

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

APR 29 2004

STATE OF ILLINOIS
Pollution Control Board

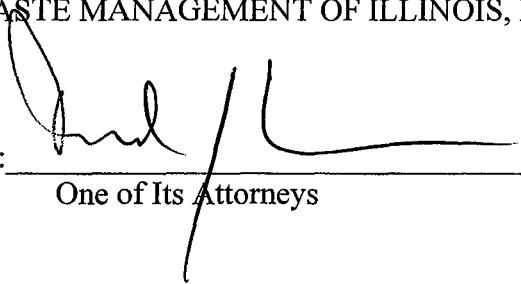
VILLAGE OF SOUTH ELGIN,)	
)	
Complainant,)	No. PCB 03-106
)	
vs.)	(Enforcement)
)	
WASTE MANAGEMENT OF ILLINOIS, INC.,)	
)	
Respondent.)	

NOTICE OF FILING

TO: See Attached Service List

PLEASE TAKE NOTICE that on April 29, 2004, we filed with the Illinois Pollution Control Board, the attached **RESPONDENT WASTE MANAGEMENT OF ILLINOIS, INC.'S MOTION FOR SUMMARY JUDGMENT** in the above entitled matter.

WASTE MANAGEMENT OF ILLINOIS, INC.

By:  _____
One of Its Attorneys

Donald J. Moran
 Lauren Blair
 PEDERSEN & HOUP
 161 North Clark Street, Suite 3100
 Chicago, Illinois 60601
 (312) 641-6888
 Attorney Registration No. 1953923

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

APR 29 2004

STATE OF ILLINOIS
Pollution Control Board

VILLAGE OF SOUTH ELGIN,)
a municipal corporation,)
)
Complainant,)
)
v.)
)
WASTE MANAGEMENT OF)
ILLINOIS, INC.,)
)
Respondent.)

No. PCB 03-106
(Enforcement)

**RESPONDENT WASTE MANAGEMENT OF ILLINOIS, INC.'S
MOTION FOR SUMMARY JUDGMENT**

Respondent Waste Management of Illinois, Inc. ("WMII") by its attorneys, Pedersen & Houpt, moves the Illinois Pollution Control Board ("IPCB") to enter summary judgment in its favor and against Petitioner Village of South Elgin ("Village") because there is no genuine issue of material fact as to the meaning of Condition 4 in Kane County Resolution 88-155 dated September 13, 1988 ("Resolution 88-155"). In support of this motion, WMII states the following:

INTRODUCTION

On January 16, 2003, the Village filed a complaint against WMII seeking to enforce two special conditions of a site location approval granted by the Kane County Board for the expansion of the Woodland Sanitary Landfill ("Woodland Landfill"). (See Resolution No. 88-155, pp. 3-5). Condition 4 of that approval provides that the Woodland Landfill site "shall not be expanded further."

The Village claims that Condition 4 prohibits any further development at the Woodland Landfill site other than as a passive recreational use. According to the Village, this would

include any proposal to develop a waste transfer station on any portion of the Woodland Landfill site. However, the plain language of Condition 4 states that there shall be no further expansions of the Woodland Landfill site. There is no language in Condition 4 that prohibits the development of a waste transfer station, nor is there any intent or understanding behind the plain language of Condition 4 that it was meant to prohibit the development of a waste transfer station on the Woodland Landfill site. There is no reference or suggestion in any of the conditions contained in Resolution 88-155 that a waste transfer station would be prohibited on the Woodland Landfill site. Hence, a proposal to develop a waste transfer station is not proscribed.

FACTUAL BACKGROUND

The Woodland Landfill was established by WMII in 1976 and was subsequently expanded in 1982 and 1988. (Complaint, ¶2.) The entire Woodland Landfill is located on 213 acres of property and is owned by WMII ("Woodland Landfill Site"). (Complaint, ¶2). The Woodland Landfill waste footprint was initially permitted for 55 acres by the Illinois Environmental Protection Agency ("IEPA") in 1976 ("Woodland I"). (Complaint, ¶2). The waste footprint was expanded in 1982 and permitted for an additional 48 acres by the IEPA ("Woodland II"). (Complaint, ¶2).

On April 7, 1988, WMII filed an Application for Site Location Approval for a Non-Hazardous Solid Waste Management Site with the Kane County Board to expand Woodland I and II. ("Woodland III Application"). In April, 1988, the total permitted waste footprint of Woodland I and II was 103 acres. (See Woodland III Application, Executive Summary). The expansion proposed by the Woodland III Application included a vertical expansion of 20 acres of Woodland II, and a 28-acre horizontal footprint expansion between Woodland I and Woodland II ("Woodland IIP"). (See Woodland III Application, Executive Summary). The total waste

footprint of the Woodland Landfill, with the approval of Woodland III, was 121 acres on the 213-acre site. (See Woodland III Application, Executive Summary).

Prior to the local siting hearing for Woodland III, WMII sent a letter to the Village dated July 8, 1988 ("July 8 letter"). (Complaint, Ex. 1). In the July 8 letter, WMII stated that in the event that Kane County granted siting approval and the IEPA issued an operating permit for Woodland III, Woodland III would be the last expansion of the Woodland Landfill that WMII would attempt to get approved. (Complaint, Ex. 1).

At the public hearing held on July 26, 1988, WMII made certain representations, including the statements contained in the July 8 letter, which were read into the record by WMII attorney Donald Moran. (Complaint, ¶8). However, the July 8 letter contained no statements, representations or references to any end use for the Woodland Landfill Site.

On September 13, 1988, Kane County granted site location approval for the Woodland III expansion, subject to certain conditions. The Approval and conditions were contained in Resolution 88-155, which provided, in part:

1. For purposes of these conditions, Waste Management means Waste Management of Illinois, Inc. and any successor thereto or assignee thereof. "Woodland" or "the Woodland Site" means the area comprised of the Woodland I, II, and III landfill sites. "Village" means the Village of South Elgin, Illinois.

2. That the site will be developed and operated in a manner consistent with the representations made at the public hearing in this matter held on July 26, 1988 and to all applicable laws, statutes, rules and regulations of the Illinois Environmental Protection Agency, and the Illinois Pollution Control Board, or their successors, as may be now or hereafter in effect and which are applicable to this site.

4. The site, commonly known as the Woodland site, shall not be expanded further.

(Complaint, Ex. 1).

The statement in the July 8 letter, and made on the record at the July 26, 1988 public hearing, that the proposed expansion of Woodland III would be the last expansion of the Woodland Landfill, was the basis for the inclusion of Condition 4 in Resolution 88-155.

On June 14, 2002, WMII filed with Kane County a Site Location Application for Woodland Transfer Facility ("Transfer Facility Application"). (Complaint, ¶4). The Transfer Facility Application requested site location approval for a waste transfer facility on an approximate 9-acre portion at the southern end of the Woodland Landfill Site ("Woodland Transfer Facility"). (Complaint, ¶4). The Transfer Facility Application did not seek to expand the Woodland Landfill, i.e., Woodland I, II or III.

An expansion of a landfill involves the increase of disposal capacity through a vertical and/or horizontal extension of the waste footprint in order to extend the period the landfill would continue to receive and dispose of waste. An expansion may also involve the lateral extension of the landfill property boundaries. Because the Transfer Facility Application did not request an increase in the size, capacity or waste footprint of Woodland I, II, or III, it was not a request to further expand the Woodland Landfill.

The Transfer Facility Application was ultimately denied by Kane County on December 10, 2002 for reasons unrelated to any of the conditions contained in Resolution 88-155. On January 14, 2003, WMII filed a Petition for Review with the IPCB pursuant to Section 40.1(a) of the Illinois Environmental Protection Act ("Act"). On June 19, 2003, the IPCB affirmed Kane County's denial in a written decision in Waste Management of Illinois, Inc. v. County Board of

Kane County, Illinois, No. PCB 03-104, slip op. (June 19, 2003). No appeal of that decision was filed.

Condition 4 of Resolution 88-155 was based on the statement in the July 8 letter, which was represented at the July 26, 1988 public hearing, that “the Woodland site would not be expanded further.” Hence, the meaning of that statement in the July 8 letter established the meaning of Condition 4.

In March 2004, in connection with this enforcement action, the sender and recipient of the July 8 letter testified at depositions concerning the meaning of the statement that “the Woodland site would not be expanded further.” On March 16, 2004, Mr. Donald Price, the WMII vice president who signed the July 8th letter, stated that the waste footprint of Woodland III was configured to allow for the possible future development of a transfer station on a portion of the Woodland Site. (Price Tr. at 19-24)¹. By excluding an area on the southern portion of the Woodland Site from the expanded waste footprint of Woodland III, WMII intended to permit the development of a transfer station. (Price Tr. at 21-24). Thus, Mr. Price did not intend or state in the July 8 letter that the agreement not to expand the Woodland Landfill Site a third time was an agreement not to develop a waste transfer station.

The testimony of Mr. Thomas Rolando, who was the mayor of the Village of South Elgin in 1988, at his March 19, 2004 deposition confirmed that meaning. His discussion with the Village Board established that the understanding of WMII's statement was that WMII would not ask again to operate a landfill at the Woodland site. (“Rolando Tr. at 27”)². He acknowledged

¹ The deposition transcript of Donald Price will be cited to herein as “(Price Tr. at ____).” The Price Deposition Transcript is attached as Exhibit A.

² The deposition transcript of Thomas S. Rolando will be cited to herein as “(Rolando Tr. at ____).” The Rolando Deposition Transcript is attached as Exhibit B.

that the plain language of the July 8 letter stated that WMII would agree to no more expansions of the Woodland Landfill site. (Rolando Tr. at 39-40). There was no reference in the July 8 letter to any agreement not to develop a transfer station on the Woodland site. (Rolando Tr. at 38-39). Indeed, as the matter was never raised, neither Mr. Rolando nor the Village Council understood that WMII's agreeing not to further expand the Woodland landfill included an agreement not to develop a waste transfer station. (Rolando Tr. at 40-41, 59-60).

In accordance with Condition 4, WMII has not sought a further expansion of the Woodland Landfill site. (Rolando Tr. at 44-45). Condition 4 does not prohibit WMII from seeking to develop a waste transfer station on the Woodland Site. Thus, a request for site location approval of a waste transfer station on the Woodland Site does not violate Condition 4.

UNDISPUTED FACTS

1. Woodland Sanitary Landfill was initially permitted for a 55-acre waste footprint on a 213-acre site by the Illinois Environmental Protection Agency in 1976 ("Woodland I"). (Complaint, ¶2).

2. The waste footprint was permitted for an additional 48 acres within the 213-acre site by the Illinois Environmental Protection Agency in 1982 ("Woodland II"). (Complaint, ¶2).

3. On April 7, 1988, WMII filed an Application for Site Location Approval for a Non-Hazardous Solid Waste Management Site with the Kane County Board to expand Woodland I and II ("Woodland III").

4. Woodland III included a vertical expansion of 20 acres of Woodland II, and a 28-acre horizontal expansion of the waste footprint between Woodland I and Woodland II, within the 213-acre site.

5. The total waste footprint of the Woodland Sanitary Landfill, with the approval of Woodland III, was 121 acres on the 213-acre site.

6. WMII had communications with the Village of South Elgin in 1987 and 1988 concerning Woodland III. (Price Tr. at 16; Rolando Tr. at 23-29).

7. The principal concern expressed by the Village of South Elgin concerning Woodland III related to the possible danger to the Village water supply and the potential threat of groundwater contamination. (Rolando Tr. at 24-25).

8. Based upon its discussions with the Village of South Elgin in 1987 and 1988, WMII sent a letter to the Village dated July 8, 1988. (Complaint, Ex. 1; Rolando Tr. at 43).

9. The July 8 letter stated a number of conditions that WMII would agree to in the event the Kane County Board granted site location approval and the Illinois Environmental Protection Agency issued an operating permit for Woodland III. (Complaint, Ex. 1)

10. The July 8 letter included conditions that would obligate WMII to (1) advance remediation costs in the event the two closest municipal wells were contaminated, (2) extend the existing groundwater monitoring program to include quarterly sampling and analysis for 31 volatile organic parameters, and (3) allow the Village to obtain groundwater samples from any monitoring well at any time and inspect any phase of landfill construction. (Complaint, Ex. 1).

11. The July 8 letter included a condition that Woodland III "will be the last expansion that we will attempt to do on this site which is commonly known as the Woodland Landfill site." (Complaint, Ex. 1).

12. The public hearing on the site location approval application for Woodland III was held by the Kane County Board on July 26, 1988. (Complaint, ¶8).

13. The July 8 letter was read into the record by WMII at the July 26 public hearing. (Complaint, ¶8).

14. Paragraph three of the July 8 letter was presented at the public hearing as follows: "Waste Management of Illinois, Inc., agrees and stipulates that this expansion will be the last expansion that we will attempt to do on this site which is commonly known as the Woodland Landfill site." (Complaint, Ex. 5).

15. On September 13, 1988 the Kane County Board granted site location approval for Woodland III in its Findings and Order, Kane County Resolution No. 88-155. ("September 13 Order"). (Complaint, Ex. 1).

16. In the September 13 Order, the Kane County Board incorporated conditions based upon the statements presented in the July 8 letter. (Complaint, Ex. 1).

17. Condition 4 of the September 13 Order provided that "(t)he site, commonly known as the Woodland site, shall not be expanded further." (Complaint, Ex. 1).

18. The September 13 Order defined the "Woodland Site" as "the area comprised of the Woodland I, II and III landfill sites." (Complaint, Ex. 1).

19. Condition 4 of the September 13 Order provides that the Woodland I, II and III landfill sites shall not be expanded further. (Complaint, Ex. 1).

20. Condition 4 of the September 13 Order contains no language or provisions that refer to the development of a waste transfer station on the Woodland site.

21. Condition 4 of the September 13 Order contains no language or provisions that prohibit the development of a waste transfer station on the Woodland site.

22. A sanitary landfill is defined in the Illinois Environmental Protection Act. 415 ILCS 5/3.445 (2000).

23. A waste transfer station is defined in the Illinois Environmental Protection Act. 415 ILCS 5/3.500 (2000).

24. A sanitary landfill is not the same activity as a waste transfer station. 415 ILCS 5/3.445, 3.500 (2000).

25. The expansion of a landfill is not equivalent to the development of a waste transfer station.

26. The prohibition of any further Woodland landfill expansion in Condition 4 of the September 13 Order is not a prohibition of the development of a waste transfer station on the Woodland site.

ARGUMENT

Summary judgment is appropriate when the pleadings, depositions, affidavits and other items in the record disclose no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Dowd & Dowd, Ltd. v. Gleason, 181 Ill. 2d 460, 483, 693 N.E.2d 358, 370 (1998); People v. Jersey Sanitation Corporation, No. PCB 97-2, 2002 Ill. Env. LEXIS 197 (April 4, 2002). There are no disputed issues of fact regarding the meaning of Condition 4 of Resolution 88-155. Based on the clear and unambiguous language of Condition 4, WMII is prohibited only from seeking further expansion of the Woodland Landfill, not from seeking to develop a waste transfer station. The parties to the July 8 letter confirmed that they did not intend the prohibition of further expansions of the Woodland Landfill to apply in any way to the development of a waste transfer station on the Woodland Landfill Site. Moreover, pursuant to the Act, developing a waste transfer station is a separate and distinct activity from expanding a sanitary landfill. Therefore, WMII's attempt to site a waste transfer station does not constitute a

violation of Condition 4, or any other condition contained in Resolution 88-155. Based on the undisputed facts of this case, WMII is entitled to summary judgment as a matter of law.

I. The Clear and Unambiguous Language of Condition 4 Prohibits Only the Further Expansion of Woodland Landfill, not the Development of a Waste Transfer Station

The language in Condition 4 should be reviewed so as to determine and give effect to the intentions of the parties. See e.g., In re Marriage of Hasabnis, 322 Ill. App. 3d 582, 594-95, 749 N.E.2d 448, 458 (1st Dist. 2001) (the rules of statutory construction require that the legislature's intent be given effect). The most reliable indicator of intent is the plain and ordinary meaning of the language to be interpreted. Id. Therefore, every word in Condition 4 should be given a reasonable meaning within the context of the other related conditions in Resolution 88-155. Id.

Condition 4 states: "The site, commonly known as the Woodland site, shall not be expanded further." Condition 1 defines the term "Woodland site" as "the area comprised of the Woodland I, II, and III landfill sites." Thus, the plain and unambiguous language of Condition 1 and 4 of Resolution 88-155 clearly states that the only limitation placed on WMII with respect to the Woodland Landfill concerns the further expansion of the sanitary landfill.

Mr. Price and Mr. Rolando testified that the plain language used therein, and later made into Condition 4, was a true indicator of their intent. In stating that WMII was prohibited from seeking further expansions of the Woodland Landfill, Mr. Price and Mr. Rolando did not intend for that prohibition to apply in any way to the development of a waste transfer station.

In light of the plain language of Condition 4, in conjunction with the testimony of Mr. Price and Mr. Rolando, there are no disputed issues of fact regarding the meaning of Condition

4. The facts show that Condition 4 prohibits any further expansion of the Woodland Landfill, but does not contain any prohibitions with respect to the development of a waste transfer station.

II. A Landfill Expansion is Distinct from the Development of a Waste Transfer Station as a Matter of Law

The Village erroneously contends in this action that WMII's attempt to site the Woodland Transfer Facility equates to an expansion of the Woodland Landfill. However, a waste transfer station and a sanitary landfill are not treated synonymously under the Act. Rather, a transfer station is a fundamentally different activity than a landfill. See 415 ILCS 5/3.445 (sanitary landfill) and 5/3.500 (transfer station).

Likewise, the development of a waste transfer station does not constitute an expansion of an existing landfill. The Act defines an "expansion" as the area "beyond the boundary of a currently permitted" sanitary landfill. 415 ILCS 5/3.330(b)(2). As such, an expansion of a landfill involves the increase of disposal capacity through a vertical and/or horizontal extension of the waste footprint in order to extend the period the landfill would continue to receive and dispose of waste. An expansion may also involve the lateral extension of the landfill property boundaries. In other words, an expansion is an increase in the size or disposal capacity of an existing landfill facility. M.I.G. Investments, Inc. v. EPA, 122 Ill. 2d 392, 523 N.E.2d 1 (1988) (expansion not limited to lateral expansion, but includes vertical expansion, of currently permitted facility).

WMII attempted to site a waste transfer station on an approximate 9-acre portion of the Woodland Landfill Site that is separate and apart from the 121-acre waste footprint on which the landfill was operated. While Condition 4 of Resolution 88-155 prohibits the further expansion of the Woodland Landfill, it does not prohibit the development of a transfer station on the Woodland Landfill Site. Because the Transfer Facility Application did not request an increase in

the size, capacity or waste footprint of Woodland I, II, or III, it was not a request to further expand the Woodland Landfill. Therefore, WMII's attempt to site a waste transfer station on a parcel of land apart from the actual Woodland Landfill cannot constitute a violation of Condition 4 of Resolution 88-155.

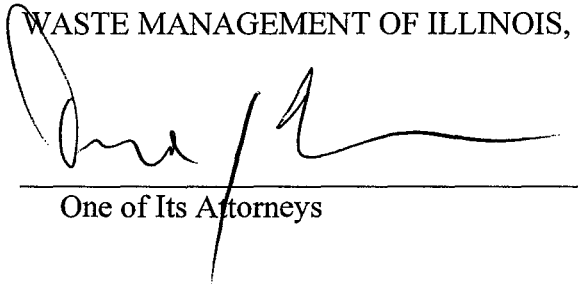
CONCLUSION

For all of the foregoing reasons, Respondent Waste Management of Illinois, Inc. requests the entry of summary judgment in its favor and against Petitioner Village of South Elgin, and for any further relief in its favor that this IPCB deems fair and equitable.

Respectfully submitted,

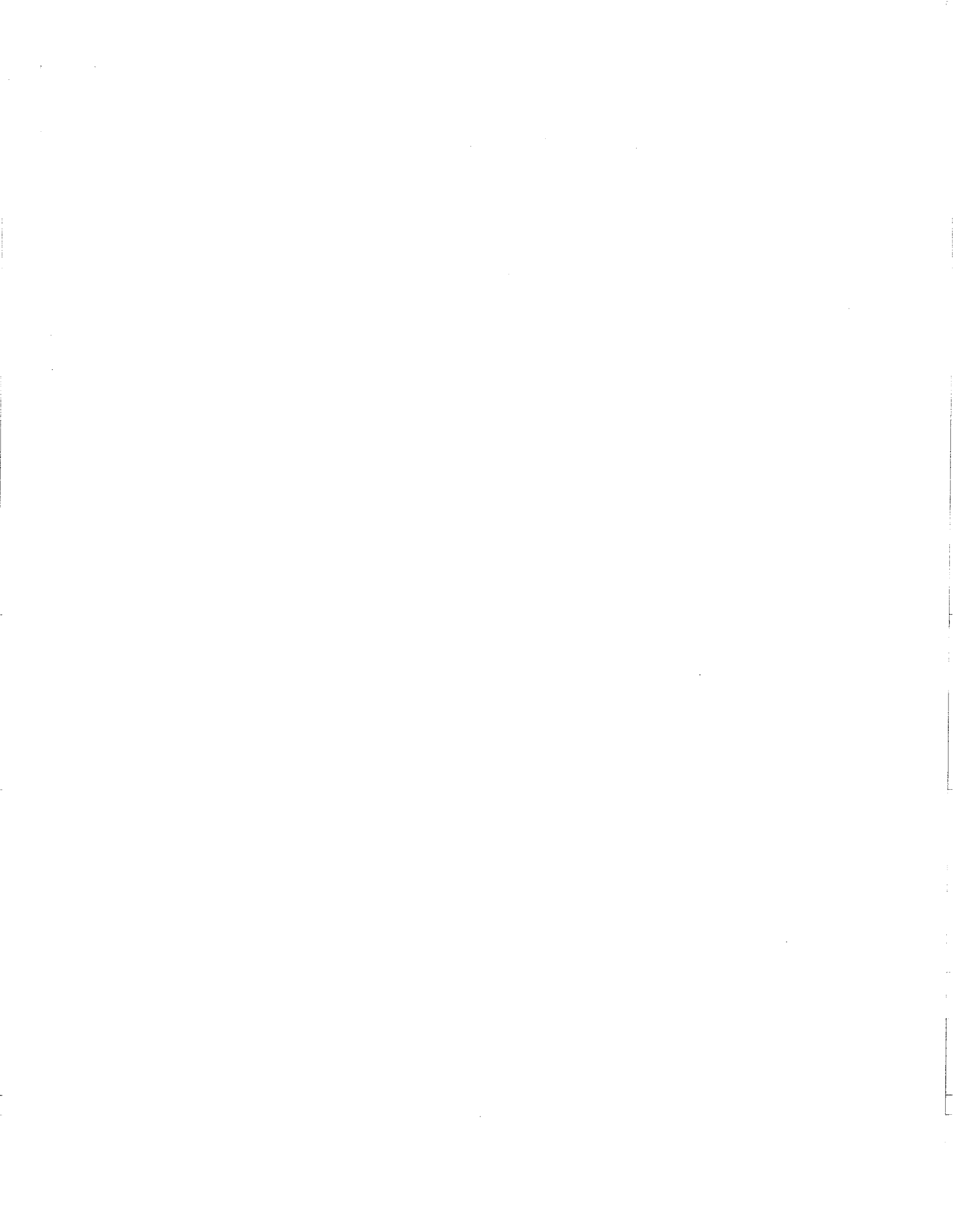
WASTE MANAGEMENT OF ILLINOIS, INC.

By:



One of Its Attorneys

Donald J. Moran
Lauren Blair
Pedersen & Houpt, P.C.
161 N. Clark Street
Suite 3100
Chicago, Illinois 60601
(312) 641-6888



1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
 2 VILLAGE OF SOUTH ELGIN,)
 3 Complainant,)
 4 vs.) No. PCB 03-106
 5 WASTE MANAGEMENT OF ILLINOIS,)
 6 INC.,)
 7 Respondent.)
 8
 9 The deposition of DONALD PRICE,
 10 taken before Maryann Cherry, Certified Shorthand
 11 Reporter, Registered Professional Reporter, and
 12 Notary Public, pursuant to the provisions of the
 13 Rules of Civil Procedure of the State of Illinois
 14 and the Rules of the Supreme Court thereof
 15 pertaining to the taking of depositions for the
 16 purpose of discovery at 215 Fulton Street,
 17 Geneva, Illinois, commencing at the hour of 11:26
 18 o'clock a.m. on the 16th day of March, A.D. 2004.
 19
 20
 21
 22
 23
 24

I N D E X

2 WITNESS EXAMINATION
 3 DONALD PRICE
 4 By Mr. Moran 04 - 34
 5
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24

E X H I B I T S

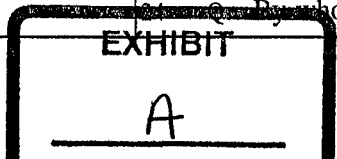
NUMBER	MARKED FOR ID
Donald Price Deposition Exhibit	
No. 1	8
No. 2	11
No. 3	14
No. 4	16
No. 5	17
No. 6	25
No. 7	27
No. 8	28
No. 9	24
No. 10	30
No. 11	30

1 APPEARANCES:
 2 PEDERSEN & HOUP
 3 BY: MR. DONALD J. MORAN
 4 161 N. Clark St.
 5 Suite 3100
 6 Chicago, Illinois 60601-32244
 7 (312) 261-2149
 8 (312) 261-1149 - FAX
 9 On behalf of the Plaintiff;
 10 ANCEL GLINK, DIAMOND, BUSH, DiCIANNI &
 11 ROLEK, PC
 12 BY: MR. DERKE J. PRICE
 13 140 South Dearborn Street
 14 Suite 106
 15 Chicago, Illinois 60603
 16 (312) 782-7606
 17 (312) 782-0943 - FAX
 18 On behalf of the Defendant.
 19
 20
 21
 22
 23
 24

1 WHEREUPON:
 2 DONALD PRICE,
 3 called as a witness herein, having been first
 4 duly sworn, was examined and testified as
 5 follows:
 6
 7
 8
 9
 10
 11
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24

E X A M I N A T I O N

BY MR. PRICE:
 Q. Let the record reflect this is the
 deposition of Don Price pursuant to agreement of
 counsel in the Pollution Control Board
 Proceedings 03-106, Village of South Elgin,
 Complainant, versus Waste Management of Illinois,
 the Respondent.
 Mr. Price, my name is Derke Price.
 I am the attorney for the Village of South Elgin.
 I don't have too many questions, but I
 have some questions related to the 1988 Woodland
 III Expansion and about the transfer station.
 BY MR. PRICE:
 Q. First, would you state your name and
 give me your current address?
 A. Donald Price, Three Camelot Drive,
 Oak Brook, Illinois.
 By whom are you currently employed?



1 A. **Retired.**
 2 Q. You're retired most recently from whom?
 3 A. **Waste Management.**
 4 Q. Of Illinois, Inc.?
 5 A. **Yes.**
 6 Q. Briefly, I want to just review your
 7 background.
 8 When did you retire from Waste
 9 Management?
 10 A. **1993.**
 11 Q. And from what position did you retire?
 12 A. **I was a Vice President with Waste**
 13 **Management.**
 14 Q. To whom did you report before your
 15 retirement?
 16 A. **I'm trying to think. A lot of things**
 17 **were going on at that date, Phil Rooney.**
 18 Q. And since your retirement, have you done
 19 any consulting work for Waste Management?
 20 A. **No.**
 21 Q. What's the highest level of education
 22 you've achieved; do you have a master's or
 23 doctorate or anything?
 24 A. **No, three-and-a-half years, University**

1 **President with the responsibility for seven**
 2 **states.**
 3 Q. And when was the first time you were
 4 ever involved in an application for siting
 5 approval of a pollution control facility?
 6 A. **I can't remember. I don't recall.**
 7 Q. I take it you've done several before
 8 Woodland III, as we know it?
 9 A. **I'm not sure what your question is,**
 10 **though.**
 11 Q. Well, I don't want to waste your time or
 12 Don's time.
 13 A. **I understand.**
 14 Q. Part of the issue is the application
 15 that Waste Management submitted -- strike that.
 16 The issue is over the terms and
 17 conditions of the approval of the Woodland III
 18 Expansion.
 19 When I refer to Woodland III, do
 20 you know what I'm referring to?
 21 A. **Yes.**
 22 Q. That's the Woodland Landfill Site
 23 located east of South Elgin; would you agree?
 24 A. **Yes.**

1 **of Illinois.**
 2 Q. Do you have a degree of any kind from
 3 them?
 4 A. **No.**
 5 Q. Would you trace for me your career with
 6 waste deposal, waste management industry?
 7 A. **I joined Waste Management in 1970 in a**
 8 **division they had in Milwaukee. It was prior to**
 9 **the company going public. When we went public in**
 10 **1972. And I worked through the corporate office**
 11 **in acquisitions, development of businesses**
 12 **through the 70s.**
 13 **Through the 80s, worked**
 14 **consolidating the industry itself by whom we**
 15 **bought divisions. We put them together and**
 16 **coached and directed how to run the businesses.**
 17 **Through the 90s became more closely**
 18 **associated to the midwest region here as a**
 19 **district manager. And more specific to this**
 20 **situation here, I became district manager in 1987**
 21 **of the Northern Illinois District which included**
 22 **all of the businesses in the Chicago Metropolitan**
 23 **area.**
 24 **In 1989 I became the Region Vice**

1 Q. And Woodland III, is the 1988 -- or
 2 thereabouts -- expansion of the site?
 3 A. **Yes.**
 4 Q. And you were involved in the application
 5 process to the Kane County Board and the Illinois
 6 Environmental Protection Agency for the
 7 Woodland III application?
 8 A. **I was senior manager of the area at the**
 9 **time. In terms of directly involved, no.**
 10 Q. Let me backtrack then.
 11 1976, when the Woodland Landfill
 12 first opened, did you have any responsibilities
 13 for the Woodland Landfill?
 14 A. **No.**
 15 Q. In 1982 when what was commonly referred
 16 to as the Woodland II Expansion took place, did
 17 you have any responsibilities for the Woodland
 18 Landfill site?
 19 A. **No.**
 20 Q. So 1987 was the first time your area of
 21 responsibility included the area that we know as
 22 the Woodland Landfill?
 23 A. **Yes.**
 24 Q. With regards to the Woodland III

1 Expansion, let me mark this as Price Exhibit 1.
 2 It was produced by Waste Management. It's a
 3 three-ring binder called the proposed Woodland
 4 III Sanitary Landfill.
 5 Have you seen this before, the
 6 application?
 7 **A. I don't recall.**
 8 Q. Did you have any role whatsoever in
 9 approving the contents of the application to the
 10 Kane County Board for the Woodland III Sanitary
 11 Landfill?
 12 **A. In improving the contents?**
 13 Q. Yes.
 14 **A. Of this document here?**
 15 Q. Yes.
 16 **A. Well, I'm trying to fashion it in a way**
 17 **that -- in that it fell under my jurisdiction at**
 18 **the time, I'm sure I had knowledge of it, not**
 19 **reading it specifically, but understanding what**
 20 **the focus of the goal was.**
 21 Q. Okay. Did you have any final approval
 22 of the engineering designs and plans contained in
 23 the application?
 24 **A. Again, as a senior guy, I understand**

1 **A. No, I don't.**
 2 Q. I believe you said your position at the
 3 time was senior manager?
 4 **A. Vice President of the Midwest Region.**
 5 Q. As the Vice President of the Midwest
 6 Region, what did you do to satisfy yourself
 7 before you submitted this application to the Kane
 8 County Board that the contents were fair and
 9 accurate and as the company wanted them to be?
 10 **A. We have a system of delegation where you**
 11 **presume your people know what the direction is.**
 12 **And when a document like this comes before you,**
 13 **you presume that it's as was discussed.**
 14 Q. Mr. Price, I'm going to show you what's
 15 been marked for identification as Exhibit 2. It
 16 purports to be a November 12th, 1986, letter on
 17 Waste Management letterhead to you from
 18 Mr. Dan Nelson. I'll tell you all the documents
 19 I'm going to hand you today have been produced by
 20 Waste Management. Okay?
 21 **A. Okay.**
 22 Q. In connection with this case.
 23 First of all, I know it's been a
 24 long time, do you recall seeing this document

1 **what the concept was.**
 2 Q. Before it was submitted to Kane County,
 3 did you read all of it?
 4 **A. No.**
 5 Q. I don't want to be tricky about it.
 6 For example, there's a cover letter
 7 in here dated April 7th, 1988, that purports to
 8 be from you.
 9 **A. Uh-huh.**
 10 Q. Let me ask you first of all, do you
 11 recognize the cover letter dated April 7, 1988,
 12 to Mr. Frank Miller, Chairman of the Kane County
 13 Board?
 14 **A. It's a long time ago.**
 15 Q. I grant you that, sir.
 16 **A. I don't recall specifically.**
 17 Q. Do you recognize your signature on the
 18 document?
 19 **A. Yes, uh-huh.**
 20 Q. Did you dictate the letter or was that
 21 something that was prepared for you by other
 22 people at Waste Management for your signature?
 23 **A. It was prepared for me.**
 24 Q. Do you recall who prepared it for you?

1 prior to today?
 2 **A. I don't recall.**
 3 Q. Do you recall who Dan Nelson is?
 4 **A. I think Dan Nelson was an engineer in**
 5 **the engineering group at the time.**
 6 Q. In the letter it states that he's
 7 setting forth a schedule for firming up the
 8 siting application and he says, quote, the
 9 schedule reflects the reality of planning site
 10 end use with input from the Kane County Forest
 11 Preserve District and from the Village of South
 12 Elgin; do you see that?
 13 **A. Yes.**
 14 Q. Do you have a recollection why you seek
 15 input from the Village of South Elgin in 1986
 16 about the end use plan?
 17 **A. South Elgin was the governing body at**
 18 **the time, so certainly I was interested in what**
 19 **the City has to say.**
 20 Q. When you say the governing body, you
 21 don't mean the one with siting authority? This
 22 is a site located in the county, correct?
 23 **A. Yes.**
 24 Q. So when you say they were the governing

1 authority, you mean the neighboring governing
2 authority?

3 **A. The neighboring governing authority,**
4 **right.**

5 Q. Why also then were you interested in
6 input from the Kane County Forest Preserve on the
7 end use plan?

8 **A. I would think -- I don't want to**
9 **speculate. We had a site in Kane County.**
10 **So you're asking me to speculate on**
11 **what my thoughts were at the time. I can't come**
12 **to a conclusion on it.**

13 Q. Did you attend any meetings with the
14 Village of South Elgin or the Kane County Forest
15 Preserve where you asked for their ideas on the
16 end use plan?

17 **A. No.**

18 Q. If you refer to page 2 of the letter,
19 Mr. Nelson states in that first full paragraph
20 there under the dates in the second sentence the
21 schedule reflects a middle-of-the-road estimate
22 of the time this may take. I'm sorry. The
23 second sentence.

24 The first of these is the

1 the Honorable Thomas Rolando, Mayor of South
2 Elgin, from John Rohr. And you're not shown as a
3 carbon copy recipient or anything.

4 My first question is, do you recall
5 ever seeing this document prior to today?

6 **A. No.**

7 Q. Did you have any direct conversations
8 with Mayor Rolando during the Waste Management
9 application for Woodland III?

10 **A. No.**

11 Q. Who is Al Stob?

12 **A. Al Stob worked for me with specific**
13 **responsibilities for aiding in site development,**
14 **particularly in the Chicago suburban area,**
15 **searching for sites, site expansion, contact with**
16 **local municipalities, he was my conduit.**

17 Q. Did he report immediately to you?

18 **A. Yes.**

19 Q. Who is Bill Shubert?

20 **A. Bill Shubert is the region engineering**
21 **manager.**

22 Q. Did he have a direct reporting
23 relationship to you as well?

24 **A. Yes.**

1 give-and-take which we can expect to happen in
2 the end use planning process. I know I'm asking
3 you to think back to '86.

4 Do you have a recollection of what
5 the give-and-take that Mr. Nelson is referring to
6 there is?

7 **A. No.**

8 Q. In the second full paragraph on page 2
9 he says the end use ideas currently under
10 discussion generally involve donating the
11 property to a public and, slash, or environmental
12 organization upon completion of the landfill,
13 period.

14 Do you recall any discussions from
15 the '86-'87 time frame about donation of the
16 property to a public or environmental
17 organization?

18 **A. No.**

19 Q. Is that something that might have gone
20 to the Kane County Forest Preserve?

21 **A. I have no idea.**

22 Q. Mr. Price, let me hand you what's been
23 marked for identification as Exhibit 3. It
24 purports to be a September 23, 1987, letter to

1 Q. Do you recall -- you can set the
2 document aside. Do you recall any discussions
3 back in '86-'87 about getting the Village of
4 South Elgin's input on engineering concerns for
5 the Woodland III expansion?

6 **A. Well, it just begs the question that we**
7 **would do that. So in terms of a discussion, I'm**
8 **sure there was a discussion somewhere about it.**
9 **But I don't remember specifically where.**

10 Q. And for those of us who don't do this
11 everyday, why would Waste Management certainly
12 have a discussion with South Elgin about
13 engineering of the Woodland Landfill?

14 **A. To get approval on any site anywhere you**
15 **have to get input from the community you're**
16 **working with, so you understand what you're**
17 **doing.**

18 Q. Let me show you what's been marked for
19 identification as Exhibit 4 which purports to be
20 an October 20th, '87, letter again to
21 Mayor Rolando from Mr. Rohr. Again, you're not
22 shown as a carbon copy recipient.

23 The first question is: Do you
24 recall ever seeing this document prior to today?

1 A. No.
 2 Q. You can set it aside then.
 3 Do you recall any discussion about
 4 reimbursing the Village of South Elgin for
 5 engineering costs that were incurred during the
 6 Woodland III application for engineering
 7 purposes?
 8 A. No.
 9 Q. I'm going to show you what's been marked
 10 for identification as Exhibit 5.
 11 It purports to be a March 1, 1988,
 12 letter to the Woodland III correspondence file
 13 from Bill Shubert.
 14 My first question is this: Is the
 15 Woodland III correspondence file something that
 16 you maintained, that you reviewed, as the Vice
 17 President?
 18 A. No, I did not maintain the file.
 19 Q. Did you ever review the file?
 20 A. No. We can set that aside then, too.
 21 Q. Do you recall receiving any reports
 22 about the substance of the discussions between
 23 Waste Management staff and the Village of South
 24 Elgin's engineering firm and its officials

1 sending a letter to Mayor Rolando stipulating
 2 that the Woodland III Landfill Expansion would be
 3 the last expansion at the site?
 4 A. I don't recall.
 5 Q. In Price Exhibit 1 let me take you to --
 6 under tab 3 which was in the application for
 7 compatibility, that's the criterion and take you
 8 specifically to the end use plan. If you want to
 9 review anything else, feel free to do so.
 10 I have a specific question which
 11 is: Do you recall seeing back in the '87-'88
 12 time frame the end use plan that's contained in
 13 the Exhibit 1 including the diagram on Page 10?
 14 A. This is from '88 now, you're talking
 15 about then or recently?
 16 Q. This is from '88.
 17 A. From '88?
 18 Q. Yes, sir.
 19 A. The only thing I would have -- had input
 20 on was in terms of the footprint, that we had
 21 talked about, was to conserve an area. And we
 22 talked about it a lot between Stob, Shubert, and
 23 myself. An area for someday having a transfer
 24 station on that piece of property.

1 concerning how Woodland III should be designed?
 2 A. No.
 3 Q. Do you remember any discussion prior to
 4 the formal filing of the application about a
 5 commitment from the Waste Management to do no
 6 more expansions of Woodland?
 7 A. No.
 8 Q. In 1988 did Mr. Stob have authority on
 9 behalf of Waste Management to agree to a
 10 condition like no more expansions of the Woodland
 11 Landfill with a municipality like South Elgin?
 12 A. He would.
 13 Q. Did you attend the public hearing that
 14 Kane County Board held on the Woodland III
 15 application?
 16 A. No.
 17 Q. When you submitted the application under
 18 your cover letter and signed it, was it the
 19 intent of Waste Management that the Kane County
 20 Board could rely on the representations made in
 21 the application?
 22 A. Yes.
 23 Q. Do you have any recollection of Mr. Stob
 24 discussing with you the fact that he would be

1 And in fact when you look at the
 2 footprint, if the intent was to have just a
 3 landfill, we wouldn't incorporate all the way up
 4 to the road because then you could see everywhere
 5 we went we incorporated square footage of space
 6 for development of a site to take advantage of
 7 the airspace.
 8 Whether that was communicated or
 9 not, obviously it wasn't. But I know what the
 10 intent was from a region's perspective.
 11 Q. What in the diagram that you traced with
 12 your finger indicates an area that's being
 13 reserved for a transfer station?
 14 A. We kept -- this is the entrance area.
 15 We thought the logical spot would be right in the
 16 this area here (indicating).
 17 Q. The area where there is indicated to be
 18 a walking path, would be the --
 19 A. Well, right now, is that a walking path,
 20 is that what that is?
 21 Q. Yeah.
 22 A. Yeah, this area (indicating).
 23 Q. And so the fact that there's a walking
 24 path there is an indication that that was being

1 reserved for a transfer station?
 2 A. All I can tell you is my direction and
 3 our intent was to -- after the site was filled,
 4 the landfill portion was filled, to create an
 5 area where we could develop a transfer station in
 6 the future. When was the future? Today is the
 7 future, I guess.
 8 Q. Well, now you say that that was the
 9 intent of the company, Waste Management?
 10 A. Yes.
 11 Q. And you communicated that to Mr. Stob
 12 and Mr. Shubert?
 13 A. Yes.
 14 Q. How did you communicate that to them?
 15 A. Sitting on the site itself. I remember
 16 specifically that Bussema was with me, who was
 17 the site manager at the time, Mr. Stob was there.
 18 And the conversation rolled around, we've got to
 19 have some space down the road on the site, on
 20 this piece of property, should it become a
 21 transfer station at some point.
 22 Now, whether that obviously did not
 23 get followed through in terms of the design and
 24 layout, that's another matter.

1 a need for transfer stations in the future.
 2 Let's save a piece for development of a transfer
 3 site.
 4 Q. And after that one meeting, you
 5 personally took no steps to monitor whether the
 6 plan was to save that space?
 7 A. Right, yes.
 8 Now, it doesn't say -- I don't
 9 recall that this thing came before me and
 10 somebody laid this out and said, oh, okay, we've
 11 got this, this is virgin here, right guys, we can
 12 do something there, not taking into consideration
 13 what the path, if that is a path, whatever it is.
 14 I'm just sharing with you. I don't
 15 recall that portion, but I'm sure we looked at it
 16 to make sure.
 17 Q. Do you recall any conversations about
 18 the role of the Kane County Forest Preserve after
 19 the landfill was full?
 20 A. No.
 21 Q. Now, you traced the entire boundary of
 22 the site to take advantage of the airspace?
 23 A. Uh-huh.
 24 Q. Exactly how does that work, how does

1 Q. Did these meetings take place before
 2 Woodland III or after?
 3 A. Before.
 4 Q. And so sometime between your arrival in
 5 '86 and the discussions about the end use plan in
 6 late '86, early '87, you had this discussion
 7 where we needed to keep a transfer station?
 8 A. Yes.
 9 Q. Did you document that in any way?
 10 A. No.
 11 Q. Did anybody document it to your
 12 knowledge?
 13 A. I obviously did not, but it doesn't
 14 appear that way, no.
 15 Q. And how many -- and how many times did
 16 this discussion about a transfer station occur?
 17 A. The only time that I can specifically
 18 recall -- I mean, clearly recall, was the visit
 19 at the site and when we talked about the
 20 expansion itself and what we wanted to do, how
 21 big the footprint should be, what we should
 22 really save in terms of space. And that was the
 23 focus of my concern, was understanding clearly
 24 down the road, the site will get filled, there's

1 that relate to airspace?
 2 A. You can see the sloped contours, it goes
 3 right into the corner, the contour lane, we pick
 4 up every foot that came right up to the
 5 borderline to capture all airspace that moves up.
 6 Q. Why is that important?
 7 A. That's revenue, those are dollars,
 8 that's airspace for future disposal, for current
 9 disposal.
 10 Q. And the black boundary that goes all
 11 around the site boundary, what does that mean?
 12 A. You can't go beyond that boundary to
 13 bury refuse.
 14 Q. And the end use plan refers to the site,
 15 was defined by the site boundary, true?
 16 A. Yes.
 17 Q. Let me show you what's been marked for
 18 identification as Price Exhibit 9 and let me ask
 19 you if it's directed to Mr. Shubert from
 20 Mr. Bauer with a copy to Tom Rolando. And then
 21 it says, from Waste Management files, Al Stob and
 22 Gerard Hamblin.
 23 Have you ever seen this document
 24 prior to today?

Page 25

1 A. No.

2 Q. Did Mr. Stob ever discuss with you the

3 fact that his negotiations with Baxter, Woodman,

4 and Tom Rolando included sending a letter stating

5 that the Woodland III landfill space would be the

6 last expansion of this site and remaining

7 contiguous lands owned by Waste Management would

8 not be used for future expansions?

9 A. No.

10 MR. PRICE: What did I mark that, 9?

11 THE WITNESS: 9.

12 BY MR. PRICE:

13 Q. This is marked as Exhibit 6, the

14 July 8th, 1988, letter from you to Mr. Rolando.

15 A. Uh-huh.

16 Q. Did you write this or was it prepared

17 for you?

18 A. It was prepared for me.

19 Q. By whom?

20 A. I would think this would come out of the

21 engineering department.

22 Q. Mr. Stob?

23 A. No.

24 Q. Mr. Shubert?

Page 26

1 A. Probably Mr. Shubert.

2 Q. And does it bear your signature?

3 A. Yes.

4 Q. Why did you sign it?

5 A. As the lead guy in the region, I'm the

6 guy responsible.

7 Q. Did you review it before you signed it?

8 A. I'm sure I did.

9 Q. Did you understand the letter was going

10 to be committed to the Kane County Board?

11 A. Yes. Oh, to the Kane County Board?

12 Q. Yes, the person with siting authority

13 reviewing the application.

14 A. I presumed it would be, yes.

15 Q. Did you consider it accurate when you

16 signed it?

17 A. I presumed it was accurate, yeah.

18 Q. Did you think it was misleading in any

19 way?

20 A. Did I think it was misleading?

21 Q. Yes. Did you think the letter was

22 misleading when you signed it?

23 A. No.

24 Q. Did you think the letter was unclear

Page 27

1 when you signed it?

2 A. No.

3 Q. Did you think the letter was ambiguous

4 when you signed it?

5 A. No.

6 Q. Was it your free and voluntary act to

7 sign it?

8 A. Yes.

9 Q. Prior to signing it, did you call

10 Mr. Shubert or Mr. Stob and make any inquiries

11 about any of the terms in the letter?

12 A. No.

13 Q. Did you discuss it with anyone?

14 A. No.

15 Q. Let me show you what's been marked for

16 identification as Price Exhibit 7. It's the

17 July 8th, 1988, letter to Mr. Miller, Chairman of

18 the Kane County Board from Mayor Tom Rolando.

19 Do you recall seeing this letter

20 prior to today?

21 A. No.

22 Q. You can set it aside if you want.

23 Do you recall that South Elgin was

24 also going to submit a letter indicating to the

Page 28

1 Kane County Board pursuant to the terms of the

2 July 8 letter they were not going to oppose the

3 application for Woodland III?

4 A. Could I get the question again?

5 MR. PRICE: Would you read it back?

6 (Record read as

7 requested.)

8 THE WITNESS: I don't recall it

9 specifically.

10 BY MR. PRICE:

11 Q. Do you recall any discussions with

12 anyone about the obligation of South Elgin to

13 reimburse Waste Management for remediation costs

14 if the contamination of the wells turned out not

15 to be the fault of the landfill or Waste

16 Management?

17 A. No.

18 Q. Let me show you Price Exhibit 8. This

19 is how it's assembled in the Waste Management

20 production. The first two pages are your letter

21 which says entered 9-18-88, page two of

22 Exhibit 2. And then attached to it, Resolution

23 No. 88155, that's grant and approval of the

24 Woodland III application.

1 Have you ever seen this before
 2 today?
 3 A. No.
 4 Q. Do you have an independent recollection
 5 that the siting of the Waste Management
 6 application for Woodland III before the Kane
 7 County Board was approved?
 8 A. Yes.
 9 Q. So the siting of the application was
 10 successful?
 11 A. Yes.
 12 Q. And did you get an operating permit from
 13 IEPA?
 14 A. Yes.
 15 Q. Were you aware that Kane County approval
 16 came with certain conditions?
 17 A. Was I aware?
 18 Q. Yes.
 19 A. All siting applications come with
 20 conditions, so yes.
 21 Q. And particularly this approval came with
 22 conditions, yes?
 23 A. All siting applications come with
 24 conditions.

1 Waste Management to us. I didn't want to change
 2 that. It was all stapled together. There are
 3 various minutes of the Village of South Elgin.
 4 The first page is January 3, 1989; the second
 5 page is from January 4, 1988; the third page is
 6 from February 15th, 1988; the next page is from
 7 March 7th, 1988; the next page is from
 8 April 18th, '88; the next page is May 2nd, 1988;
 9 the page following is from June 20th, 1988; then
 10 July 5th, 1988; December 19, '88; and then
 11 March 16th, 1987; October 5th, 1987.
 12 Sir, do you ever recall looking at
 13 the minutes from the Village of South Elgin
 14 during your time as the Vice President in charge
 15 of the midwest region?
 16 A. No.
 17 Q. Do you know how it is that Waste
 18 Management comes to have copies of the minutes in
 19 its file?
 20 A. No, I don't.
 21 Q. Were you aware of any procedure or
 22 policy or rule or operating procedure at Waste
 23 Management where it was retained to get copies of
 24 the minutes from any governmental authority that

1 Q. I'm interested in the approval, not the
 2 application.
 3 A. Yeah, there were conditions under all
 4 approvals, too.
 5 Q. Did you seek to contest any of the
 6 conditions put in place by the Kane County Board
 7 on their approval of Woodland III?
 8 A. No.
 9 Q. Let me show you what's been marked for
 10 identification as Price Exhibit 10. It's a
 11 December 12th, 1988, letter to a Mr. William
 12 Child at the IEPA from Chris Rubak. Again,
 13 you're not shown as a CC. But let me ask you if
 14 you've ever seen this document prior to today?
 15 A. No.
 16 Q. Do you recall any -- independent of the
 17 documents, do you recall anything happening near
 18 the end of '88 where somebody wanted a public
 19 hearing on the Woodland III permit application
 20 before the IEPA?
 21 A. No, I don't.
 22 Q. Last but not least, I want to show you
 23 Price Exhibit 11, which is a group exhibit.
 24 This is how it was produced by

1 you were working with or before on an
 2 application?
 3 A. No.
 4 Q. We saw earlier in the exhibits, sir, a
 5 time line put together by Mr. Nelson about how
 6 things would go in getting the application ready
 7 and submitting it.
 8 Was there a team that was part of
 9 this process for developing the application and
 10 putting it in that report to you at Waste
 11 Management?
 12 A. Bill Shubert was the manager of
 13 engineering and Dan Nelson reported to Shubert.
 14 John Rohr reported to Shubert. Any engineers
 15 involved reported back through Shubert.
 16 Q. How often did you have a meeting with
 17 the people working and reporting to you about the
 18 Woodland III application?
 19 A. We would have monthly operating reviews
 20 for all the divisions at that time. And in
 21 preparation for that, we would discuss each
 22 operation and each facility, each site, in terms
 23 of what was going on, volumes, business revenues.
 24 Those sites where we had expansions

1 going on, we would once a month review or add on
2 expansions, how is it going, permits have been
3 applied for, contacts going. So we would get
4 input every month.

5 Q. Were reports prepared in advance of that
6 meeting?

7 A. No.

8 Q. Was there any routine way for
9 Mr. Stob -- and we'll start with him, for
10 Mr. Stob to share with you his discussions,
11 correspondence that he was receiving on
12 Woodland III?

13 A. No. Ours was all verbal. He'd spend
14 time with me each month, or more than that, and
15 talk about what the progress was on each project
16 he was involved in. I was not a guy that wrote a
17 lot at all. So it was just verbalized in terms
18 of what activities he was involved in.

19 Q. What about Mr. Shubert, did he prepare
20 any sort of written report to you monthly?

21 A. No, we didn't have any formalized
22 reporting system from the engineering department
23 up through -- because our focus continued to be
24 on the business side of the region.

1 BEFORE THE ILLINOIS POLLUTION CONTROL BOARD
2 VILLAGE OF SOUTH ELGIN,)
3 Complainant,)
4 vs.) No. PCB 03-106
5 WASTE MANAGEMENT OF ILLINOIS,)
6 INC.,)
7 Respondent.)

8 I, DONALD PRICE, being first duly sworn,
9 on oath, say that I am the deponent in the
10 aforesaid deposition, that I have read the
11 foregoing transcript of my deposition taken March
12 16, 2004, consisting of Pages 1 through 35,
13 inclusive, taken at the aforesaid time and place
14 and that the foregoing is a true and correct
15 transcript of my testimony so given.

16
17 _____
18 DONALD PRICE
19 SUBSCRIBED AND SWORN TO
20 before me this _____ day
21 of _____,
22 A.D., 2004.

21 _____
22 Notary Public

23 STATE OF ILLINOIS)
24) SS:
COUNTY OF C O O K)

1 Q. Who was Gerard Hamblin?

2 A. Gerard worked for Bill Shubert. He also
3 was an engineer.

4 Q. Do you know where Stob is today?

5 A. He's probably in Heaven.

6 Q. Oh, really?

7 A. Yeah.

8 Q. Well, I'm sorry to hear that.

9 A. That's all right.

10 MR. PRICE: That's all I have. Thank
11 you, Sir.

12 MR. MORAN: I have no questions.

13 We'll take a look at the
14 transcript. You can send it over to us.
15 Reserved. Thank you.

16 MR. PRICE: Before we get off the
17 record, I'll give you the original Exhibits 2
18 through 11. But I'm keeping No. 1 because it's
19 the binder.

20 MR. MORAN: Sure, no problem.

21 AND FURTHER DEPONENT SAITH NOT...
22
23
24

1 I, MARYANN CHERRY, Certified
2 Shorthand Reporter, Registered Professional
3 Reporter, and Notary Public in and for the County
4 of Will, State of Illinois, do hereby certify
5 that on the 16th of March, A.D., 2004, the
6 deposition of the witness, DONALD PRICE, called
7 by the Defendant, was taken before me, reported
8 stenographically and was thereafter reduced to
9 typewriting through computer-aided transcription.

10 The said deposition was taken at
11 the offices of Lannert Group, 215 Fulton Street,
12 Geneva, Illinois, and there were present Counsel
13 as previously set forth.

14 The said witness, DONALD PRICE, was
15 first duly sworn to tell the truth, the whole
16 truth, and nothing but the truth, and was then
17 examined upon oral interrogatories.

18 I further certify that the
19 foregoing is a true, accurate and complete record
20 of the questions asked of and answers made by the
21 said witness, at the time and place hereinabove
22 referred to.

23 The signature of the witness was
24 not waived by agreement.

Page 37

1 The undersigned is not interested
2 in the within case, nor of kin or counsel to any
3 of the parties.

4 Witness my official signature and
5 seal as Notary Public, in and for Will County,
6 Illinois on this _____ day of
7 _____, A.D., 2004.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

MARYANN CHERRY, C.S.R./R.P.R.

License No. 084-004252



Page 1

1 BEFORE THE POLLUTION CONTROL BOARD
 2 VILLAGE OF SOUTH ELGIN,
 3 Complainant,
 4 -vs- No. PCB 03-106
 5 WASTE MANAGEMENT OF
 6 ILLINOIS, INC.,
 7 Respondent.
 8 The deposition of THOMAS J.
 9 ROLANDO, taken before Diane L. Stodulski,
 10 Certified Shorthand Reporter, Registered
 11 Professional Reporter, and Notary Public,
 12 pursuant to the provisions of the Rules of
 13 Civil Procedure of the State of Illinois and
 14 the Rules of the Supreme Court thereof
 15 pertaining to the taking of depositions for
 16 the purpose of discovery at 29 North River
 17 Street, Batavia, Illinois, commencing at the
 18 hour of 10:14 o'clock AM on the 19th day of
 19 March, A.D. 2004.
 20
 21
 22
 23
 24

Page 3

1 I N D E X
 2 WITNESS EXAMINATION
 3 THOMAS J. ROLANDO
 4 By Mr. Moran 04
 5
 6
 7
 8
 9
 10
 11
 12 E X H I B I T S
 13 NUMBER MARKED FOR ID
 14 THOMAS J. ROLANDO Deposition Exhibit
 15 NO EXHIBITS MARKED
 16
 17
 18
 19
 20
 21
 22
 23
 24

Page 2

1 A P P E A R A N C E S :
 2 ANCEL, GLINK, DIAMOND, BUSH, DI CIANNI
 3 & ROLEK, P.C.
 4 BY: MR. DERKE J. PRICE
 5 140 South Dearborn Street
 6 Suite 600
 7 Chicago, IL 60603
 8 (312) 782-7606
 9 (312) 782-0943 (Fax)
 10
 11 On behalf of the Complainant;
 12
 13 PEDERSEN & HOUP
 14 BY: MR. DONALD J. MORAN
 15 161 North Clark Street
 16 Suite 3100
 17 Chicago, IL 60601-3224
 18 (312) 261-2149
 19 (312) 261-1149 (Fax)
 20
 21 On behalf of the Respondent.
 22
 23 * * *
 24

EXHIBIT

B

Page 4

1 WHEREUPON:
 2 THOMAS J. ROLANDO,
 3 called as a witness herein, having been
 4 first duly sworn, was examined upon oral
 5 interrogatories and testified as follows:
 6 E X A M I N A T I O N
 7 BY MR. MORAN:
 8 Q. Let the record reflect that this is
 9 the deposition of Mr. Thomas Rolando. This
 10 deposition is being taken pursuant to the
 11 Illinois Code of Civil Procedure, the
 12 Illinois Supreme Court Rules, any
 13 appropriate and applicable local rules, and
 14 in connection with the action filed by the
 15 Village of South Elgin against Waste
 16 Management of Illinois at PCB number 03-106.
 17 Mr. Rolando, good morning. My
 18 name is Don Moran, and I represent Waste
 19 Management of Illinois, Inc. which is the
 20 respondent in the enforcement action that I
 21 have just referred to.
 22 I'm going to ask you a number
 23 of questions that relate to a series of
 24 events that occurred quite a while ago back

1 in 1987, '88. I will try to make my
 2 questions as clear and understandable as
 3 possible, but frequently I don't succeed.
 4 If there is anything unclear to
 5 you in a question, I will just ask that you
 6 request clarification so that we can be sure
 7 that your answers correspond to the
 8 questions I'm asking; is that fair enough?
 9 A. Yes, sir.
 10 Q. Could you tell us your full name.
 11 A. **Thomas J. Rolando.**
 12 Q. What is your address?
 13 A. **510 East State Street, South Elgin,**
 14 **Illinois.**
 15 Q. And how long have you lived there?
 16 A. **42 years.**
 17 Q. Was there a period when you served
 18 as the Mayor of the Village of South Elgin?
 19 A. **Village President for 28 years,**
 20 **yes.**
 21 Q. And for what period were you
 22 President?
 23 A. **'69 was the first year and then 28**
 24 **years after that.**

1 and Disposal Facility?
 2 A. Yes.
 3 Q. When did you first become aware of
 4 that facility?
 5 A. **Well, there's a lot of things**
 6 **involved there. There's two sites -- one**
 7 **owned by the Evenhouse family on Route 25,**
 8 **one owned by Tri-County Landfill, and we got**
 9 **to know Waste Management as a result of that**
 10 **because these two were very bad.**
 11 **We had a suit before the**
 12 **Pollution Control Board, and they were**
 13 **ordered closed, an order that was pretty**
 14 **much ignored by the landfill people; and so**
 15 **then Waste Management offered to close the**
 16 **landfill by capping it to try to keep the**
 17 **leachate from getting in from the outside,**
 18 **and that's when we first became acquainted**
 19 **with anybody from Waste Management.**
 20 **They finished that site over a**
 21 **course of years, and then they approached us**
 22 **asking if they could enlarge the area to**
 23 **what is now Woodland Landfill.**
 24 Q. Well, is it accurate to say that

1 MR. PRICE: '97?
 2 THE WITNESS: Yes, that's right, 28
 3 years preceding '97.
 4 BY MR. MORAN:
 5 Q. And you said you were Village
 6 President?
 7 A. **That's the same as Mayor, different**
 8 **type of government.**
 9 Q. Could you briefly describe for me
 10 your educational background just starting
 11 with high school.
 12 A. **I graduated from Downers Grove High**
 13 **School in 1954. I graduated from the**
 14 **University of Wisconsin School of Pharmacy**
 15 **in 1958.**
 16 Q. And your profession is a
 17 pharmacist?
 18 A. **Pharmacist.**
 19 Q. And how long have you been a
 20 practicing pharmacist?
 21 A. **Since 1958.**
 22 Q. Now, are you familiar with the
 23 facility that has become to be known as the
 24 Woodland Landfill or the Woodland Recycling

1 the Tri-County Landfill is separate and
 2 distinct from what became the Woodland
 3 Landfill?
 4 A. Yes.
 5 Q. And the landfill that was operated
 6 by the Evenhouses, was that a facility that
 7 also was separate and apart from what has
 8 come to be known as the Woodland Landfill?
 9 A. Yes.
 10 Q. And would it be accurate to say
 11 that the Woodland Landfill commenced
 12 operation in 1976?
 13 A. **I don't have that figure in front**
 14 **of me. I really don't know when it began.**
 15 Q. You would not have any reason --
 16 A. **If you tell me that's when it was,**
 17 **I believe you.**
 18 Q. -- to believe it was some other
 19 year?
 20 MR. PRICE: You have to wait for
 21 him to finish his question, even though you
 22 know the answer two thirds of the way
 23 through. Don is being deliberate in his
 24 choice of words, and Diane can't record two

Page 9

1 people at once.
 2 THE WITNESS: Thank you.
 3 BY MR. MORAN:
 4 Q. You mentioned about some of the
 5 situations that arose as a result of the
 6 operation of Tri-County and also the
 7 facility that was operated by the
 8 Evenhouses.
 9 Did there come a time when the
 10 Village of South Elgin filed a lawsuit in
 11 connection with the operation of the
 12 Woodland Landfill?
 13 A. The Woodland Landfill?
 14 Q. Yes. The Woodland Landfill, yes.
 15 A. I don't recall filing against the
 16 Woodland -- well, let's see. I would say we
 17 filed opposition, I guess, before Kane
 18 County when it was first proposed, yes, we
 19 did, not before the Pollution Control Board,
 20 though.
 21 Q. There was a Circuit Court action
 22 filed, I believe?
 23 A. Yes. That's probably where it was.
 24 Q. It was filed against Waste

Page 10

1 Management of Illinois, Inc.; is that
 2 correct?
 3 A. If that's what you say. I mean,
 4 I'm going on memory here.
 5 Q. And that lawsuit related to the
 6 operation of one of those two landfills,
 7 either Tri-County or the Evenhouse facility?
 8 A. Well, there are so many different
 9 landfills here, it is hard for me to
 10 remember. 1970 is when the first two years
 11 in court was, and after that it was pretty
 12 much ongoing from then on with somebody
 13 trying to do something at the site.
 14 Q. Okay. Did the Village of South
 15 Elgin prior to 1988 have any authority or
 16 ability to inspect any portion of the
 17 operation of the Woodland Landfill?
 18 A. I'm not sure when they gave us
 19 permission. I think they gave us permission
 20 when they first got the permit to go there
 21 because we were opposing it, and they said
 22 what can we do to try to make you feel
 23 safer?
 24 As a result we got some water

Page 11

1 monitoring wells installed, the ability to
 2 go there if we told them in advance, and the
 3 water monitoring wells would be monitored
 4 quarterly and the results sent to our
 5 Village Engineer who then sent a letter to
 6 the South Elgin Village Board.
 7 Q. So was it the Village Engineer who
 8 had the responsibility of basically
 9 conducting whatever inspections or reviews
 10 of the operation of the Woodland Landfill on
 11 behalf of the Village?
 12 A. The Village Attorney reviewed the
 13 samples that the Woodland people sent to
 14 them. We didn't have the authority to take
 15 samples.
 16 Q. Who was the Village Attorney at
 17 that time?
 18 A. Ken Miles.
 19 Q. Is he still the Village Attorney?
 20 A. No.
 21 Q. How long did he serve as Village
 22 Attorney?
 23 A. Probably about 35 years maybe.
 24 Q. When did he cease serving as

Page 12

1 Village Attorney?
 2 A. 1998 or something like that.
 3 Q. Has that process or did that
 4 process of review of sampling information
 5 from the landfill continue through the
 6 closure of the Woodland Landfill to your
 7 knowledge?
 8 A. I think so.
 9 Q. And who would have taken over in
 10 1998 when the Village Attorney was replaced?
 11 A. I wasn't in office then. I'm not
 12 really sure.
 13 Q. Did you have any discussions or
 14 communications with any individuals
 15 regarding the proposed expansion of the
 16 Woodland Landfill that was proposed in 1982?
 17 A. Well, there is Woodland I, Woodland
 18 II, and Woodland III, if I'm not mistaken.
 19 Which one are you talking about?
 20 Q. Woodland II, which would have been
 21 the first expansion that was proposed for
 22 the Woodland Landfill, and that was in 1982.
 23 A. What was your question again?
 24 Q. My question was: Did you have any

1 discussions or conversations with any
 2 persons regarding Woodland II?
 3 A. We talked to everybody that we
 4 could think of who would be on our side.
 5 The County who had the authority to issue
 6 the license, we talked to them. We talked
 7 to the State, got letters from the Illinois
 8 Geological Survey. So many people I
 9 couldn't even begin to tell you how many
 10 people we talked to about the landfills.

11 Q. Did you have any communications or
 12 conversations with anyone from Waste
 13 Management of Illinois regarding Woodland
 14 II?

15 A. I'm sure we must have. I don't
 16 know if Mr. Izinga was still the attorney.
 17 He was the attorney in 1970 representing
 18 them. I don't know which attorney by name
 19 we would have talked to.

20 Q. Would you personally have talked to
 21 anyone from Waste Management in connection
 22 with Woodland II?

23 A. I'm sure. We were all at meetings
 24 together before the County and different

1 A. No, not yet.
 2 Q. Other than that concern regarding
 3 the potential or the possible threat to the
 4 groundwater, were there any other concerns
 5 discussed by the Village of South Elgin with
 6 Waste Management of Illinois regarding the
 7 proposal to expand Woodland in Woodland II?

8 A. Well, there were several
 9 discussions with Woodland I and Woodland II
 10 and Woodland III. They knew that it was
 11 within our comprehensive planning area, and
 12 we did have some authority there.

13 Q. And were there any other concerns
 14 expressed with respect to Woodland II other
 15 than the possible threat to the groundwater?

16 A. Well, after our experience with the
 17 Elgin Landfill that the Evenhouses owned and
 18 Tri-County that the other people owned,
 19 there were all kinds of concerns. The smell
 20 was terrible from those places. There
 21 was -- the Pollution Control Board record
 22 will tell you that the water was
 23 contaminated near the sites. Trees were
 24 dying. The water in a pond that was there

1 hearings. There were several hearings held
 2 about it.

3 Q. What were the concerns that the
 4 Village had with respect to the proposal to
 5 expand the Woodland Landfill as Woodland II?

6 A. Because it put it a little bit more
 7 close to the Village's water supply, and I
 8 guess maybe for the record I should say that
 9 the Village water supply is 113 feet deep,
 10 which is unheard of in this part of the
 11 world; and we have drawn billions of gallons
 12 out of that well, and it hasn't gone down
 13 one inch. So that is pretty strong concern
 14 when they are putting garbage within 100
 15 yards of your gravel aquifer.

16 Q. Has there been any evidence or any
 17 facts that you have become aware of
 18 indicating that the Woodland Landfill,
 19 whether it was Woodland as initially built,
 20 the first expansion of Woodland, or the
 21 second expansion of Woodland, that have in
 22 any way caused any contamination of the
 23 groundwater which is used by the Village for
 24 its drinking water supply?

1 was an orangish brown. Fish had died. The
 2 smell was bad. The upkeep was bad. There
 3 were papers blowing all over the highway and
 4 across the highway into the farmers' fields
 5 all over the place. Yes, we had a lot of
 6 concerns besides the water. The water was
 7 the most important one, though.

8 Q. Did Waste Management of Illinois
 9 respond to any of those concerns?

10 A. Well, I think they tried to address
 11 all of them.

12 Q. And were those concerns addressed
 13 in any written document or agreement by
 14 which Waste Management of Illinois would
 15 agree to take certain steps?

16 A. I would imagine some were in there.
 17 From memory it seems like if we could prove
 18 that the wells were polluted because there
 19 were private wells around the area, too,
 20 that they would pay immediately to restore
 21 them; and then if they could prove that they
 22 didn't do it, then they would have to be
 23 reimbursed. I don't know of any other
 24 written agreements we had.

1 They said a lot of things about
2 being better housekeepers and about running
3 a landfill the way it should be instead of
4 the way the ones were that were completed in
5 the Elgin Landfill and Tri-County Landfill.

6 Q. What was the size of the Woodland
7 Landfill when it was initially developed in
8 1976?

9 A. The three -- Woodland I, Woodland
10 II, and Woodland III -- the total property
11 was about 297 acres, just from memory.

12 Q. Is it true at the time that
13 Woodland Landfill was initially permitted
14 back in 1976 that was the size of the
15 property owned by Waste Management of
16 Illinois?

17 A. That was -- I think it was about
18 297 acres total owned, but the Woodland I
19 was only for a small permit.

20 Q. So that at no point after 1976 did
21 Waste Management of Illinois, Inc. acquire
22 any additional properties beyond that
23 initial site boundary in order to operate
24 Woodland Landfill; is that correct?

1 extending from the edge of their property
2 which was in South Elgin easterly to what is
3 called the Prairie Path now which would put
4 us contiguous to the property that Bartlett
5 was considering annexation of.

6 Q. And Waste Management of Illinois,
7 in fact, deeded that property to the
8 Village; isn't that correct?

9 A. That's correct.

10 Q. As a result of that transaction,
11 the Village of South Elgin was able to move
12 across easterly and annex certain property
13 located just to the east or northeast of the
14 Woodland site; is that correct?

15 A. That's correct.

16 Q. And did that happen in 1995 or
17 somewhere in the early 90s?

18 A. I don't know the year.

19 Q. And what was the consideration, if
20 any, that the Village of South Elgin
21 provided to Waste Management of Illinois for
22 the grant of that property?

23 A. I don't think we promised them
24 anything at the time. They knew, you know,

1 A. I think they always owned the 297
2 acres, even though they did not apply for
3 permits from the beginning.

4 Q. So that with respect to the
5 expansions that were proposed, both in 1982
6 and 1988, those expansions would take place
7 on properties that were part of the overall
8 site since 1976?

9 A. To the best of my knowledge. I
10 don't know what Waste Management owns.

11 Q. Now, did there come a time where
12 Waste Management agreed to donate any of its
13 property to the Village of South Elgin?

14 A. Boy, I don't know what year it was,
15 but there was -- let's see. The City of
16 Bartlett, I believe that was about the time
17 they proposed annexing all the property
18 right up to the South Elgin Village limits;
19 and we didn't have anything contiguous to
20 that property at the time, so we didn't have
21 any way to claim that that should be part of
22 the Village of South Elgin, and at that time
23 Woodland offered us a strip of land about
24 100 feet, maybe 50 feet north and south

1 that we had been very successful opposing
2 landfills in the past, and they were trying
3 to not get us mad at them, trying to act
4 like a good neighbor, and I'm not sure how
5 they ever had an idea about that.

6 It might have been developed
7 through the County, they're the people they
8 were working with, but there was nothing
9 promised to them. I think they were just
10 doing it to try to be a good friend or act
11 like a good friend.

12 Q. Is that how it was received by the
13 Village of South Elgin?

14 A. I think so.

15 Q. Did the Village of South Elgin
16 object either by formally appearing or by
17 submitting any written comments in
18 connection with the proposed expansion of
19 the Woodland Landfill II in 1982?

20 A. I believe so. I'm sure we did.

21 Q. And do you know the basis of the
22 objections that the Village of South Elgin
23 had in 1982 to the proposed expansion of
24 Woodland as Woodland II?

1 A. I think it was what I just said
 2 earlier besides the housekeeping things that
 3 were pretty bad and sometimes smelly,
 4 sometimes papers blowing, that would have
 5 been one of our objections, but our main one
 6 was always the fact that that landfill
 7 should never have been put on a shallow
 8 aquifer.

9 Q. And are you aware of whether the
 10 Kane County Board approved the expansion of
 11 Woodland II?

12 A. They must have or they wouldn't
 13 have been able to expand.

14 Q. And is it accurate to say that the
 15 Village of South Elgin's concerns with
 16 respect to the Woodland site were directed
 17 to the operation of a landfill on that
 18 property?

19 A. That's what we were objecting to,
 20 yes.

21 Q. Did there come a time then in 1986
 22 and 1987 when there was a proposal to
 23 further expand the Woodland Landfill as
 24 Woodland III?

1 Q. The letter suggests that an
 2 application to expand Woodland known as
 3 Woodland III would be filed at some point,
 4 and it requests that the Village review the
 5 application. Did that occur?

6 A. Yes.

7 Q. Who reviewed the application on
 8 behalf of the Village of South Elgin?

9 A. I know I read it over. I know our
 10 Village Attorney read it over. Other people
 11 on the Board may or may not have.

12 Q. Did the Village retain an
 13 engineering firm or a consulting firm to
 14 assist in its review of the application for
 15 Woodland III?

16 A. The Village Engineer for many years
 17 had been Baxter & Woodman, and they were the
 18 Village Engineer for about 30 years at least
 19 that I know of, and anything that had any
 20 engineering material on it would have been
 21 forwarded to them.

22 MR. MORAN: Let me show you what we
 23 have marked as Price Deposition Exhibit
 24 Number 9. If you can just take a moment to

1 A. Was there a proposal; is that what
 2 you are asking?

3 Q. Yes.

4 A. Yes, there was.

5 Q. And how did the Village first learn
 6 of the proposal to expand as Woodland III?

7 A. I'm sure they had to file a legal
 8 document informing us.

9 Q. Do you recall how you first learned
 10 of the fact that Waste Management of
 11 Illinois intended to expand Woodland a
 12 second time?

13 A. No, I don't.

14 Q. Let me show you what has previously
 15 been marked as Price Deposition Exhibit
 16 Number 3.

17 Mr. Rolando, could you look at
 18 Price Deposition Exhibit Number 3 and tell
 19 us if you have ever seen this before.

20 A. I'm sure I must have. I have got a
 21 thousand documents in my pile of landfill
 22 dating back from 1968, so there are a lot of
 23 them that I don't remember from memory. If
 24 it was sent to me, I'm sure I read it.

1 look at that, and I will ask you questions
 2 about it. In the meantime, I need to make a
 3 call.

4 (Whereupon a short break was
 5 had.)

6 BY MR. MORAN:

7 Q. Mr. Rolando, did you have a chance
 8 to look at Price Deposition Exhibit Number
 9 9?

10 A. Yes, I did.

11 Q. Have you ever seen that document
 12 before?

13 A. I'm sure I did. I'm sure I read
 14 everything that they sent to me about
 15 landfills.

16 Q. Would it be fair to say that this
 17 letter sets out a number of the concerns
 18 that the Village had with respect to the
 19 proposed expansion of the Woodland Landfill
 20 known as Woodland III?

21 A. Especially it dealt mainly with the
 22 leachate connection and the possible danger
 23 to the Village water supply.

24 Q. And that was the or at least one of

Page 25

1 the principal concerns the Village had with
 2 respect to any proposed expansion; would
 3 that be right?
 4 **A. That was always the main**
 5 **objection -- the contamination of the water.**
 6 Q. If I can direct your attention to
 7 page 2 of the letter and that first full
 8 paragraph beginning Al Stob stated; do you
 9 see where that is?
 10 **A. Yes.**
 11 Q. Do you know who Al Stob was?
 12 **A. Yes, I do.**
 13 Q. Who was Al Stob?
 14 **A. He was an employee of Waste**
 15 **Management. That's all I know.**
 16 Q. Did you have any discussions with
 17 Mr. Stob?
 18 **A. I talked to Mr. Stob probably 2 or**
 19 **300 times in the last 20 years before he**
 20 **passed away.**
 21 Q. Did you know Mr. Stob before you
 22 began dealing with him in connection with
 23 the Woodland Landfill?
 24 **A. No.**

Page 26

1 Q. Now, in that paragraph, it
 2 indicates that a letter would be sent to you
 3 indicating that the Woodland III landfill
 4 expansion would be the last expansion at the
 5 site, and the remaining contiguous lands
 6 owned by Waste Management would not be used
 7 for future expansions?
 8 **A. Yes.**
 9 Q. Was that something that Mr. Stob
 10 ever told you in a conversation?
 11 **A. Well, I'm sure in one of our**
 12 **conversations he said he would send me a lot**
 13 **of things, and I would imagine this was one**
 14 **of them.**
 15 Q. Who first suggested the idea that
 16 after the Woodland III landfill expansion
 17 there would be no further expansions?
 18 **A. I'm sure we did -- the Village did.**
 19 Q. When was that first raised by the
 20 Village?
 21 **A. I don't know.**
 22 Q. Who first raised it -- who at the
 23 Village? Was it you, was it someone at
 24 Baxter & Woodman, was it one of the

Page 27

1 Trustees?
 2 **A. I think the whole -- I'm sure**
 3 **several people asked that question over the**
 4 **course of time. I'm sure I did. I'm sure**
 5 **the Village Engineer did. We discussed it**
 6 **at Village Board meetings several times.**
 7 Q. And what specifically was discussed
 8 about any further expansions of the
 9 landfill?
 10 **A. Well, it was just like there will**
 11 **be no more, no how, no way ever if we get**
 12 **this next expansion.**
 13 Q. Meaning that the Village under no
 14 circumstances wanted to have to come back on
 15 a fourth proposed expansion of the landfill?
 16 **A. Their agreement was if we did not**
 17 **object strenuously to this one, they would**
 18 **never ask for anything else to operate a**
 19 **landfill.**
 20 Q. And actually I guess I misspoke,
 21 this would have been the second expansion of
 22 the landfill -- the one in '82 and then this
 23 one in '88; is that correct?
 24 **A. I think that's correct. We've had**

Page 28

1 **a balefill for the last eight years, so I**
 2 **have a lot of different things in my head**
 3 **about landfills right now.**
 4 Q. Do you recall whether there was
 5 ever, aside from this letter, any written
 6 communication to Waste Management indicating
 7 that the Village's desire was that the
 8 Woodland Landfill would not be expanded any
 9 further after Woodland III?
 10 **A. I'm sure that it was discussed that**
 11 **that was the end of it.**
 12 Q. My question just related to the
 13 fact that did the Village ever send a letter
 14 to Waste Management of Illinois ever asking
 15 for that as an agreement?
 16 **A. I don't know if we sent a letter.**
 17 **I'm sure we stated it in public meetings.**
 18 **There were hearings before the County.**
 19 **There were several hearings, and I'm sure**
 20 **that in their effort to get that third --**
 21 **the next site approved for a landfill, there**
 22 **were many things discussed that they thought**
 23 **would -- we asked for guarantees and some of**
 24 **the things that we asked for made us feel**

1 more comfortable with the operation of that
2 landfill, mainly the water monitoring wells
3 around the perimeter.

4 Q. Let me show you what has previously
5 been marked as Price Deposition Exhibit
6 Number 6.

7 A. Okay.

8 Q. Do you recognize Price Deposition
9 Exhibit Number 6?

10 A. As something I have seen before; is
11 that your question?

12 Q. Yes.

13 A. Yes, I do.

14 Q. And did you receive this letter on
15 or about July 8th of 1988?

16 A. Yes, I did.

17 Q. Does this letter set out the
18 agreement that Waste Management of Illinois
19 had agreed to provide to the Village of
20 South Elgin regarding the proposed expansion
21 of the Woodland Landfill that was Woodland
22 III?

23 A. Yes. It stipulates that this
24 expansion will be the last expansion that we

1 Q. When you say landfill facilities,
2 what are you referring to?

3 A. Anything that has to do with
4 garbage -- collection of garbage I guess.

5 Q. Where does it say that in this
6 statement?

7 A. Where does it not state it?

8 Q. Well, it refers to a landfill. You
9 said landfill facilities or anything having
10 to do with waste. I'm just trying to
11 understand how your understanding was that
12 this provision related to any landfill
13 facilities or anything having to do with the
14 handling of waste.

15 A. Well, in our discussions, that's
16 what we told them that if they wanted to get
17 this permit without our objection, they had
18 to guarantee us that they would not be
19 applying for anything else in the future,
20 and that's how they characterized it in
21 their letter.

22 Q. Applying for anything having to do
23 with a landfill, correct?

24 A. I guess landfilling garbage in any

1 will attempt to do on this site, which is
2 commonly known as the Woodland Landfill
3 site.

4 Q. And what did you understand that
5 provision or that statement to mean?

6 A. Well, we told them what we wanted,
7 and this was what they gave us is a
8 guarantee that there would be no permits
9 requested by Woodland or by Waste Management
10 in that area.

11 Q. Permits for?

12 A. Any type of landfill operation.

13 Q. Would it be fair to say that the
14 representation, as you understood it, meant
15 that Waste Management of Illinois agreed to
16 at no point ever expand the Woodland
17 Landfill again on that property?

18 A. Well, I suppose you might
19 characterize it that way. We characterized
20 it to mean that they would never be wanting
21 to put any more landfill facilities or
22 anything having to do with waste adjacent to
23 South Elgin anymore, that we would not have
24 to go fight this again ever.

1 way is the way we sort of understood it, but
2 I suppose you could say that if you wanted
3 to.

4 Q. Well, for example, was it the
5 Village's understanding that the agreement
6 by Waste Management to not further expand
7 the landfill would also include an agreement
8 not to construct any gas facility on the
9 premises?

10 A. No. Gas facility is one of the
11 problems. We wanted them to try to collect
12 the gas and get rid of it. When you go by
13 that inversion in the summertime, when the
14 air came down instead of going up, you can
15 smell garbage from a long way off.

16 Q. Of course, the gas facility would
17 also handle waste, wouldn't it?

18 A. I don't know how it would. It
19 handles methane gas which is the product of
20 waste decomposition.

21 Q. So your understanding of this
22 agreement was that it would not preclude
23 Waste Management from constructing a gas
24 facility on the property; is that correct?

1 A. Gas facilities were never even
 2 discussed at that time.
 3 Q. So would it be true that your
 4 understanding of this provision is that it
 5 would not include a proposal to construct a
 6 gas facility on the property?
 7 A. I guess if they would have said can
 8 we ever put a gas facility, we would have
 9 asked them about it. So if they never
 10 mentioned it, we never mentioned it.
 11 Q. Well, a gas facility isn't
 12 mentioned in this statement on Price
 13 Deposition Exhibit 6, is it?
 14 A. Where is that at?
 15 Q. It's the third full paragraph.
 16 A. Where does it exactly say --
 17 Q. My question is: If you could focus
 18 on this third paragraph in Price Deposition
 19 Exhibit 6, does that statement indicate that
 20 Waste Management of Illinois agrees not to
 21 further expand the Woodland Landfill by
 22 constructing a gas facility?
 23 A. It doesn't mention gas facilities
 24 at all in that paragraph.

1 Illinois from proposing to put a transfer
 2 station facility on any part of the Woodland
 3 property?
 4 A. That would be an expansion, I would
 5 think, and we would assume that that's not
 6 going to happen.
 7 Q. What language in this paragraph 3
 8 leads you to that conclusion that a transfer
 9 station somehow is included within the
 10 language in which Waste Management of
 11 Illinois agreed not to further expand the
 12 landfill site?
 13 A. It says we will not attempt to
 14 expand this, and I would say that anything
 15 new that they added to it was an expansion.
 16 Q. But they could add a gas facility,
 17 and that wouldn't be an expansion in your
 18 view?
 19 A. That would be part of the agreement
 20 to collect and treat gas. They were
 21 supposed to collect and treat leachate.
 22 Methane gases, everybody knows that knows
 23 anything about landfills, is always
 24 generated. They have torches. Everywhere

1 Q. And gas facilities was not part of
 2 your understanding as to what Waste
 3 Management was not going to develop further
 4 by way of expansion at the site; isn't that
 5 true?
 6 MR. PRICE: I object to form. You
 7 can answer. That's an objection for the
 8 record.
 9 THE WITNESS: Well, it wasn't
 10 discussed, so I don't know if we -- I'm not
 11 sure how to answer that.
 12 BY MR. MORAN:
 13 Q. Was it your understanding that
 14 Waste Management's agreement was not to
 15 build a gas facility at the property?
 16 A. No, that was never stated anywhere.
 17 Q. And that wasn't your understanding,
 18 was it?
 19 A. No. Gas facilities were not
 20 discussed.
 21 Q. Again, focusing on this third
 22 paragraph of Price Deposition Exhibit Number
 23 6, was it your understanding that this
 24 provision would prohibit Waste Management of

1 where you see a landfill, you'll see what
 2 they call a flare burning day and night 24
 3 hours a day where they take the gas and they
 4 burn it off to get rid of it. So handling
 5 the gas that they generated would be part of
 6 their obligation, whether they used it to
 7 their profit or whether they just burn it in
 8 the air like everybody else did.
 9 Q. What language in paragraph 3 leads
 10 you to conclude that the agreement not to
 11 expand the landfill site includes an
 12 agreement not to build or develop a transfer
 13 station?
 14 MR. PRICE: Asked and answered.
 15 THE WITNESS: Because that's what
 16 it says. We will not expand anywhere any
 17 time.
 18 BY MR. MORAN:
 19 Q. Where does it say in paragraph 3 we
 20 will not expand anywhere any time?
 21 A. It says we stipulate that this
 22 expansion will be the last expansion that we
 23 will attempt to do on this site which is
 24 commonly known as Woodland Landfill, so I

1 would say any expansion of Woodland Landfill
2 or their operation would be an expansion and
3 would be prohibited by their letter.

4 Q. Is it your understanding that the
5 expansion of a landfill includes the
6 development of a transfer station?

7 MR. PRICE: Objection to form. You
8 can answer.

9 THE WITNESS: In those days I don't
10 know if anybody had a transfer station. Do
11 you know? I think that's kind of recent.

12 I mean, all these hearings I
13 have gone to for the last 45 years, I don't
14 remember transfer stations ever coming up
15 except recently when they wanted to have a
16 balefill and things like that. I don't know
17 of a transfer station active in Illinois at
18 that time or at least near us.

19 BY MR. MORAN:

20 Q. Would it be accurate to say then
21 that the matter of transfer stations was
22 never discussed with Waste Management of
23 Illinois in connection with the proposed
24 expansion of the Woodland Landfill as

1 decided in the future and maybe 10 years
2 from now something else will come up that we
3 aren't discussing now, and I would say it
4 would be addressed the same way as far as
5 I'm concerned.

6 If they wanted to have some new
7 technology and build it there adjacent to
8 the landfill, that would be an expansion. I
9 guess the problem is how we define
10 expansion.

11 Q. Was expansion ever clearly defined
12 back in 1988 when this agreement by Waste
13 Management was proposed to the Village?

14 A. I don't think it had to be because
15 when you tell me you are not going to ask
16 for any more expansion, that covers
17 everything I want to know.

18 Q. And that agreement not to expand
19 related to the agreement not to expand the
20 landfill site; is that correct?

21 A. Any of their sites. It says the
22 Woodland site. That's what it says.

23 Q. It says the landfill site; doesn't
24 it?

1 Woodland III?

2 A. It was never discussed, never
3 brought up.

4 Q. Is it your understanding, as you
5 sit here today, that the agreement not to
6 further expand the Woodland Landfill site
7 included an agreement not to develop a
8 transfer station on that site?

9 A. I think if they would have wanted
10 to have a transfer station, they would have
11 put it in that letter, and we would have
12 objected to it. That in my mind is an
13 expansion of the site.

14 Q. That wasn't my question. My
15 question was: Your understanding of this
16 agreement by Waste Management, was it that
17 Waste Management of Illinois' agreement not
18 to further expand the landfill site included
19 an agreement not to develop a transfer
20 station on that property?

21 A. It doesn't say that in so many
22 words, but if it says we will not expand or
23 we promise not to expand in any way, that
24 would include any expansion that they

1 A. It says on the Woodland Landfill
2 site, so I don't know if they owned more
3 ground or not that was part of it.

4 Q. Am I reading the letter correctly,
5 it does say the Woodland Landfill site?

6 A. Yes, it says the Woodland Landfill
7 site.

8 Q. And no further expansions of the
9 Woodland Landfill site, correct?

10 A. That's what it says.

11 Q. That was your understanding is at
12 the time as to what Waste Management of
13 Illinois was agreeing to do -- not to
14 further expand the Woodland Landfill site?

15 A. My understanding was that they
16 would not apply for any more expansions at
17 the site.

18 Q. At the Woodland Landfill site?

19 A. Yes.

20 Q. At any time after July of 1988, did
21 you have any discussions with any
22 individuals while you were Mayor concerning
23 whether this agreement by Waste Management
24 not to further expand the site included an

Page 41

1 agreement not to develop a transfer station
 2 on the property?
 3 **A. The word transfer station was never**
 4 **mentioned in any of our discussions.**
 5 Q. And none of the discussions you had
 6 through the time you served as Mayor for the
 7 Village of South Elgin, correct?
 8 **A. Yes.**
 9 Q. Did anyone from Waste Management of
 10 Illinois, Inc. ever mention to you the
 11 possibility that a transfer station might be
 12 developed on the Woodland property while you
 13 served as Mayor or President of the Village?
 14 **A. No. I think I said previously the**
 15 **transfer station was never a term that I had**
 16 **heard in those days.**
 17 Q. Mr. Rolando, let me show you what
 18 we have marked as Price Deposition Exhibit
 19 Number 7.
 20 **A. Okay.**
 21 Q. Have you ever seen Price Deposition
 22 Exhibit Number 7 before?
 23 **A. Yes.**
 24 Q. Did you write this letter?

Page 42

1 **A. Yes.**
 2 Q. Did you send it on or about July
 3 8th of 1988 to Mr. Miller?
 4 **A. Yes.**
 5 Q. Was this letter sent as a result of
 6 the letter from Don Price that you received
 7 from Waste Management on July 8th of 1988?
 8 **A. Is that the one?**
 9 Q. That was the prior exhibit, yes.
 10 **A. Yes.**
 11 Q. That's Price Deposition Exhibit
 12 Number 6.
 13 **A. I think it states on Exhibit 7 that**
 14 **this was a product of a year's worth of**
 15 **negotiations.**
 16 MR. PRICE: When you say this, you
 17 mean the Price letter?
 18 THE WITNESS: The letter, Exhibit
 19 Number 7, refers to a year's discussions
 20 that we had been having, and this refers to
 21 that year. It doesn't refer to any
 22 particular letter by name. It just says all
 23 the one year that we have been meeting to
 24 try to make things safe.

Page 43

1 BY MR. MORAN:
 2 Q. And does Price Deposition Exhibit
 3 Number 7 indicate that the Village of South
 4 Elgin and Waste Management of Illinois had
 5 reached an agreement on various matters
 6 which would allow the Village to not object
 7 to the proposed expansion of Woodland III?
 8 **A. Yes.**
 9 Q. And that was the reason that you
 10 sent Price Deposition Exhibit Number 7 to
 11 Mr. Miller?
 12 **A. Yes, we wanted to be part of the**
 13 **County records on the hearing.**
 14 Q. And you referred in Price
 15 Deposition Exhibit Number 7 to the July 8th
 16 letter that Mr. Don Price had sent you; is
 17 that correct?
 18 **A. Yes.**
 19 Q. And you also had requested that the
 20 County incorporate the Price letter as part
 21 of the record on the application to expand
 22 Woodland in Woodland III; is that correct?
 23 **A. Yes.**
 24 Q. Do you know if that was ever done?

Page 44

1 **A. If what was ever done?**
 2 Q. If the letter from Don Price to you
 3 was made part of the record in the siting
 4 proceedings before Kane County.
 5 **A. I sent it to them. We did not**
 6 **attend the hearings. As we said, we would**
 7 **not object by being present.**
 8 Q. Did you ever obtain any information
 9 that would establish that, in fact, that the
 10 Don Price letter was made part of the
 11 proceedings before Kane County?
 12 **A. I can't say that I did, no.**
 13 Q. Did you ever become aware of any
 14 proposals by Waste Management of Illinois to
 15 further expand the Woodland Landfill after
 16 1988?
 17 **A. Would you ask that again, please.**
 18 Q. Did you ever become aware of any
 19 proposals by Waste Management of Illinois
 20 after 1988 to further expand on the Woodland
 21 Landfill site?
 22 **A. If you are referring to the**
 23 **transfer station, yes.**
 24 Q. Other than the transfer station,

Page 45

1 after 1988 did you become aware of any other
 2 proposals by Waste Management of Illinois to
 3 further expand the Woodland Landfill site?
 4 **A. Not that I can remember, no.**
 5 Q. Other than any discussions that you
 6 have had with Mr. Price concerning the
 7 proposal to develop a transfer station at
 8 the Woodland property, have you had
 9 discussions with any other person in
 10 connection with the proposal you became
 11 aware of by Waste Management of Illinois to
 12 develop a transfer station on the Woodland
 13 property?
 14 **A. I discussed it with several South**
 15 **Elgin people, yes.**
 16 Q. Who are these South Elgin people
 17 that you discussed this issue with?
 18 **A. We are talking about the transfer**
 19 **station now?**
 20 Q. Yes.
 21 **A. Carol Hecht, H-E-C-H-T; Nancy Rohr,**
 22 **R-O-H-R; Fred Schudel, S-C-H-U-D-E-L;**
 23 **Barbara Ross; and probably several other**
 24 **Village Presidents during the course of**

Page 46

1 **discussions. I don't really make notes of**
 2 **who I talked to.**
 3 Q. When did these discussions occur
 4 with these individuals?
 5 **A. After the application from Waste**
 6 **Management to Kane County for a permit for a**
 7 **transfer station.**
 8 Q. Do you remember when that was?
 9 **A. No, I don't.**
 10 Q. Within the last two years?
 11 **A. Two or three, yes.**
 12 Q. Had you discussed the proposal to
 13 develop a transfer station on that property
 14 with any current or former member of the
 15 Village of South Elgin City Council or
 16 President?
 17 **A. Nancy Rohr was a Village Trustee.**
 18 **Jim Hanson, yes, he is the current Village**
 19 **President.**
 20 Q. You talked to Jim Hanson too?
 21 **A. Jim asked me if I could find**
 22 **anything in my big box of stuff about**
 23 **landfills, it would be helpful.**
 24 Q. And did you go look in your big

Page 47

1 box?
 2 **A. Yes, I did.**
 3 Q. And did you find anything that was
 4 helpful?
 5 **A. They didn't have this letter, Price**
 6 **Exhibit Number 7 -- I'm sorry, that's not**
 7 **the one. There was one letter that -- and**
 8 **I'm not sure if we have it in the exhibits**
 9 **or not -- where they sent -- told us that**
 10 **they would not ask for any other expansions.**
 11 **I don't really believe it was one of these.**
 12 **I thought it was a one-page letter, but**
 13 **these people who I had talked to took that**
 14 **letter to the hearings, and I know they**
 15 **presented it.**
 16 Q. Do you have a copy of that letter?
 17 **A. Not with me.**
 18 Q. You have it at home?
 19 **A. I think so, but it is a big box.**
 20 **I'm not sure if I have still got that. Let**
 21 **me ask you a question. Are you aware that**
 22 **they filed a letter during the transfer**
 23 **station hearing that was to me as Village**
 24 **President saying they would not request any**

Page 48

1 **further expansion? It was in the newspaper,**
 2 **so I assume somebody saw it.**
 3 Q. If you still have that letter,
 4 would you be willing to provide it to
 5 Mr. Price so he can give it to me?
 6 **A. Yes.**
 7 Q. I'm not certain we have seen that
 8 letter, and I'm not sure what it is without
 9 having seen it.
 10 **A. It pretty much says what this one**
 11 **says. If you do not object to our**
 12 **expansion, we would not seek any further**
 13 **expansions.**
 14 Q. Who wrote that letter?
 15 **A. I don't remember.**
 16 Q. Was it somebody from Waste
 17 Management?
 18 **A. Yes, it was written on Waste**
 19 **Management letterhead.**
 20 Q. And it was directed to you?
 21 **A. Yes.**
 22 Q. Addressed to you?
 23 **A. Yes.**
 24 **MR. PRICE: If it is something**

1 different than this, we will get it to you.
 2 THE WITNESS: It may be this one.
 3 I really don't remember now. Like I said,
 4 there is a lot of landfill stuff going
 5 through my brain for about the last 40
 6 years.
 7 BY MR. MORAN:
 8 Q. So you have reviewed all of the
 9 documents that you have possession of, and
 10 you were able to find this one document that
 11 relates to this question; is that correct?
 12 A. Yes.
 13 Q. And there were no others that you
 14 found that related to the question?
 15 A. None that I found, no, but I didn't
 16 go through everything. It is a big box.
 17 When I found what I thought I was looking
 18 for, I quit.
 19 Q. How many discussions did you have
 20 with Mr. Hanson regarding this issue?
 21 A. Probably about a half a dozen.
 22 Q. Were these face-to-face meetings or
 23 telephone conversations?
 24 A. Telephone conversations.

1 Q. And what did you tell him?
 2 A. I said my understanding it meant
 3 they would never try to put anything else on
 4 there ever beyond what is getting permitted
 5 right now.
 6 Q. Did you ever tell that to anybody
 7 at Waste Management of Illinois at any time?
 8 A. I'm sure during our discussions for
 9 a year, that's what I told them. I said I
 10 want something that will guarantee you don't
 11 try to ever expand this again.
 12 Q. Expand the landfill?
 13 A. Probably in the context, it might
 14 have been the landfill, the whole area. I
 15 don't remember.
 16 Q. And you don't recall any other
 17 discussions that you would have had with
 18 anybody representing Waste Management of
 19 Illinois, Inc. regarding your understanding;
 20 is that correct?
 21 A. Yes.
 22 Q. With regard to Ms. Ross, how many
 23 times did you discuss this issue with her?
 24 A. Two or three.

1 Q. During these telephone
 2 conversations, what did he say to you?
 3 A. He said that he knew I had been
 4 active. He was on the board when we were
 5 fighting landfills as a trustee, and he said
 6 that he knew I had been active in this, and
 7 I may have something that would be useful
 8 because the Village was going to object to
 9 the transfer station, and he asked me if I
 10 would see if I had something that would be
 11 helpful in the case.
 12 Q. Did he refer in any way to this
 13 agreement by Waste Management not to further
 14 expand the Woodland Landfill?
 15 A. No, he didn't.
 16 Q. Did you in responding to him
 17 mention that agreement?
 18 A. I said I think I recall a letter
 19 that might be useful where they said they
 20 would not ever try to expand the site again,
 21 and I will look for it.
 22 Q. And did you tell him at any point
 23 what you understood that agreement to mean?
 24 A. Yes.

1 Q. Phone calls, face-to-face meetings?
 2 A. Once I bumped into her at a grocery
 3 store, and we talked for a while. After
 4 that, she called me once, and I called her
 5 once I believe. That's all.
 6 Q. What did she say to you?
 7 A. She said it was her recollection
 8 that this -- how could this be happening I
 9 guess is what she was saying. I thought we
 10 covered all this back when they got their
 11 last permit. She is the first private or
 12 second downgradient from where the landfill
 13 is, about 100 yards from the landfill site.
 14 Q. Has her well ever been
 15 contaminated?
 16 A. Not that I know of.
 17 Q. What did you say to her after she
 18 made her comment to you?
 19 A. When she said I thought we had
 20 covered this, I said yes, that's what I
 21 remember too. That's about all.
 22 Q. Mr. Schudel you said?
 23 A. Yes, Greg Schudel.
 24 Q. How many conversations did you have

1 with him regarding this issue?
 2 A. Probably three or four.
 3 Q. Face-to-face meetings, phone calls,
 4 both?
 5 A. Yes, face-to-face a couple of times
 6 at my place of business, probably one or two
 7 phone calls.
 8 Q. What did he say to you?
 9 A. Pretty much what Mrs. Ross said. I
 10 thought we took care of this. How can they
 11 be doing this? What can we do to stop it?
 12 Q. What did you say?
 13 A. What did I say?
 14 Q. Yes. What did you say in response?
 15 A. I said I will see what I can find.
 16 I said to my recollection is that we had
 17 handled it.
 18 Q. And Ms. Rohr, how many
 19 conversations did you have with her?
 20 A. Probably a half dozen. I see her
 21 at the drugstore pretty often. During the
 22 hearing that was held, we probably talked
 23 about a half a dozen times.
 24 Q. What did she say to you?

1 Q. And when did you give her those
 2 documents?
 3 A. It was during the time of the
 4 hearing.
 5 Q. The hearing was in October --
 6 September and October of 2002.
 7 A. That would have been when it was
 8 because the hearing was still in progress.
 9 Q. And what did she say to you during
 10 these conversations you had with her?
 11 A. Asked me if I had anything that
 12 would help in the fight, and her
 13 understanding from just general knowledge
 14 that this had been covered before by the
 15 Board.
 16 Q. And your response to her?
 17 A. I said that my recollection is the
 18 same thing. I will have to check and see.
 19 Q. And you checked?
 20 A. Yes.
 21 Q. And you didn't come up with
 22 anything other than this letter?
 23 A. Just the letter.
 24 Q. Was the agreement Waste Management

1 A. Pretty much I thought we covered
 2 this when I was on the Board. How can they
 3 do this?
 4 Q. And your response?
 5 A. I don't think they can, and I will
 6 see what I can find.
 7 Q. And that's when you looked through
 8 your documents and came up with the letter?
 9 A. Yes.
 10 Q. Did you give her a copy of the
 11 letter?
 12 A. No.
 13 Q. Who did you give the letter to?
 14 A. I'm not sure who presented it at
 15 the hearing, to be honest with you.
 16 Q. And Ms. Hecht, how many
 17 conversations have you had with her
 18 regarding the issue?
 19 A. Probably half a dozen. I gave her
 20 the big box to go through even. She went
 21 through it also.
 22 Q. The big box of the documents you
 23 have?
 24 A. Yes.

1 made not to further expand the landfill
 2 discussed with the City Council by you?
 3 A. Yes.
 4 MR. PRICE: Objection to the form.
 5 BY MR. MORAN:
 6 Q. And when did you discuss it with
 7 the City Council?
 8 A. Hard to say.
 9 Q. Sometime in this time frame of
 10 July, July 1988 --
 11 A. Are we talking about the transfer
 12 station application?
 13 Q. No. We are talking now about
 14 paragraph 3 of Price Deposition Exhibit
 15 Number 6.
 16 A. Okay. We talked about landfills
 17 almost every Board hearing, not always in
 18 the meeting since it was in litigation,
 19 sometimes in the executive session after the
 20 meeting or before the meeting.
 21 Q. And during any of these discussions
 22 with the City Council, did the question
 23 about developing a transfer station on the
 24 property ever come up?

Page 57

1 A. No.
 2 Q. I think you said that issue just
 3 was never raised in any way with anyone
 4 during the time and through the time you
 5 were Mayor 1997; is that correct?
 6 A. I don't think we discussed transfer
 7 stations -- when did the balefill take
 8 place? I was still Mayor when the balefill
 9 applied for their application, so that was a
 10 transfer station.
 11 I don't remember if you are
 12 familiar with the balefill that the City of
 13 Chicago or the Council of Mayors -- I don't
 14 know what they called it -- a group of 23, I
 15 think, communities on the northwest side of
 16 Chicago formed a group, and they wanted to
 17 have a place where they could bale their
 18 garbage of their communities and bring it to
 19 the area right adjacent to us and put in
 20 what they called a balefill which was a form
 21 of a transfer station, so I guess transfer
 22 stations were discussed at the Board
 23 meeting, but not this particular one.
 24 Q. And you don't recall the time

Page 58

1 frame? It could have been mid 90s or --
 2 A. Let's see. Yes, I'd say in the
 3 early 90s, early to mid 90s. I don't
 4 remember exactly when the application was
 5 filed, but we had hearings in Elgin.
 6 We had hearings in Cook County,
 7 Hanover Township, so there were lots of
 8 meetings before different bodies and it took
 9 quite some time, and I don't know exactly
 10 the dates.
 11 Q. Was there a transfer station
 12 proposed to be constructed on part of the
 13 balefill property?
 14 A. That's what they called it a
 15 transfer station where they would bring
 16 bales and transfer them to -- they would
 17 bring bales out of the City of Chicago and
 18 dump them in Bartlett, and that would be
 19 where they would be transferred to, yes.
 20 Q. Well, but my understanding was that
 21 the garbage would be baled at the point of
 22 origin or some other location and then
 23 brought in bales to a disposal facility in
 24 Bartlett which would simply involve the

Page 59

1 disposal of those bales at the property; is
 2 that your understanding as well?
 3 A. My understanding was they were
 4 transferring it into that site. I guess,
 5 they called it a transfer station, but I
 6 don't know if it was related.
 7 Q. Well, the disposal area in Bartlett
 8 was not transferring waste?
 9 A. No, it was transferred and brought
 10 somewhere, but that's when we first started
 11 talking about transfer stations because it
 12 was transferred from all of these suburbs
 13 from their suburb to the Bartlett site.
 14 Q. Was it the understanding of the
 15 City Council as of July of 1988 that Waste
 16 Management of Illinois had agreed not to
 17 further expand the Woodland Landfill site?
 18 MR. PRICE: Objection to form and
 19 foundation. Go ahead.
 20 THE WITNESS: That's my
 21 recollection, yes.
 22 BY MR. MORAN:
 23 Q. Was it the understanding of the
 24 Village Council that the agreement by Waste

Page 60

1 Management not to further expand the
 2 Woodland Landfill site included the
 3 development of any transfer stations?
 4 MR. PRICE: Objection, form and
 5 foundation. Go ahead.
 6 THE WITNESS: That was never
 7 discussed. The word transfer station was
 8 not discussed in relationship to any of the
 9 Woodland sites.
 10 BY MR. MORAN:
 11 Q. Mr. Rolando, did you ever have an
 12 opportunity to see the final written
 13 decision of the Kane County Board regarding
 14 the proposal to expand Woodland Landfill as
 15 Woodland III?
 16 A. I suppose I have.
 17 Q. Let me show you what we've
 18 previously marked as Price Deposition
 19 Exhibit Number 8, and it is a group exhibit,
 20 the first two pages of the letter that we
 21 have seen from Don Price, so let me just
 22 direct your attention to the remaining pages
 23 on that exhibit, if you could look at it.
 24 A. Okay.

Page 61

1 Q. Have you ever seen that document
2 before?

3 A. I imagine I have.

4 Q. And what is it?

5 A. It's the permitting for the site
6 for Woodland III by Kane County.

7 Q. And that document does incorporate
8 the agreements that were made by Waste
9 Management of Illinois in the Don Price July
10 8th, 1988 letter to you, doesn't it?

11 A. It refers to the exhibits that we
12 sent them, so I assume that it does.

13 Q. Did you at any point have any
14 discussions with anyone regarding this
15 siting approval by Kane County after you
16 received it?

17 A. I'm sure the Village Board
18 discussed it and reviewed it at one of our
19 sessions. I'm sure we discussed it with the
20 Village Engineer. We discussed it with the
21 Village Attorney. There could have been
22 other people. I don't know all the people
23 we discussed it with.

24 Q. What did you say in any of those

Page 62

1 meetings or conversations regarding the
2 siting approval for Kane County?

3 A. I said I think this takes care of
4 all of our problems. I think it will make
5 it safer in the long run because Woodland I
6 and Woodland II were part of their agreement
7 to close the previously contaminated sites
8 as part of their total permit package.

9 Q. What did anyone else say with
10 respect to this siting approval in either
11 the meetings with the City Council or any
12 other discussions that may have occurred
13 regarding it?

14 A. I can't really remember what they
15 said.

16 MR. MORAN: Thank you, Mr. Rolando.
17 I have nothing further.

18 MR. PRICE: You're welcome. You
19 can review it for typos and that kind of
20 thing or you can just waive signature, and
21 Diane will type it up.

22 THE WITNESS: I will sign it.

23 MR. PRICE: You will sign it?

24 Reading and signing is up to you.

Page 63

1 THE WITNESS: Yes. You are going
2 to make sure that --

3 MR. PRICE: That's your job.

4 THE WITNESS: I better have a copy.

5 MR. PRICE: Just so you know, you
6 can't change anything substantively.

7 THE WITNESS: I understand.

8 MR. PRICE: We will reserve then.

9 AND FURTHER DEPONENT SAITH NOT...

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Page 64

1 BEFORE THE POLLUTION CONTROL BOARD
2 VILLAGE OF SOUTH ELGIN,
3 Complainant,
4 -vs- No. PCB 03-103
5 WASTE MANAGEMENT OF ILLINOIS,
6 Respondent.

7

8 I, THOMAS J. ROLANDO, being first
9 duly sworn, on oath, say that I am the
10 deponent in the aforesaid deposition, that I
11 have read the foregoing transcript of my
12 deposition taken March 19, 2004, consisting
13 of Pages 1 through 64, inclusive, taken at
14 the aforesaid time and place and that the
15 foregoing is a true and correct transcript
16 of my testimony so given.

17

18 THOMAS J. ROLANDO, Deponent
19 SUBSCRIBED AND SWORN TO
before me this ____ day
20 of _____,
A.D., 2004.

21 _____
22 Notary Public

23

24

1 STATE OF ILLINOIS)
 2 COUNTY OF COOK)
 3 I, DIANE L. STODULSKI,
 4 Certified Shorthand Reporter, Registered
 5 Professional Reporter, and Notary Public in
 6 and for the County of Cook, State of
 7 Illinois, do hereby certify that on the 19th
 8 of March, A.D., 2004, the deposition of the
 9 witness, THOMAS J. ROLANDO, called by the
 10 Respondent, was taken before me, reported
 11 stenographically and was thereafter reduced
 12 to typewriting through computer-aided
 13 transcription.

14 The said deposition was taken
 15 at 29 North River Street, Batavia, Illinois,
 16 and there were present Counsel as previously
 17 set forth.

18 The said witness, THOMAS J.
 19 ROLANDO, was first duly sworn to tell the
 20 truth, the whole truth, and nothing but the
 21 truth, and was then examined upon oral
 22 interrogatories.

23 I further certify that the
 24 foregoing is a true, accurate and complete

1 record of the questions asked of and answers
 2 made by the said witness, at the time and
 3 place hereinabove referred to.

4 The signature of the witness
 5 was not waived by agreement.

6 The undersigned is not
 7 interested in the within case, nor of kin or
 8 counsel to any of the parties.

9 Witness my official signature
 10 as Notary Public, in and for Cook County,
 11 Illinois on this ____ day of
 12 _____, A.D., 2004.

13
14
15
16
17
18
19
20
21
22
23
24

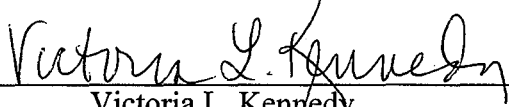
DIANE L. STODULSKI, C.S.R./R.P.R.

License No. 084-002519

PROOF OF SERVICE

Victoria L. Kennedy, a non-attorney, on oath states that she served the foregoing **RESPONDENT WASTE MANAGEMENT OF ILLINOIS, INC.'S MOTION FOR SUMMARY JUDGMENT** on the following parties by depositing same in the U.S. mail at 161 N. Clark St., Chicago, Illinois 60601, at 5:00 p.m. on this 29th day of April, 2004:

Mr. Derke J. Price
ANCEL, GLINK, DIAMOND, BUSH, DiCANNI & ROLEK, P.C.
140 South Dearborn Street, Sixth Floor
Chicago, Illinois 60603



Victoria L. Kennedy