cited in one of your reports?

16 A Yes.

17 Q Could you please indicate which report  
18 that is?

19 A That would be in, I believe, all the ones  
20 after the order was entered, so the reports of May,  
21 July and September of 1992.

22 Q I would direct your attention to the  
23 inspection reports dated May 8 and May 12th, 1992.

24 A Yes.

1           Q     In that document do you make any notation  
2 as to what was required -- what kind of activity  
3 was required at the landfill by the court order?

4           A     Yes, I do.

5           Q     Could you please summarize those for the  
6 record?

7           A     To cease and desist all operations of the  
8 landfill. To close the trench that had been  
9 excavated on the site and prevent leachate from  
10 entering waters of the State of Illinois. And to  
11 immediately cover all existing waste or refuse with  
12 at least six inches of suitable material, defined  
13 by law.

14          Q     Did you observe any of those activities  
15 on that date occurring?

16          A     Yes, those activities were begun.

17          Q     The six inches of cover that was required  
18 by the court order, how does that compare to what  
19 is required by the Regulations for closure  
20 activities?

21          A     The six inches of suitable material is  
22 equivalent to daily cover, the type of cover that  
23 is supposed to be in place over waste by the end of  
24 each operating day. The Regulations also require

1 final cover of two feet additional suitable  
2 material beyond what is required by daily cover.

3 MS. MENOTTI: Okay. Thank you. I have  
4 nothing further.

5 HEARING OFFICER WALLACE: Re-cross?

6 MR. VAN NESS: Yes.

7 RE-CROSS EXAMINATION

8 BY MR. VAN NESS:

9 Q Does the daily cover requirement include  
10 compaction, sir?

11 A Pardon me?

12 Q Does the daily cover requirement include  
13 compaction?

14 A I am a little -- it has been quite awhile  
15 since I have worked on a solid waste site. I am a  
16 little hazy on that. But it is generally perceived  
17 as being six inches of compacted soil, and I don't  
18 recall exactly where that is stated. I believe the  
19 Regulations say suitable material, but it is  
20 generally held as compacted soil or clay.

21 Q In all events, when you stated in your  
22 report of September 22, 1992, that --

23 MS. MENOTTI: Objection, Mr. Hearing  
24 Officer. I don't think we have discussed the

1 September report during redirect.

2 MR. VAN NESS: Well, Mr. Hearing Officer,  
3 Counsel for the People have introduced the subject,  
4 and I am simply trying to --

5 HEARING OFFICER WALLACE: Well, wait just  
6 a minute. Why don't you finish your question  
7 first.

8 MR. VAN NESS: Thank you.

9 Q (By Mr. Van Ness) In your conclusion on  
10 September 22, 1992, that it appeared that the  
11 landfill had eventually complied with the court  
12 order, in the course of reaching that conclusion,  
13 did you take any samples or measurements to  
14 ascertain the depth of cover?

15 HEARING OFFICER WALLACE: All right. Do  
16 you still object to that?

17 MS. MENOTTI: The last part was to the  
18 depth of cover?

19 MR. VAN NESS: Yes.

20 MS. MENOTTI: I would still -- never  
21 mind. I will withdraw the objection.

22 HEARING OFFICER WALLACE: All right. Mr.  
23 Turner --

24 THE WITNESS: No, I did not take any

1 measurements.

2 Q (By Mr. Van Ness) So it could have been  
3 six inches, it could have been two feet?

4 A Mr. Brown, the operator, stated that  
5 there were at least six inches or approximately six  
6 inches, as the case may be.

7 Q (By Mr. Van Ness) You had no other  
8 information to go on besides your personal  
9 observation?

10 A It would have only been my personal  
11 observations, or the statements made by Mr. Brown.

12 MR. VAN NESS: Thank you.

13 HEARING OFFICER WALLACE: Any questions?

14 MR. TAYLOR: No.

15 EXAMINATION

16 BY HEARING OFFICER WALLACE:

17 Q Mr. Turner, you mentioned something  
18 called the old cell. Is that more -- is there a  
19 more descriptive term than old cell?

20 A It is, I believe, formerly -- it is  
21 formerly referred to as the McKinney number one  
22 landfill.

23 Q Okay. Is it a joint determination  
24 between the Agency and the landfill as to when the



1 last waste is accepted, or is that completely a  
2 landfill decision?

3 A I don't know. I mean, in this  
4 specific --

5 Q You made a statement that the landfill  
6 had ceased accepting waste. How did you know that,  
7 then?

8 A It was ordered by the court to cease  
9 accepting waste, and by the point at which we first  
10 went to the site after the order was entered, we  
11 did not observe any waste entering nor did local  
12 residents. To the best of our knowledge no waste  
13 entered the site after the order was entered.

14 Q In your reports that you testified to you  
15 cited closure, post-closure and financial plan  
16 citations?

17 A (Nodded head up and down.)

18 Q Is that correct?

19 A That's correct.

20 Q Are these documents required to be kept  
21 at the landfill site?

22 A I believe that they would be required to  
23 be kept there. Generally anything pertaining to  
24 the permitting or operation of the landfill

1 monitoring and so forth, are supposed to be kept on  
2 site.

3 Q Or is that a citation that you checked  
4 after returning to your office?

5 A It was one that I checked when I  
6 completed the report. It was cited at that time,  
7 checked at that time.

8 Q Then would you walk through, one more  
9 time, how you can tell the vertical overfill by  
10 looking up? You have mentioned that two or three  
11 times.

12 A Okay. There is a natural grade or  
13 topography to the property, as there is to any  
14 property, and in this case it is a property  
15 bordering the Sangamon River, and it is going to  
16 tend to slope downhill toward the river. The  
17 approved plans for the site called for that slope  
18 to be filled in, but the new slope, the slope of  
19 the fill compared to the existing topography, it  
20 should still go downhill from the point -- from the  
21 furthest south -- the south limit of the fill.

22 So if you are standing up here away from  
23 the landfill to the south, at no point should you  
24 have to look up to see the top of the landfill. It

1 should slope down, not as gradually as it used to,  
2 but it should still slope down towards the river.

3           However, when you come into the property  
4 from the south, you have to look up to see the top  
5 of the landfill. So it has been filled definitely  
6 above the existing grade, and it should not have  
7 been, according to the approved plans.

8           Q     How do you know that you are at grade?

9           A     Because I am standing on it. I guess I  
10 don't understand your question, sir.

11          Q     Well, you said that at grade it should  
12 slope downward, and you are saying that you look  
13 upward?

14          A     At no point when you enter the property  
15 from the south should you have to look up to see  
16 it, but at any point you look up to the see the top  
17 of the landfill. As a matter of fact, it is  
18 visible from some distance around.

19          Q     Well, what do you base your conclusion on  
20 that as you enter the landfill from the south that  
21 you should not have to look up to see the landfill,  
22 but rather should be looking down?

23          A     The approved plans show a final contour  
24 topography that at its highest elevation at the

1 south end of the site is less than the original  
2 grade south of the area covered by the landfill.

3 HEARING OFFICER WALLACE: All right. I  
4 thank you, Mr. Turner. You may step down.

5 You are subject to recall at the later  
6 portion of this proceeding.

7 (The witness left the stand.)

8 HEARING OFFICER WALLACE: Let's go off  
9 the record.

10 (Discussion off the record.)

11 HEARING OFFICER WALLACE: We will break  
12 for lunch and be back at 12:40.

13 (Whereupon a lunch recess was  
14 taken from 11:35 p.m. to 12:40  
15 p.m.)

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AFTERNOON SESSION

(March 4, 1997; 12:40 p.m.)

HEARING OFFICER WALLACE: Back on the record. We will recommence for the afternoon.

All right, Ms. Menotti.

MS. MENOTTI: The People would like to call Robert Krimmel.

HEARING OFFICER WALLACE: Mr. Krimmel, if you will take a seat over here, please.

(Whereupon the witness was sworn by Hearing Officer Wallace.)

R O B E R T G. K R I M M E L,  
having been first duly sworn by the Hearing Officer, saith as follows:

DIRECT EXAMINATION

BY MS. MENOTTI:

Q For the record, could you please state your full name.

A Robert G. Krimmel.

Q And, Mr. Krimmel, what is your current occupation?

A I am a consulting engineer with the firm of SKS Engineers, Incorporated, in Decatur.

1 Q Could you please tell me a little bit  
2 about your educational background?

3 A I have a Bachelor of Science Degree in  
4 Civil Engineering from the University of Illinois.

5 Q Do you have any other certifications?

6 A I am a Registered Professional Engineer  
7 in the State of Illinois and in the State of  
8 Indiana, and I am also a Registered Professional  
9 Land Surveyor in the State of Illinois.

10 Q Mr. Krimmel, are you familiar with the  
11 Waste Hauling Landfill?

12 A Yes, I am.

13 Q In what capacity are you familiar with  
14 it?

15 A I have been the engineer of record for  
16 the landfill since approximately 1980.

17 Q As a consulting engineer, what services  
18 do you perform for the landfill?

19 A For Waste Hauling Landfill, my services  
20 were primarily related to IEPA permitting  
21 requirements, and I also assisted Mr. Camfield in  
22 preparing engineering documents for a siting  
23 hearing for the possible expansion of the  
24 landfill.

1           Q     Let's talk about the siting petition that  
2 you just mentioned. Do you know when the siting  
3 petition was filed?

4           A     Sometime in 1989 or 1990.

5           Q     And at what point did you become involved  
6 with the preparation of that?

7           A     We were involved with the engineering  
8 documents from the very beginning.

9           Q     At what point in time? What year did you  
10 begin preparing the engineering plans for that  
11 document?

12          A     Well, approximately a year --  
13 approximately a year ahead of the time that the  
14 document was --

15          Q     Do you recall what the purpose of that  
16 siting petition was?

17          A     It was to expand the landfill.

18          Q     And was the expansion of the landfill  
19 intended to be vertical, lateral, vertical and  
20 lateral? How would you characterize the expansion?

21          A     In relationship to the existing  
22 landfill?

23          Q     Correct.

24          A     It was both a vertical and lateral

1 expansion.

2 Q Did it involve an expansion onto areas  
3 that were not already permitted?

4 A That's correct.

5 Q Which direction, with regard to the  
6 lateral expansion, was the petition seeking?

7 A The petition was seeking a lateral  
8 expansion generally to the west and southwest.

9 Q And was that based off of -- the  
10 expansion was based off the -- was it based off of  
11 the existing contours of the landfill?

12 A I am sorry. I don't understand your  
13 question.

14 Q Was the expansion -- I guess a better  
15 phrase is was the expansion intended to be  
16 contiguous from the contours of the landfill as  
17 they existed at the time of the petition, or was it  
18 intended to be a completely separate portion?

19 A The expansion was to be contiguous with  
20 the existing landfill.

21 Q Did the petition involve any expansion to  
22 areas of the landfill that already existed?

23 A Yes.

24 Q Could you please indicate what area of



1 the landfill that was?

2 A The final contours that were in the -- of  
3 the expanded landfill that were shown in the siting  
4 document showed the final landfill in the vicinity  
5 of the existing landfill to be somewhat higher and  
6 maybe a minor lateral expansion to the north, not  
7 very much, as I recall.

8 Q Okay.

9 A Most of the lateral expansion, again, was  
10 to the west and to the southwest.

11 Q With regard to the expansion of the  
12 existing area, do you recall what the vertical  
13 elevation sought in the siting petition was?

14 A I am sorry. I don't understand.

15 Q You said that the portion of the landfill  
16 already in existence was what the siting  
17 addressed. I am asking do you recall what the  
18 requested maximum elevation with regard to the  
19 vertical level of the fill requested was?

20 A I believe it was somewhere in the  
21 vicinity of elevation 700.

22 Q All right. 700, is that in feet?

23 A Mean sea level.

24 HEARING OFFICER WALLACE: I am sorry.

1 Would you state your answer again, please?

2 THE WITNESS: It was in the vicinity of  
3 the -- I believe that she asked me what the  
4 proposed final elevation was to be in the vicinity  
5 of the existing landfill, and my answer was I  
6 believed, to the best of my knowledge, I remembered  
7 it to be about elevation 700 mean sea level.

8 HEARING OFFICER WALLACE: Are you saying  
9 700 mean sea level?

10 THE WITNESS: 700, yes, mean sea level.  
11 Elevation 700, based on mean sea level.

12 Q (By Ms. Menotti) Was this height for the  
13 existing fill areas as well as in the new expanded  
14 contiguous area?

15 A No.

16 Q Did it address -- actually, let me show  
17 you what has been marked as People's Exhibit Number  
18 1. Do you recognize this document?

19 A Yes, I do.

20 Q Did you have any involvement with its  
21 preparation?

22 A Yes, I did.

23 Q Could you describe your involvement?

24 A This is a topographic map that was made

1 from an aerial survey, and we arranged for the  
2 aerial survey, and we also did what is known as the  
3 ground control for this aerial survey.

4 Q Okay. And when was this survey  
5 conducted?

6 A The survey was based on a flight that was  
7 made over the site, as it says on the face of the  
8 survey, on April 14th, 1988.

9 Q What does, in general, the survey show?

10 A It shows the contours of the Waste  
11 Hauling Landfill.

12 Q Okay. Was this document used at all to  
13 prepare drawings or was it incorporated at all in  
14 the siting petition we have been discussing?

15 A Yes, this document was used as part of  
16 the information within the siting petition.

17 Q I will refer back to the question I was  
18 asking regarding the vertical elevation. Could you  
19 indicate which area on the map the 700 mean sea  
20 level elevation first siting was sought?

21 A I don't recall exactly, but it would have  
22 been somewhere in the vicinity of what is now shown  
23 as the high point of the -- I am sorry -- what was  
24 shown as the high point of the western most fill

1 area of this landfill at the time that this survey  
2 was made.

3 Q Can you identify what the number or the  
4 mean sea level vertical height that the aerial  
5 survey indicates the landfill was at, at this point  
6 in time?

7 A Which vertical height?

8 Q Of the fill area that you were just  
9 talking about?

10 A Well, the fill area varies in elevation  
11 from somewhere around 620 to -- elevation 620 to a  
12 high point of 678.5.

13 Q At the time of -- at the time that this  
14 survey was flown, were you aware of the permitted  
15 contours of the landfill? Let me be more  
16 specific.

17 Were you aware of the contours that were  
18 permitted by the Illinois EPA for the landfill?

19 A Under what permit?

20 Q The operating permit, the developing and  
21 operating permit that was, I believe, transferred  
22 to Mr. Camfield when he became the owner of this  
23 facility?

24 A Yes, I was.

1           Q     Could you tell me, to the best of your  
2     recollection, what you remember the mean sea level  
3     elevation contours to be at its highest point?

4           A     To the best of my recollection, the  
5     highest point that is shown on the permitted  
6     contours is elevation 640.

7           Q     I would like to ask you if you remember  
8     drafting a letter on behalf of Mr. Camfield and the  
9     Waste Hauling Landfill. Have you ever prepared any  
10    notification forms? Let me back up.

11                    Have you ever prepared any notification  
12    forms on behalf of Waste Hauling Landfill?

13           A     I have drafted several letters and  
14    prepared many documents on behalf of Mr. Camfield.

15           Q     Have you ever submitted any of those  
16    types of letters to the Illinois EPA?

17           A     Many of the letters that I drafted on  
18    behalf of Mr. Camfield went to the EPA.

19           Q     Do you recall drafting a letter regarding  
20    a notification letter regarding the landfill in  
21    March of 1991 at all?

22           A     I may have.

23           Q     If I showed you the letter, would you be  
24    able to identify it?

1           A     I should be able to.

2           Q     Under the assumption that you had drafted  
3 it and submitted it?

4           A     Yes.

5                   MS. MENOTTI:  Could you mark this,  
6 please.  Thank you.

7                                   (Whereupon said document was  
8                                   duly marked for purposes of  
9                                   identification as People's  
10                                  Exhibit 12 as of this date.)

11                  MS. MENOTTI:  Do you want to see this  
12 first?

13                  MR. TAYLOR:  I would like to see it.  I  
14 am not sure what it is.

15                                  (Ms. Menotti showed People's  
16                                  Exhibit 12 to Mr. Latshaw, Mr.  
17                                  Van Ness and Mr. Taylor.)

18           Q     (By Ms. Menotti) Mr. Krimmel, I hand you  
19 this document.  Do you recognize it?

20           A     Yes.  It is on stationery from my firm.  
21 It appears to be signed by me.

22           Q     Would that be a document that you would  
23 have generated if you signed it?

24           A     Yes.

1           Q     I would direct your attention to page two  
2 of the document. Is there anything on that page  
3 that indicates if the landfill exceeds its  
4 permitted contours?

5           A     Yes.

6           Q     Could you please tell me what that  
7 information entails?

8           A     Roman numeral 1A6 asks the question, have  
9 any areas been filled beyond the current permitted  
10 boundaries?

11          Q     And --

12          A     And parenthetically it says include  
13 vertical and final contour boundaries as well as  
14 lateral boundaries.

15          Q     And what was --

16          A     It is checked yes, with the caveat the  
17 vertical boundaries.

18          Q     Thank you.

19                HEARING OFFICER WALLACE: I am sorry.  
20 With the caveat what?

21                THE WITNESS: It said vertical  
22 boundaries.

23                HEARING OFFICER WALLACE: Excuse me.  
24 What is the date on that letter?

1 THE WITNESS: March 14th, 1991.

2 Q (By Ms. Menotti) Just for the record, Mr.  
3 Krimmel, who was this document submitted to?

4 A It is addressed to the Illinois  
5 Environmental Protection Agency, Division of Land  
6 and Noise Pollution Control, Number 24, Planning &  
7 Reporting Section Compliance Unit. The salutation  
8 is to Mr. Eastep.

9 Q Was this submitted for the Waste Hauling  
10 Landfill?

11 A Yes.

12 Q In your contact, in your capacity as a  
13 engineer regarding the landfill, do you know if  
14 there were ever any problems or violations  
15 regarding overfill or extension beyond the lateral  
16 boundaries that were not permitted?

17 A I have a recollection that there was a  
18 citation made concerning the overheight. I don't  
19 recall if there were ever any citations about  
20 extension of lateral boundaries beyond the limits.

21 Q Mr. Krimmel, do you recall giving a  
22 deposition in your office on January 24th, 1997?

23 A Yes.

24 Q Do you recall reviewing a copy of the



1 testimony that you gave?

2 A Yes. Yes, I did.

3 MS. MENOTTI: Do you gentlemen want to  
4 see the copy that I am going to use?

5 MR. LATSHAW: I don't know. Is this an  
6 attempt to impeach the witness or what?

7 MS. MENOTTI: I am just going to use this  
8 to see if we can refresh his recollection regarding  
9 the last question. I just want to know if you want  
10 to see this before I refer to it.

11 MR. LATSHAW: Yes. May I see it,  
12 please?

13 I think we need to interpose an objection  
14 to the document you have marked as People's Exhibit  
15 12. That is not on your list.

16 MS. MENOTTI: I am not offering it.

17 MR. LATSHAW: I don't think it should be  
18 appropriate, for the record, to examine the witness  
19 regarding that exhibit once you have marked it.  
20 That's not on your list. I would strike the  
21 testimony with regard to the exhibit.

22 MR. VAN NESS: What are you asking him to  
23 look at?

24 MS. MENOTTI: The question regarding the

1 lateral fill.

2 MR. VAN NESS: Okay. Right here?

3 MS. MENOTTI: Yes.

4 MR. VAN NESS: Okay.

5 (Ms. Menotti showed the  
6 document to Mr. Latshaw, Mr.  
7 Van Ness and Mr. Taylor.)

8 HEARING OFFICER WALLACE: Ms. Menotti, do  
9 you wish to respond to the objection?

10 MS. MENOTTI: I am sorry. Was the  
11 objection to --

12 HEARING OFFICER WALLACE: The objection  
13 and motion to strike the use of the testimony  
14 concerning this document, because it was not  
15 included on your list.

16 MS. MENOTTI: My exhibit list?

17 MR. VAN NESS: That's right. We have  
18 looked and we have not found it either among the  
19 things provided or on the list provided in response  
20 to discovery.

21 MS. MENOTTI: I would submit, Mr. Hearing  
22 Officer, I may have inadvertently left off this  
23 document. It was tendered by the Waste Hauling  
24 respondents through this witness during the

1 discovery process. They certainly have had access  
2 to it.

3 I don't intend to admit it into the  
4 record as evidence, and I do not know of any  
5 Regulation that precludes us from discussing  
6 testimony that is -- or precludes us from  
7 discussing evidence that is not listed in the  
8 exhibit list. It was my impression that the  
9 exhibit list was for convenience, not as a  
10 preclusion to what we could or could not bring into  
11 evidence at this hearing.

12 HEARING OFFICER WALLACE: All right. You  
13 are not offering that into evidence?

14 MS. MENOTTI: I am not offering the  
15 document into evidence. I had it marked for  
16 identification, so it would go to something to  
17 reference it. I do not intend to offer it as  
18 evidence.

19 HEARING OFFICER WALLACE: The motion to  
20 strike is denied.

21 MS. MENOTTI: Thank you. May I  
22 continue?

23 HEARING OFFICER WALLACE: Yes.

24 Q (By Ms. Menotti) Mr. Krimmel, regarding

1 the question regarding lateral overfill, I believe  
2 we discussed it during your deposition in January  
3 of this year, and I would like you to look at page  
4 17 of what I am handing you here, and I will give  
5 you the line number, and see if that refreshes your  
6 recollection at all regarding the status of -- your  
7 knowledge of the status of the lateral overfill.  
8 We are at lines 10 through about 22.

9 MR. TAYLOR: Excuse me. What lines,  
10 Maria?

11 MS. MENOTTI: I am starting at -- the  
12 question starts at line 10 that I asked him to  
13 review.

14 MR. VAN NESS: What page?

15 MS. MENOTTI: Page 17.

16 MR. VAN NESS: Okay. Page 17. Thank  
17 you.

18 MR. TAYLOR: You asked him to review  
19 lines 10 through 22?

20 MS. MENOTTI: Right, regarding his  
21 testimony at the deposition.

22 (The witness reviewed  
23 document.)

24 Q (By Ms. Menotti) Have you had a chance to

1 read that?

2 A Yes.

3 Q Does that refresh your memory at all  
4 regarding information of the lateral overfill  
5 violations?

6 A Yes.

7 Q Would you like to tell me if you recall  
8 any violations regarding the lateral overfill?

9 A No. I answered in that deposition as  
10 best as I could recall. The citations for  
11 overheight and lateral expansion were addressed in  
12 the siting action in the early 1990s. Had the  
13 siting action been successful, then problems would  
14 have been taken care of.

15 Q Thank you. What was the ultimate  
16 disposition of the application for siting?

17 A It was denied by the Macon County Board,  
18 and I believe there was also an appeal made and  
19 that was also subsequently denied.

20 Q While this siting process was occurring,  
21 to the best of your knowledge, was the landfill  
22 still open?

23 A Yes.

24 Q And to the best of your knowledge, was

1 the landfill still receiving waste?

2 A Yes.

3 Q Did you have any discussions with Mr.  
4 Camfield regarding the landfill after that request  
5 was denied?

6 A Yes.

7 Q Did you, at any point, discuss the height  
8 of the landfill?

9 A After the siting was denied?

10 Q Yes.

11 A I don't recall specifically whether we  
12 did or did not.

13 Q Did you have any discussions regarding  
14 the continuation of the receipt of waste at the  
15 landfill?

16 A To the best of my knowledge, I don't  
17 believe we discussed that.

18 Q Once the petition was denied, to the best  
19 of your knowledge, did the landfill remain open?

20 A Denied at what point?

21 Q When it was denied by the Macon County --  
22 by the Macon County Board?

23 A Yes.

24 Q Did the landfill remain open?

1 A It remained open.

2 Q Did it continue to receive waste?

3 A Yes, it did.

4 Q Did Mr. Camfield ever indicate to you  
5 when he intended to cease accepting waste at the  
6 site?

7 A At what point?

8 Q At any time? Did he indicate how long he  
9 intended to keep receiving waste at the fill?

10 A Well, if he had gotten his expansion, he  
11 would have stopped receiving waste when that  
12 landfill was full. And after the siting was  
13 denied, it was his intent to continue operation  
14 until October of -- sometime in October of 1992,  
15 which was a milestone date in the 811 Regulations.  
16 That is when the 807 landfills had to close by in  
17 order not to come under the 11 Regs.

18 Q Okay. I would like to direct your  
19 attention to what has been previously marked as  
20 People's Exhibit Number 3. Do you recognize that  
21 document?

22 A Yes, I do.

23 Q Do you recognize that document?

24 A Yes, ma'am, I do.

1 Q Is it a document that you generated?

2 A It was generated in my office partially  
3 by me and partially by people working under my  
4 direction and supervision.

5 Q Okay. Can you briefly summarize what  
6 this document is, for the record?

7 A This document is a letter on my firm's  
8 stationery dated March 21st, 1996, addressed to Mr.  
9 Edwin C. Bakowski, Manager, Permit Section, Bureau  
10 Land, IEPA, and it is referred to their log number  
11 of 1991-136, and it is a list of -- it is some  
12 response -- the letter, as a whole, are responses  
13 to some potential denial points that had been  
14 directed to me for a pending supplemental permit at  
15 the Agency, and the denial points had come to a  
16 letter -- come to me in a letter dated November  
17 4th, 1991, and it was signed by Larry Eastep.

18 Q When you were preparing this document,  
19 did you base it on information that you believed  
20 was accurate?

21 A Yes, ma'am.

22 Q And to the best of your knowledge, did  
23 this -- did the information you included reflect  
24 the condition at the Waste Hauling Landfill or at



1 the time it was submitted?

2 A I am not sure I understand exactly your  
3 question.

4 Q The information that you -- that was used  
5 to generate this, was it based on information and  
6 knowledge you had regarding the landfill at that  
7 time?

8 A Yes, but there was some information that  
9 was included that reflected the conditions at the  
10 landfill at earlier times.

11 Q Okay. I would like to direct your  
12 attention to the Attachment C of this document.

13 A Okay.

14 Q Could you please tell me what this  
15 attachment is entitled?

16 A Attachment C, and the title page of the  
17 document is, "Revised Closure, Post-Closure Care  
18 Plan."

19 Q Could you turn to the fourth page of the  
20 attachment, please?

21 A Okay.

22 Q I am sorry. I said -- can you go to the  
23 fifth page?

24 A The fifth?

1 Q That's the page right there, the fourth  
2 page of the text after the -- turn to the next  
3 page. I am looking for the page that starts with  
4 the narrative across the top of it.

5 A Okay.

6 Q Can you, please, for the record, read the  
7 caption across the top of the page so everybody  
8 knows what we are looking at?

9 A The narrative across the top of the page  
10 reads, "Narrative/Comment, Closure, Post-Closure  
11 Care Plan, Decatur/Waste Hauling Landfill, site  
12 number 1158010001, April 1991, revised March 1996."

13 Q Is there anywhere on this page that  
14 indicates what the elevation of the active area of  
15 the -- or what the elevation of the area that had  
16 been active in 1992, what the elevation was there?

17 A Item number 6, fill area number two, and  
18 item C under that lists the top elevation as 700  
19 plus.

20 Q Could you tell me how that number  
21 compares with the permitted contours that you  
22 testified to earlier?

23 A Some 60 feet higher.

24 Q At that point in time, Mr. Krimmel, to

1 your knowledge, was the 640 foot perimeter still  
2 the permitted perimeter?

3 A Yes.

4 MS. MENOTTI: One minute, please.

5 (Mr. Davis and Ms. Menotti  
6 confer briefly.)

7 Q (By Ms. Menotti) You can set that  
8 document aside. I just have one last area of  
9 questions.

10 During your -- during your deposition a  
11 document was tendered from your file, and I  
12 would -- I am going to have it marked and show it  
13 to other Counsel, but my question first is would  
14 you be able to identify documents that you have  
15 generated -- a document that you generated  
16 regarding the Waste Hauling Landfill from your  
17 file?

18 A I have to see it first.

19 Q Let me have it marked, and we will see if  
20 you recall what this is.

21 A All right.

22 MS. MENOTTI: Could you mark this,  
23 please.

24 (Whereupon said document was



1 Q Could you please look closely at it and  
2 tell me if it is a true and accurate copy of the  
3 document?

4 A Yes, I believe it is.

5 Q This document regards only area two of  
6 the fill?

7 A Yes.

8 Q Could you, based on this document, tell  
9 me what the points of vertical elevation are and  
10 the mean sea level?

11 A We show three points, stakes number one,  
12 two and three, and the elevations are 681.8, 695.1,  
13 685.4, respectively.

14 Q How do those numbers compare with the  
15 permitted elevation contours?

16 A They are higher.

17 Q Can you, for the record, tell me what the  
18 date of the document is?

19 A October 18th, 1991.

20 Q Mr. Krimmel, excuse me for my lack of  
21 technical expertise, but if you would not mind,  
22 would you, for the record, explain what the numbers  
23 in the first column on the left-hand side indicate?

24 A Could you be specific about the numbers?

1           Q     There are a bunch of numbers listed in  
2 the column with -- it appears to be degree marks  
3 and measurements.

4           A     The numbers that you speak about are  
5 angles that we measured or recorded from the  
6 electronic survey device, and it is part of the  
7 process of locating the stakes that we had placed  
8 on top of the fill.

9           Q     Did you indicate -- do these degrees and  
10 measurements indicate which part of the landfill --  
11 would you be able to -- does that identify any  
12 specific area on the landfill, on the map? I am --

13          A     I have nothing in front of me at this  
14 point that tells me where these points were exactly  
15 on the landfill.

16          Q     I guess, just for my own understanding,  
17 then, the first set of three numbers there indicate  
18 degrees and angles that are used to indicate where  
19 stakes have been placed at the landfill?

20          A     When one uses electronic equipment of  
21 this type, you start from points -- from a known  
22 point, both horizontal and vertically, and you make  
23 what we call a back sight on some line that we know  
24 the azimuth or the bearing of, and we measure

1 angles and distances from those known points and  
2 known azimuths to determine -- well, it gives you  
3 the mathematical data that we need to compute the  
4 location of other points.

5 Q Okay.

6 A This was the process that was used in the  
7 preparation of this document.

8 MR. DAVIS: Could we have a minute,  
9 please.

10 HEARING OFFICER WALLACE: All right.

11 MR. DAVIS: Thank you.

12 (Whereupon a short recess was  
13 taken.)

14 HEARING OFFICER WALLACE: Back on the  
15 record.

16 Please continue.

17 MS. MENOTTI: Thank you.

18 Q (By Ms. Menotti) Mr. Krimmel, can you  
19 give me a description of how this survey was  
20 generated, what the process was to generate this  
21 data?

22 A The survey crew would have gone into the  
23 field and they would have located points that we  
24 would have established at an earlier time for other

1 work. It is typical to place either permanent or  
2 semi-permanent monuments in and around these  
3 facilities, from which future surveys, such as this  
4 one, can be made.

5           It appears, from the document that we are  
6 talking about here, that he based his survey on an  
7 iron pin, which had an elevation of 600.7 plus or  
8 minus, is what I believe it reads. I do not have  
9 sufficient data in front of me to tell you where  
10 that pin is or where that monument is on the map.

11           Q     Okay. And from the reference point of  
12 the iron pin, do the surveyors then take  
13 measurements from that point?

14           A     It would appear that he used an iron pin  
15 and then a top of a protective casing that was  
16 identified as B24, which was -- I am guessing that  
17 that was a temporary or a permanent groundwater  
18 monitoring well that we would have installed to  
19 collect data for preparation of the groundwater  
20 monitoring plan.

21           Q     And were those points used to gather data  
22 to determine the elevation heights at various  
23 points?

24           A     Well, in surveyor's terms, we started



1 with two points of known location, both  
2 horizontally and vertically, and from that we could  
3 take measurements to then give us mathematical data  
4 that we could compute other points, the horizontal  
5 and vertical location of the other points.

6 Q Okay.

7 A Of other points.

8 Q Is there any data on this survey that is  
9 indicative of any lateral measurements or the  
10 lateral width of the landfill?

11 A No, there is not.

12 Q In summary, and I am not certain if this  
13 is a correct ascertainment on my part. This is for  
14 clarification. The process of the survey done  
15 establishes heights of elevation and was being  
16 referred to as fill area two at the Waste Hauling  
17 Landfill?

18 A Yes.

19 Q Am I incorrect in that ascertainment at  
20 all? I am asking for accuracy to make sure that it  
21 was correctly portrayed -- I am correctly  
22 portraying this for the Board.

23 HEARING OFFICER WALLACE: Do you  
24 understand the question, Mr. Krimmel?

1 THE WITNESS: No.

2 MS. MENOTTI: I am sorry.

3 HEARING OFFICER WALLACE: Try again, Ms.  
4 Menotti.

5 Q (By Ms. Menotti) I am sorry. Due to my  
6 lack of technical expertise regarding surveying, my  
7 question is, in the way that we have been talking  
8 about the surveying and what the results were, in  
9 your opinion, is the information that we have been  
10 talking about accurate?

11 A To the best of my knowledge it is  
12 accurate, yes.

13 MS. MENOTTI: I don't have any further  
14 questions regarding this survey document.

15 At this point I would ask that it be  
16 admitted as People's Exhibit Number 13.

17 HEARING OFFICER WALLACE: Any objection,  
18 Mr. Van Ness?

19 MR. VAN NESS: No.

20 HEARING OFFICER WALLACE: Mr. Taylor?

21 MR. TAYLOR: No.

22 HEARING OFFICER WALLACE: May I see the  
23 exhibit, please?

24 Mr. Krimmel, what do the numbers to the

1 right of the words stake one, stake two, and stake  
2 three mean?

3 THE WITNESS: I believe that those are  
4 coordinates that refer to the coordinate system  
5 that we established for the project.

6 HEARING OFFICER WALLACE: All right.  
7 Thank you.

8 People's Exhibit Number 13 is admitted  
9 into evidence.

10 (Whereupon said document was  
11 admitted into evidence as  
12 People's Exhibit 13 as of this  
13 date.)

14 HEARING OFFICER WALLACE: Do you have  
15 further questions of Mr. Krimmel?

16 MS. MENOTTI: At this time that is all I  
17 have for Mr. Krimmel.

18 HEARING OFFICER WALLACE: When you say  
19 "at this time," do you anticipate recalling Mr.  
20 Krimmel?

21 MS. MENOTTI: We may need to recall this  
22 witness for the second portion of this hearing.

23 HEARING OFFICER WALLACE: All right.  
24 Cross-examination?

1                   MR. VAN NESS:  Yes, just a couple  
2 questions.

3                                   CROSS EXAMINATION

4                                   BY MR. VAN NESS:

5           Q     Mr. Krimmel, for point of reference, I  
6 notice that in People's Exhibit 13 you indicated  
7 that there were three elevations; is that correct?

8           A     We determined, yes, three new elevations.

9           Q     Okay.  And is it fair to say that none of  
10 them reaches 700 feet?

11          A     That's correct.

12          Q     Okay.  So notwithstanding what was in the  
13 item number 6 for People's Exhibit 3, as you were  
14 referred to by Ms. Menotti, where it stated 700  
15 feet plus, you do not have information that  
16 indicates that the actual conditions were at 700  
17 feet plus?

18          A     That is correct.  We had no survey data  
19 at that point.

20          Q     And in point of fact, do you know today,  
21 sir, what the elevation, the top elevation of that  
22 landfill is?

23          A     I do not.

24                   MR. VAN NESS:  Nothing further.

1 HEARING OFFICER WALLACE: Mr. Taylor?

2 MR. TAYLOR: Yes, I do have several  
3 questions.

4 CROSS EXAMINATION

5 BY MR. TAYLOR:

6 Q To follow-up on that same point, while it  
7 is fresh in your mind, this survey, which I believe  
8 has been marked as People's Exhibit 13, that was  
9 prepared in 1991?

10 A Yes, it is dated October 18th, 1991.

11 Q Okay. And Exhibit 3, with reference to  
12 the 700 plus elevation -- if you would like to look  
13 at it --

14 A Yes, I know.

15 Q That was prepared -- when did you prepare  
16 that?

17 A The closure, post-closure care plan was  
18 revised in March of 1996. I don't recall if that  
19 particular elevation -- well, I don't recall if  
20 that particular elevation was revised at that time  
21 or if it was a part of the original April 19,  
22 1991. I will say I had no survey measurements to  
23 show that it was 700.

24 Q Okay. But you did write 700?

1           A     I did write 700, yes, sir.

2           Q     Did you have a reason to believe that you  
3 needed to increase the estimate to approximately  
4 700 feet?

5           A     Honestly, I do not recall why I wrote  
6 700.

7           Q     Okay. Also, just for purposes of  
8 clarification, Mr. Wallace asked the question  
9 earlier referring to mean sea level. Are all of  
10 the elevations that we have been discussing, the  
11 640 permitted height, and the 695 from the survey,  
12 all of those represent feet at mean sea level?

13          A     Feet above --

14          Q     Okay. Feet above.

15          A     -- mean sea level.

16          Q     Okay. I am sorry for speaking over you.  
17 Are you familiar with the types of waste received  
18 at the landfill, at the Waste Hauling Landfill?

19          A     Somewhat, yes.

20          Q     Can you generally describe it?

21          A     Mr. Camfield received household waste,  
22 municipal solid waste, I believe almost exclusively  
23 from his own garbage routes that he had in and  
24 around the City of Decatur. And he took several

1 special wastes, permitted special wastes from many  
2 of the local industries in and around Decatur.

3 Q To the best of your knowledge, when did  
4 the landfill cease receiving waste?

5 A On the basis of the court order, I  
6 believe it was May of 1995. No.

7 Q 1992?

8 A I am sorry. Yes, May of 1992. It was on  
9 the basis of the Circuit Court order.

10 Q I knew it was not in 1995. Is it your  
11 testimony now that they ceased receiving waste, to  
12 the best of your knowledge, in May of 1992?

13 A Yes.

14 Q Okay. Have you prepared in the past  
15 various closure, post-closure care applications or  
16 submittals to the Illinois Environmental Protection  
17 Agency?

18 A For this landfill?

19 Q Yes, for this landfill.

20 A Yes. Three, to be exact.

21 Q Three. Do you remember the approximate  
22 dates of those plans?

23 A We did one, I believe, in 1988 and one in  
24 1989 and one in 1991.

1 Q Okay. Was there an addendum to the 1991  
2 application?

3 A Yes, there was.

4 Q Okay. Was that submitted?

5 A Yes, it was.

6 Q Do you know the approximate date of that  
7 submittal?

8 A March the 21st, 1996.

9 Q Okay. Have any of those plans for  
10 closure, post-closure care been approved, to your  
11 knowledge?

12 A No, they have not.

13 Q Would it be accurate to say that there is  
14 no approved design for the final cover cap of this  
15 landfill?

16 A Yes.

17 Q Are you aware of any efforts by Mr.  
18 Camfield to install cover material on top of the  
19 landfill?

20 MR. VAN NESS: Mr. Hearing Officer, I  
21 guess I am going to have to object. I don't see  
22 that this is within the realm of the direct  
23 examination. It seems to be going beyond the range  
24 of the direct examination. I understood this



1 witness is available for cross at this time.

2 HEARING OFFICER WALLACE: Mr. Taylor?

3 MR. TAYLOR: We did not call Mr. Krimmel  
4 as a witness for Bell Sports, because we were aware  
5 that he was being called by the State and by the  
6 Landfill. And it was our understanding that he  
7 would be prepared to discuss his knowledge of the  
8 landfill and its operations at today's hearing as  
9 they relate to the solid waste issues, as opposed  
10 to the hazardous waste issues.

11 HEARING OFFICER WALLACE: In the scheme  
12 of things I do believe your questions are beyond  
13 the scope of the People's direct.

14 Let's go off the record a minute.

15 (Discussion off the record.)

16 HEARING OFFICER WALLACE: Back on the  
17 record.

18 We have had an extensive off-the-record  
19 discussion concerning continued questioning of Mr.  
20 Krimmel. My ruling is that the questions appear to  
21 be beyond the scope of the direct examination and  
22 would be getting somewhat out of the order that we  
23 have established in this case.

24 With that in mind, if you have additional

1 questions that would be within the scope, I will  
2 allow those.

3 MR. TAYLOR: No, I do not. I would just  
4 like to further clarify that I think we agreed  
5 during the off-the-record discussion that I would  
6 be able to pursue these lines of appropriate  
7 questions during the next proceeding some time in  
8 April.

9 HEARING OFFICER WALLACE: Yes. Bell  
10 Sports is not foreclosed from questioning Mr.  
11 Krimmel at a later point in time, either at our  
12 next continued hearing or thereafter when the State  
13 rests and Waste Hauling presents its case.

14 Ms. Menotti, did you have any redirect?

15 MS. MENOTTI: No, I don't.

16 EXAMINATION

17 BY HEARING OFFICER WALLACE:

18 Q All right. Mr. Krimmel, the iron pin  
19 that you mentioned is a -- do you have a term for  
20 that at all? Do you call it any name?

21 A An iron pin is basically probably a half  
22 inch concrete rebar 30 to 36 inches long that is  
23 driven into the ground at some convenient spot out  
24 of the way of traffic, and it is there as a

1 semi-permanent monument as part of our surveys  
2 around there.

3 Q All right. Who puts the pin in?

4 A The survey crew.

5 Q And when do they put it in?

6 A They no doubt put this point in when they  
7 did subsequent survey work down out at the site.

8 This is one page out of several within a field  
9 book. So he was no doubt referring to points --

10 Q Well, let me back up, then. The iron  
11 pin, you cannot say when it was put into the  
12 ground?

13 A Not from the information that I have in  
14 front of me.

15 Q In the surveying language you call it a  
16 monument, then?

17 A Yes.

18 Q Now, is there any final report that was  
19 made up from these field notes?

20 A I don't recall if I got any written  
21 report or not.

22 Q On the blueprint map there, the aerial  
23 survey, could you briefly describe how that process  
24 works to arrive at that survey with the contours?

1           A     Basic aerial photography -- are you  
2 familiar with the old -- or maybe not the old --  
3 but the 3-D, 35 millimeter cameras, like a View  
4 Master, that takes a view --

5           Q     Ms. Menotti and I have something in  
6 common. I am not very technical, either.

7           A     Do you remember the View Masters we  
8 looked at when we were kids?

9           Q     Yes.

10          A     You looked at two pictures and you could  
11 see three-dimensions by looking at two pictures.  
12 Okay. If you were in an airplane or at some high  
13 altitude, if you take two pictures and look at them  
14 through a stereoscope, you can then see it in  
15 three-dimension.

16                   Now, in actuality, when these maps are  
17 prepared, an airplane with a sophisticated camera  
18 will fly over this site at some elevation,  
19 depending on what scale and what contour interval  
20 you want, and it takes a series of overlapping  
21 pictures.

22                   So in the overlap, you have your two  
23 pictures that you can then look at and see it in  
24 three-dimension. The negatives are then placed --

1 let me back up just a second. Well, I can go  
2 ahead.

3           The negatives are then placed in a  
4 sophisticated machine that can see this in  
5 three-dimension, and then has the -- then by taking  
6 points of known horizontal and vertical location on  
7 the ground, then it can take measurements from  
8 these pictures that you look at in stereo, and we  
9 call this stereo, this pair of pictures, a model.

10           Now, before they set up the model and  
11 after the flight, we do what is called ground  
12 control, which we go out and in the vicinity of the  
13 area that we want mapped, we will locate what we  
14 call photo identifiable points. We will get what  
15 we call X, Y and Z coordinates, which are the  
16 horizontal location and the elevation or the  
17 vertical location of these points.

18           Given the information from the ground  
19 control, they can then establish their photo model,  
20 and then the -- I don't recall the name of the  
21 machine, but the machine then is able to measure X,  
22 Y and Z coordinates from the photographs. And then  
23 they go -- then these maps are produced from that,  
24 and there are several steps in between. But that



1 HEARING OFFICER WALLACE: All right.  
2 Then we will stand adjourned to April 15th and  
3 16th. Mr. Van Ness informed me earlier, and I  
4 think he informed everyone else, that he has a  
5 conflict on the 14th.

6 I am having a bit of a problem with  
7 rooms, so I will have to let you know where we will  
8 be.

9 MR. DAVIS: We have a large conference  
10 room in our building.

11 HEARING OFFICER WALLACE: How large is  
12 it?

13 MR. DAVIS: It will seat 22 people around  
14 the table. It is large enough for us.

15 HEARING OFFICER WALLACE: Is there any  
16 objection to that? If I can't find anything, then  
17 Mr. Davis' offer might be a last resort.

18 MR. DAVIS: The acoustics are good and  
19 the chairs are comfortable.

20 HEARING OFFICER WALLACE: For some reason  
21 April is not a good month for hearings around here.

22 I understand your objection to having the  
23 hearing in the Attorney General's office.

24 MR. DAVIS: I don't.

1 (Laughter.)

2 MR. VAN NESS: As a last resort I guess  
3 we have no objection.

4 MR. TAYLOR: I assume we will try to find  
5 someplace else.

6 HEARING OFFICER WALLACE: I will let  
7 everyone know as soon as I can.

8 All right. If there be nothing further,  
9 we stand adjourned. Thank you.

10 (Discussion off the record.)

11 HEARING OFFICER WALLACE: Back on the  
12 record.

13 I told everyone we were adjourned, but we  
14 are not off the record yet.

15 We completed a short discussion on the  
16 motion to amend the answer, which I did grant and  
17 the motion to extend discovery, which I did grant  
18 yesterday. I will follow-up with the written  
19 Hearing Officer order.

20 With that in mind, the extension on  
21 discovery is limited to the Waste Hauling Landfill  
22 doing very limited discovery in terms of tracking  
23 down some lab employees of Westen (spelled  
24 phonetically) Lab and, again, limited



1 interrogatories to Bell Sports concerning the new  
2 amendment to the answer.

3 MR. LATSHAW: Does that include the  
4 request to produce? I would like the documents  
5 used to answer the questions.

6 HEARING OFFICER WALLACE: I am sorry?  
7 The documents they use to --

8 MR. LATSHAW: Well, if they use -- in  
9 answering the interrogatories, if they rely on  
10 documents, I would like to have the copies of the  
11 documents that they used to rely upon to answer the  
12 questions.

13 MR. TAYLOR: We have no objection.

14 HEARING OFFICER WALLACE: All right.  
15 There is no objection. That would be included  
16 also.

17 Now, is there anything else?

18 MS. MENOTTI: That was it. That was the  
19 only outstanding issue, I think, that we had.

20 MR. LATSHAW: What is that?

21 HEARING OFFICER WALLACE: That was the  
22 only outstanding issue we had.

23 MR. LATSHAW: Yes.

24 HEARING OFFICER WALLACE: Okay. Then we

1 stand adjourned to April 15th. Thank you.

2 (All hearing exhibits were  
3 retained by Hearing Officer  
4 Wallace.)

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

3 C E R T I F I C A T E

4 I, DARLENE M. NIEMEYER, a Notary Public  
5 in and for the County of Montgomery, State of  
6 Illinois, DO HEREBY CERTIFY that the foregoing 122  
7 pages comprise a true, complete and correct  
8 transcript of the proceedings held on the 4th of  
9 March A.D., 1997, at the Illinois State Library,  
10 300 South Second Street, in the Illinois Authors  
11 Meeting Room, Springfield, Illinois, in the case of  
12 The People of the State of Illinois v. Bell Sports,  
13 Inc. and Waste Hauling Landfill, Inc. and Waste  
14 Hauling, Inc. in proceedings held before the  
15 Honorable Michael L. Wallace, Hearing Officer, and  
16 recorded in machine shorthand by me.

17 IN WITNESS WHEREOF I have hereunto set my  
18 hand and affixed my Notarial Seal this 12th day of  
19 March A.D., 1997.

20  
21

22 Notary Public and  
23 Certified Shorthand Reporter and  
24 Registered Professional Reporter

CSR License No. 084-003677  
My Commission Expires: 03-02-99