

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

ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS

PAUL JOHNSON, INC.,	)	
	)	
Petitioner,	)	
	)	
vs	)	No. PCB 05-109
	)	
ILLINOIS ENVIRONMENTAL PROTECTION	)	
AGENCY and CITY OF WATERMAN,	)	
ILLINOIS,	)	
	)	
Respondents.	)	

TRANSCRIPT OF PROCEEDINGS held in the hearing of the above-entitled matter, taken stenographically by Maria E. Shockey, CSR, before BRADLEY P. HALLORAN, Hearing Officer, at the City Hall Annex, Council Chambers, Sandwich, Illinois, on the 8th day of March, A.D., 2005, scheduled to commence at 9:00 a.m.

1 A P P E A R A N C E S:

2

ILLINOIS POLLUTION CONTROL BOARD,  
3 James R. Thompson Center  
100 West Randolph Street  
4 Suite 11-500  
Chicago, Illinois 60601  
5 (312) 814-8917  
BY: MR. BRADLEY P. HALLORAN, Hearing Officer  
6 MS. ALISA LIU

7

BAKER & MCKENZIE,  
8 One Prudential Plaza  
130 East Randolph Drive  
9 Chicago, Illinois 60601  
(312) 861-2835  
10 BY: MR. RICHARD M. SAINES

11

Appeared on behalf of the Petitioner,  
12 Paul Johnson, Inc.;

13

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
14 1021 North Grand Avenue East  
Springfield, Illinois 62794-9276  
15 (217) 782-5544  
BY: MR. CHARLES W. GUNNARSON

16

17

Appeared on behalf of the Respondent,  
18 Illinois Environmental Protection Agency;

18

19

CLIFF, FOSTER, CORNEILLE & BUICK,  
331 West State Street  
20 Sycamore, Illinois 60178  
(815) 264-3340  
21 BY: MR. KEVIN E. BUICK

22

Appeared on behalf of the Respondent,  
23 Village of Waterman, Illinois.

24

L.A. REPORTING (312) 419-9292

1 HEARING OFFICER HALLORAN: We're on  
2 the record. Good morning. My name is  
3 Bradley Halloran. I'm with the Illinois  
4 Pollution Control Board. I'm also assigned  
5 to this matter entitled Paul Johnson, Inc.,  
6 Petitioner, versus the Illinois Environmental  
7 Protection Agency and City of Waterman,  
8 Illinois, Respondents. This is PCB 05-109.  
9 It's a water well setback exception petition.

10 Today is Tuesday, March 8, 2005.  
11 It's approximately 9:05 a.m. and I note that  
12 there are no members of the public here.  
13 The hearing is being held pursuant to  
14 Section 106.300, Subpart C of the Board's  
15 procedural rules regarding water well setback  
16 exceptions and hearing will be governed in  
17 accordance with Section 101, Subpart F of the  
18 Board's procedural rules.

19 I note that this hearing is  
20 intended to develop a record for review for  
21 the petition and it will be reviewed by the  
22 whole Illinois Pollution Control Board. I  
23 will not be deciding this case, again, it's  
24 the Board that will be the ultimate

1 decisionmaker. They will review the  
2 transcript of this proceeding, the record,  
3 and the post hearing briefs.

4 My job is to ensure an orderly  
5 hearing and present a clear record and rule  
6 on any evidentiary matters that may arise.  
7 After the hearing, the parties will have an  
8 opportunity to submit post hearing briefs.  
9 These too will be considered by the Board.

10 And I do want to introduce  
11 Alisa Liu. She's sitting to my right. She's  
12 a technical employee of the Illinois  
13 Pollution Control Board. She may or may not  
14 be asking questions today.

15 With that said, Mr. Saines, would  
16 you like to introduce yourself, please?

17 MR. SAINES: Sure. Richard Saines,  
18 S-A-I-N-E-S. I'm the counsel of behalf of  
19 the petitioner, and I'm here with Mr. Steve  
20 Swenson from Clayton Group Services. Clayton  
21 is spelled C-L-A-Y-T-O-N. He's the technical  
22 consultant that I'll be offering as the only  
23 witness.

24 HEARING OFFICER HALLORAN: Mr. Buick?

1                   MR. BUICK: Yes. My name is  
2 Kevin Buick, B-U-I-C-K, on behalf of the  
3 Village of Waterman. I might note there's  
4 some references throughout the petitions to  
5 the city of Waterman and I just want to note  
6 for clarification that Waterman is indeed a  
7 village, and I'm here with the Village  
8 engineer, Norman Beeh, B-E-E-H --

9                   MR. BEEH: Correct.

10                  MR. BUICK: (Continuing) -- who is the  
11 Village engineer.

12                  HEARING OFFICER HALLORAN: Thank you,  
13 Mr. Buick.

14                               Mr. Gunnarson?

15                  MR. GUNNARSON: Yes. My name is  
16 Charles Gunnarson. I'm an attorney with the  
17 Illinois Environmental Protection Agency and  
18 I'm assigned to this matter representing the  
19 IEPA today. With me as well is Mr. Lynn  
20 Dunaway, D-U-N-A-W-A-Y, who's a geologist  
21 with the division of public water supplies,  
22 groundwater unit, and Mr. Dunaway provided  
23 the technical review of the petition for the  
24 IEPA.

1 HEARING OFFICER HALLORAN: Thank you,  
2 Mr. Gunnarson.

3 Mr. Saines, you may proceed with  
4 your case in chief. You can do an opening,  
5 you can waive opening. You can make any  
6 comments on any matters that may arise and/or  
7 call your first witness, Mr. Swenson.

8 O P E N I N G S T A T E M E N T

9 BY MR. SAINES:

10 Thank you. I appreciate that. I'll  
11 just make a brief statement. I want to thank  
12 both the Illinois EPA, Village of Waterman,  
13 and the Board in particular for granting the  
14 expedited hearing request and accommodating  
15 the schedule for this hearing on a relatively  
16 short notice.

17 The reason for the expedited  
18 hearing, of course, is that we've been  
19 involved in a cleanup of existing shallow  
20 groundwater contamination at the site for a  
21 couple of years now and we're at the point  
22 where we've got a completion plan in place.

23 And in order to get that plan  
24 implemented and really get this groundwater

1 cleaned up, we need to, you know, adhere to  
2 the statutory requirements in the Illinois  
3 Environmental Protection Agency Act, one of  
4 which is to make sure that we're consistent  
5 with the prohibition on locating new  
6 potential routes within the setback area of a  
7 community well.

8 So this hearing is intended to  
9 seek an exception from that, an exception  
10 from that prohibition to allow us to  
11 effectively clean up the shallow groundwater.  
12 And I'd like at this point to call  
13 Mr. Swenson as --

14 HEARING OFFICER HALLORAN: I guess --  
15 Mr. Saines, I'm sorry. I should ask  
16 Mr. Buick or Mr. Gunnarson, do you have any  
17 openings?

18 MR. BUICK: We do not, your Honor.

19 HEARING OFFICER HALLORAN: Okay.  
20 Thank you.

21 MR. GUNNARSON: Neither do we.

22 HEARING OFFICER HALLORAN: Okay. I'm  
23 sorry, Mr. Saines, proceed.

24 MR. SAINES: No problem. Sorry to

1           jump in there.

2                         If it's okay with everybody, I'd  
3           like to just call Mr. Swenson and he'll be  
4           here to answer your questions.  But before we  
5           get into your questions, if it's okay, I'd  
6           like to just sort of run through some  
7           additional materials that have been provided  
8           to the Illinois EPA and the Village  
9           subsequent to the petition that was filed on  
10          December 10th of 2004 so that we can enter  
11          those into the record and that they're  
12          available for everybody to review.

13                        These are materials that have been  
14          shared, again, with the Illinois EPA and the  
15          Village pursuant to their request for  
16          additional information, and it's referenced  
17          in fact in the Illinois EPA's response that  
18          there was additional information that they  
19          were interested in receiving, so pursuant to  
20          that request, we provided some additional  
21          information.  So at this juncture, I'll call  
22          Mr. Swenson.

23                        HEARING OFFICER HALLORAN:  Okay.  
24          Mr. Swenson, you can remain seated and



1 Maria will swear you in.

2 (Witness sworn.)

3 WHEREUPON:

4 STEVEN R. SWENSON

5 called as a witness herein, having been first duly  
6 sworn, depose and saith as follows:

7 E X A M I N A T I O N

8 BY MR. SAINES:

9 Q. Could you just state and spell your  
10 name for the record, please?

11 A. My name is Steven R. Swenson,  
12 S-W-E-N-S-O-N.

13 Q. Okay. And, Mr. Swenson, who are you  
14 employed by?

15 A. Clayton Group Services.

16 Q. And what do you do there?

17 A. I'm a project manager.

18 Q. Okay. Can you tell us what your basic  
19 educational background is?

20 A. I received my bachelor's and master's  
21 from Northern Illinois University, department of  
22 geography, environmental sciences.

23 Q. Okay. And you mentioned you're a  
24 project manager. Are you the project manager on the

1 Paul Johnson site that's at issue here today?

2 A. Yes.

3 Q. Okay. Can you just briefly describe  
4 what your duties entail as project manager for the  
5 site?

6 A. Everything from report writing,  
7 budgets, technical review, overseeing field staff,  
8 working with the -- as a go-between between the  
9 client and the Agency.

10 Q. Okay. Within Clayton Group Services,  
11 are you the one -- the person most knowledgeable  
12 about the technical aspects of this particular site?

13 A. Yes.

14 Q. Okay. I'd like to offer as Group  
15 Exhibit No. 1, which I have copies of for everybody  
16 (indicating).

17 I've just distributed group  
18 Exhibit No. 1 to the parties at the hearing. And,  
19 Mr. Swenson, can you just take a look at that and  
20 review that briefly if you don't mind?

21 (Witness perusing the document.)

22 A. Okay.

23 Q. Have you familiarized yourself with  
24 it?

1           A.       Yes.

2           Q.       Could you briefly describe in general  
3 terms, without getting into the details of each  
4 attachment, what Group Exhibit 1 represents?

5           A.       Attachment A is a summary of the  
6 groundwater analytical results that we've collected  
7 at the site, basically starting from January 2002 to  
8 the present. Attachment two is a summary boring  
9 location map showing the extent of the excavation,  
10 the location of all the monitoring well sampling  
11 points to date at the site, and attachment three is  
12 the proposed groundwater monitoring plan that was  
13 requested by Lynn Dunaway.

14          Q.       Okay. And Mr. Dunaway -- you referred  
15 to Lynn Dunaway. Mr. Dunaway is with the Illinois  
16 EPA?

17          A.       Yes.

18          Q.       Let me just ask you a little bit more  
19 detail on this Group Exhibit No. 1. With respect to  
20 Attachment No. 1, was this information provided to  
21 the Illinois EPA subsequent to the filing of the  
22 petition?

23          A.       Yes.

24          Q.       Okay. Do you remember if that was on

1 January 24, 2005?

2 A. Yes.

3 Q. And it was on January 24, 2005?

4 A. Yes.

5 Q. Okay. And was this information  
6 requested by the Illinois EPA subsequent to the  
7 petition as additional information?

8 A. Yes.

9 Q. Okay. So you prepared this  
10 information and submitted it to the Illinois EPA  
11 pursuant to their request?

12 A. Correct.

13 Q. Okay. With respect to attachment  
14 two -- or what's actually Attachment B here in Group  
15 Exhibit No. 1, you mentioned it's a site map with  
16 boring locations. Again, was this provided to the  
17 Illinois EPA subsequent to the filing of the  
18 petition?

19 A. Yes.

20 Q. Okay. And that was done pursuant to  
21 their request as well?

22 A. Yes.

23 Q. Okay. As with Attachment A and  
24 Attachment B here, both of those were also provided

1 to Mr. Buick at the Village of Waterman; is that  
2 correct?

3 A. Yes.

4 Q. Okay. And was that date on  
5 February 15, 2005?

6 A. Yes.

7 Q. Okay. And Attachment C of Group  
8 Exhibit No. 1, you mentioned that's a proposed  
9 groundwater monitoring plan. Similar to the first  
10 two attachments in Group Exhibit 1, was this  
11 submitted pursuant to the Illinois EPA's request?

12 A. Yes.

13 Q. Okay. And that was subsequent to the  
14 petition?

15 A. Yes.

16 Q. Okay. That was submitted to the  
17 Illinois EPA on January 26, 2005 as well?

18 A. Yes.

19 Q. And also to the Village of Waterman on  
20 February 15th?

21 A. Yes.

22 Q. Okay. Very good.

23 I'd like to offer Exhibit No. 2 as  
24 well.

1 HEARING OFFICER HALLORAN: And just to  
2 make the record clear, when Mr. Saines was  
3 referring to attachment one, it was actually  
4 Attachment A.

5 BY MR. SAINES:

6 Q. Okay. Mr. Swenson, I'm now showing  
7 you what's been marked as Exhibit No. 2. Can you  
8 just familiarize yourself with that?

9 (Witness perusing the document.)

10 A. Okay.

11 Q. Do you recognize Exhibit No. 2?

12 A. Yes.

13 Q. All right. Can you briefly describe  
14 what Exhibit No. 2 is?

15 A. It is a follow-up to Mr. Dunaway's  
16 request to -- I've got a -- I'm fighting a cold  
17 here, so I apologize. (Continuing) -- that the  
18 presence of the shale in the two city wells and an  
19 expanded well search be conducted to find out if  
20 that's continuous across the region or if it's  
21 localized to the area directly below the site.

22 Q. Okay. And just in descriptive terms,  
23 Exhibit No. 2 is a letter, the date of which says  
24 March 4, 2005, however, for the record, that was

1 actually sent to Mr. Dunaway on March 7th; is that  
2 correct?

3 A. Correct.

4 Q. Okay. And it's a one-page -- or well,  
5 a two-page letter, including the signature,  
6 attaching a figure one, which is a site location map  
7 with what appears to be a 2500-foot radius circle  
8 drawn and a 5,000-foot radius circle drawn; is that  
9 correct?

10 A. Correct.

11 Q. Okay. And as you're looking at the  
12 map, there are sort of light blue -- or I guess I  
13 would call them light blue dots and a little bit  
14 darker blue dots with a check pattern in them; is  
15 that correct?

16 A. Correct.

17 Q. Okay. What do the light blue dots --  
18 solid light blue dots signify?

19 A. The light blue dots signify well logs  
20 that indicate the presence of a shale unit in the  
21 boring log.

22 Q. Okay. And with respect to the darker  
23 blue dots?

24 A. Those are well logs that did not

1 indicate the presence of a shale unit.

2 Q. Okay. And just for reference, the  
3 area of concern in terms of the existing contaminant  
4 plume on this figure, can you just describe where  
5 that is located in this figure?

6 A. The site is the red box at the center  
7 of the figure.

8 Q. And the extent of the plume or the  
9 contamination as exists in the shallow groundwater,  
10 does that extend beyond the red box area?

11 A. It would probably be just slightly  
12 north to the red box.

13 Q. Okay. But contained reasonably close  
14 to where that box is?

15 A. Correct.

16 Q. Okay. In terms of inches of the scale  
17 of this map is, let's see, one inch equals --

18 A. Two thousand feet.

19 Q. One inch equals 2,000 feet. Thank  
20 you.

21 So in terms of inches outside of  
22 the red box, I mean, would you be able to identify  
23 it? I mean, is it a 16th of an inch, is it a 32th  
24 of an inch, is it -- approximately just for scale



1 purposes?

2 A. Approximately it would the black dot  
3 just north of the red box would be the limit.

4 Q. Okay. Could you estimate what the  
5 inches is on that, how many inches is that or do you  
6 know what --

7 A. Maybe a 32th.

8 Q. A 32th of an inch, okay.

9 A. Yes.

10 MR. SAINES: Okay. Thank you.

11 I've got Exhibit 3 and Exhibit 4,  
12 both of which respond to questions that were  
13 submitted by the Board yesterday.

14 HEARING OFFICER HALLORAN: Okay.

15 MR. SAINES: So what I thought we  
16 would do is maybe we could go through some of  
17 those questions right now on the record.

18 HEARING OFFICER HALLORAN: Okay.

19 That's fine.

20 MR. SAINES: And as those questions  
21 come up, we may introduce additional exhibits  
22 in response to some of those questions.

23 HEARING OFFICER HALLORAN: Okay.

24 Terrific. Thank you.

1 BY MR. SAINES:

2 Q. So, Mr. Swenson, I'm showing you a  
3 filing here that was sent by the hearing officer,  
4 Mr. Halloran, dated March 7, 2005. Is that when you  
5 received this as well?

6 A. Yes.

7 Q. So that was yesterday, correct?

8 A. Yes.

9 Q. Okay. And this is entitled Potential  
10 Questions for Hearing and there's a series of  
11 questions here and what I'd like to do is sort of  
12 read the questions aloud and then solicit  
13 Mr. Swenson's answers to those questions.

14 I also want to note for the record  
15 that to the extent necessary we would also reserve  
16 the right to address those questions in more detail  
17 as part of the post hearing brief, but we would like  
18 to sort of, you know, put some preliminary answers  
19 at least on the record at this point.

20 So the first question relates to a  
21 sentence in our petition and I'll read it as it's  
22 stated in the document entitled Potential Questions  
23 for Hearing and it's states: The petition on Page 4  
24 states, "Prior to treating the hydrocarbons, a

1 series of injections are completed around the  
2 perimeter of the hydrocarbons plume. The purpose of  
3 the perimeter injections is to form a hydraulic  
4 barrier that prevents the lateral migration of the  
5 contaminant plume during treatment, end quote.

6                   The first question related to  
7 statement says: Would you please specify what is  
8 injected to create a barrier?

9           A.       It would be a combination of an ORC  
10 slurry, which would be ORC and water, I believe  
11 there would also be some nutrients injected.

12          Q.       All right. You used the term ORC,  
13 just for people that are not familiar with that  
14 phrase, can you describe that?

15          A.       Oxygen release and compound.

16          Q.       Okay. The second question: Would you  
17 please describe how the hydraulic barrier would  
18 work, and the second part to that question is: Does  
19 it provide a barrier to groundwater flow movement or  
20 contaminant transport?

21          A.       I believe it does two things: One, by  
22 injecting -- we inject just into the groundwater  
23 table. It basically forms a mound that as you --  
24 once you complete the perimeter, you've got a mound

1 of groundwater that when you inject in the inside,  
2 then you're pushing against that mound. Basically,  
3 you're filling the capillary fringe and the  
4 unsaturated soil just above the water table. You're  
5 saturating it with water.

6 Q. Okay. And when you describe a mound,  
7 what you're saying is you're creating a perimeter  
8 mound around the entire area of contamination so  
9 that there is inward pressure towards the center of  
10 the contamination, correct?

11 A. Correct.

12 Q. Okay. So in answer to that question,  
13 the question says: Does it provide a barrier to  
14 groundwater flow movement or contaminant transport,  
15 is there a yes or no answer to that?

16 A. Yes. Basically, in the short-term it  
17 would prevent the outward migration of the  
18 groundwater.

19 Q. Okay. The third question under this  
20 series of questions is: How deep will the injection  
21 wells be?

22 A. Groundwater is approximately ten feet  
23 below the ground surface. The injections, I  
24 believe, will be between ten and 14 feet.

1           Q.       Okay. The fourth question in the  
2 series is: After completing Phase I and Phase II on  
3 the areas identified by IET, which for the record is  
4 the vendor providing the bioremediation services, in  
5 Attachment C as A, B, and C, would the injection  
6 process be repeated?

7           A.       The injection process would be  
8 repeated if the results of the groundwater  
9 monitoring demonstrates we still have areas of  
10 concern.

11          Q.       And you mentioned groundwater  
12 monitoring. That's the groundwater monitoring that  
13 is part of the groundwater monitoring plan that you  
14 had submitted to the Illinois EPA as Attachment C to  
15 Group Exhibit No. 1; is that correct?

16          A.       Correct.

17          Q.       Okay. The next reference text for  
18 which there's a question states as follows: In  
19 IET's proposal in Attachment C, Page 19 under Phase  
20 I (Time Zero) and Phase II (Time 100 days), there is  
21 a reference to a diagram showing the location of the  
22 injection points and the anticipated impact zones.

23                   The question reads as follows: I  
24 did not find this diagram in the attachments, and I

1 was wondering if you would please enter a copy into  
2 the record?

3 In response to that, we have what  
4 has been marked as Exhibit 3, which I will  
5 distribute now (indicating).

6 Mr. Swenson, I'm showing you  
7 what's been marked as Exhibit 3. Can you just  
8 review that and then when you're ready just briefly  
9 describe what it is?

10 A. Okay. It is a grid of proposed  
11 injection points for Phases I and II. They're both  
12 identical for areas A, B, and C with area A being  
13 north of Adams Street, area B being the excavated  
14 area, and area C being the perimeter around the  
15 excavated area south of Adams Street.

16 Q. Do you believe Exhibit 3 is responsive  
17 to question five, which I just read from this  
18 document?

19 A. Yes.

20 Q. Okay. The next statement for which  
21 there's a question is as follows: In IEPA's  
22 response at Page 5, the IEPA notes the lack of a  
23 monitoring plan or schedule. Petition at eight  
24 states that the expected in-situ bioremediation time

1 is one year. However, in Attachment C, IET's  
2 proposal on Page 2 states: IET has structured a  
3 program which will allow for significant removal  
4 over a two-year period.

5                   The question is as follows: Have  
6 you developed a schedule for remediation showing  
7 milestones such as timeframes for injections,  
8 groundwater sampling, and compliance with Class I  
9 groundwater standards and 35 IAC 742 remediation  
10 objectives?

11           A.       Yes.

12           Q.       Okay. And where would that schedule  
13 be?

14           A.       In the groundwater monitoring plan in  
15 Exhibit 2 -- or excuse me, Group Exhibit 1,  
16 Attachment C.

17           Q.       Okay. And just for reference, the  
18 groundwater monitoring plan that is now contained in  
19 Group Exhibit 1 and Attachment C, did that exist in  
20 some form prior to you creating it for Group  
21 Exhibit No. 1?

22           A.       Yes. It was submitted in the amended  
23 corrective action plan submitted to the Illinois EPA  
24 plan LUST section to do the bio injections. Counsel

1 has it down there (indicating).

2 Q. Okay. You said LUST section, that's  
3 L-U-S-T?

4 A. Yes, leaking underground storage tank.

5 Q. Okay. Thank you.

6 Now, did that plan in Group  
7 Exhibit No. 1, Attachment C, is it identical to that  
8 which was submitted as part of the corrective action  
9 plan?

10 A. Some minor modifications have been  
11 made at the request of Lynn Dunaway.

12 Q. And, again, Lynn Dunaway is with the  
13 Illinois EPA?

14 A. Correct.

15 Q. Okay. So with respect to the  
16 monitoring plan then as modified in Group Exhibit  
17 No. 1, is that going to then be used as part of the  
18 corrective action plan as well?

19 A. Yes.

20 Q. Okay. So those will be identical?

21 A. Yes.

22 Q. Okay. The next question from the  
23 Illinois Pollution Control Board is: Have you  
24 developed a monitoring plan? And, Mr. Swenson, the



1 answer to that question is?

2 A. Yes.

3 Q. Okay. The next statement in the  
4 series of questions is as follows: According to  
5 IEPA's response at Page 5, additional data was  
6 provided to the Agency by Clayton Group Services  
7 that was not part of the original petition. The  
8 data apparently demonstrates the effectiveness of  
9 the bioremediation at the site.

10 And question No. 8: Would you be  
11 willing to enter this data into the record in the  
12 proceeding? Could you summarize the data for the  
13 hearing today to describe the effectiveness of  
14 bioremediation at the site in the past?

15 We have gone through Group  
16 Exhibit 1. Is that the data that you represent  
17 demonstrates the effectiveness of bioremediation?

18 A. Yes.

19 Q. Okay. So let's just -- in response to  
20 this question, let's delve into that just a little  
21 bit more and refer back to Group Exhibit No. 1,  
22 attachment -- well, you tell me. Where in this  
23 group exhibit does it reference the effectiveness  
24 or does it demonstrate the effectiveness of it?

1           A.       I believe the effectiveness is  
2 demonstrated with the analytical data from the sumps  
3 on Page 5 of 7 on Table 1 in Attachment A.

4           Q.       Okay. Can you describe in this Page 5  
5 of 7, Table 1, Group Exhibit 1, Attachment A, how  
6 the effectiveness is demonstrated?

7           A.       Following removal of the impacted soil  
8 and the source material, ORC was placed in the  
9 bottom of the excavation before it was backfilled  
10 with gravel. Following completion of the  
11 backfilling activities, six sumps were installed to  
12 monitor. Groundwater samples were collected from  
13 the sumps on June 1, 2003, February 5, 2004, and  
14 September 15, 2004, and in each such improvement was  
15 observed with the groundwater quality.

16          Q.       Okay. So in other words, the level of  
17 contamination was decreasing over time?

18          A.       Correct.

19          Q.       Okay. All right. Is there anything  
20 else you'd like to add in response to that question?

21          A.       Not at this time.

22          Q.       Okay. The next statement in the  
23 series of questions is as follows: According to  
24 IEPA's response at Page 7 and the petition on

1 Page 3, the Clayton Group recently installed  
2 additional borings to determine the extent of the  
3 shallow groundwater plume.

4 The question is as follows: How  
5 many additional wells did Clayton install and what  
6 did they demonstrate in terms of groundwater  
7 contamination?

8 Again, I think we want to delve  
9 into this in a little bit more detail if we refer to  
10 figure --

11 A. One, Attachment B.

12 Q. -- one, which is in Attachment B to  
13 Group Exhibit 1, just to make things clear. Can you  
14 on this figure describe -- or just point out by  
15 reference to the boring log or the boring number so  
16 it's clear for the record what the additional wells  
17 were?

18 A. Clayton completed approximately seven  
19 borings using a geoprobe to further delineate the  
20 extent north of West Adams Street. The wells  
21 were -- following completion of the geoprobing, a  
22 temporary one-inch monitoring well was placed in the  
23 open hole and Clayton attempted to go after a  
24 groundwater sample.

1 Q. Okay. And with respect to this  
2 additional information, you also did a new round of  
3 sampling and monitoring wells ten and 15; is that  
4 correct? If it's not correct, let me know.

5 A. Yes, we did.

6 Q. Okay. So can you describe whether you  
7 have further been able to define the extent of the  
8 contamination to the north and west as a result of  
9 the soil boring installation?

10 A. Yes. We were able to collect  
11 groundwater samples from three locations. CSB 402,  
12 which is the westernmost probe location and the one  
13 closest to the municipal well, the groundwater  
14 sample nondetected with B-tex and PNAs.

15 Q. Okay. What about 405?

16 A. Well, 405 was a northernmost and,  
17 again, we were able to collect a sample for B-tex  
18 and PNAs; it was nondetect.

19 Q. Okay. And what does that mean for  
20 purposes of description?

21 A. Nondetect means it was -- the compound  
22 was not detected at the limits of the laboratory  
23 equipment.

24 Q. Okay. So in general terms, would you

1 say you have what we call defined the lateral extent  
2 of the contamination pursuant to those borings?

3 A. Yes.

4 Q. Okay. Now, in reference to the  
5 question, which, again, says: How do these boring  
6 demonstrate in terms of the extent of groundwater  
7 contamination, what do they demonstrate, in terms of  
8 the extent, is there anything else relevant to  
9 monitoring well ten or 15 that would be consistent  
10 with the Illinois EPA's response indicating that  
11 there was more extensive contamination?

12 A. Can you repeat the question?

13 Q. Sure. It was a terrible question. I  
14 would be happy to rephrase it.

15 Illinois EPA responded, and I'm  
16 paraphrasing, but that the new data indicated more  
17 extensive groundwater contamination, I think those  
18 were the terms they used, and since we've just  
19 discussed that, we actually have defined that there  
20 is nondetects on the perimeters, so we've defined  
21 the lateral extent.

22 Did the results from monitoring  
23 well ten and 15 indicate any reason for the Illinois  
24 EPA to suggest that it showed more extensive

1 contamination; in other words, were there different  
2 levels in the monitoring wells that were detected in  
3 this new round of sampling?

4 A. No.

5 Q. Okay. So do you understand what the  
6 Illinois EPA said when they said that the additional  
7 monitoring ports indicate more extensive groundwater  
8 contamination?

9 A. I'm a little confused on that point.

10 Q. You're not sure what the reference is  
11 in regard to?

12 A. Correct.

13 Q. Okay. That's fair. I'm sure we'll  
14 figure that one out.

15 Okay. Let's move on to the next  
16 series of questions. The statement says as follows:  
17 Page 8 of the petition discusses the option of  
18 replacing or relocating the municipal well.

19 And the five questions under that  
20 is as follows: In order to detect potential  
21 impacts, have you made any arrangements with the  
22 city -- and when they say city here, I think that is  
23 the reference to the Village of Waterman -- to  
24 monitor the CWS well No. 2 for components that will

1 be injected into the remediation wells?

2 A. No.

3 Q. Okay. Do you think that that's  
4 something that is necessary in this case?

5 A. No.

6 Q. Okay. Could you explain why?

7 A. I believe the city is already  
8 monitoring the well for volatile, bacteria, and  
9 nitrate/nitrites as part of their public water  
10 service.

11 Q. So, in other words, there's data that  
12 currently exists for that well?

13 A. Correct.

14 Q. Okay. And the monitoring that the  
15 Village is doing, is that ongoing, is this a  
16 continuous obligation?

17 A. Correct.

18 Q. Okay. Do you happen to recall or know  
19 offhand what the existing data shows with respect to  
20 that?

21 A. There are no issues with the well  
22 regarding contamination.

23 Q. Okay. The next question reads:  
24 Attachment C to the petition contains some MSDSs,

1 which are material safety data sheets, for the  
2 materials to be used in the injection process.  
3 Would it be effective to monitor the CWS well No. 2  
4 for some of the parameters identified in those  
5 MSDSs?

6 And your opinion on that?

7 A. No.

8 Q. Okay. Can you explain why?

9 A. The stuff being injected, the ORC, the  
10 oxygen releasing compound, is basically a solid.  
11 The byproduct, again, is a solid, an oxygen that is  
12 not mobile. The bacteria being injected for the  
13 upper plate counts basically cling to the soil  
14 particles of the subsurface of the vatozone  
15 (phonetic) and just into the groundwater table, they  
16 are not mobile -- I mean, they don't swim through  
17 the groundwater.

18 The other new nutrients being  
19 injected are equivalent to farm fertilizer, in  
20 layman's terms, at low concentrations just enough to  
21 ensure that there's enough nutrients to maintain the  
22 micropopulation.

23 Q. So in short, as you're designing a  
24 system for the remediation, this is not something



1 that you would typically recommend in a system like  
2 this?

3 A. Correct.

4 Q. Okay. The next question states: Only  
5 the first half of the MSDS for the Regenesiis ORC  
6 appeared in Attachment C. Would you please submit  
7 the entire MSDS?

8 And in reference to that, in  
9 response I'm showing you what's been marked as  
10 Exhibit No. 4. Can you look at that quickly?

11 A. Yes.

12 Q. Or take as much time as you need  
13 actually.

14 (Witness perusing the document.)

15 A. Okay.

16 Q. Okay. Do you know what that is?

17 A. Yes.

18 Q. Can you describe it, please?

19 A. It's the material safety data sheet  
20 for oxygen-releasing compound or ORC as downloaded  
21 from Regenesiis' web site.

22 MR. SAINES: Okay. I'd like to offer  
23 Exhibit No. 4 into the record in response to  
24 the Illinois Pollution Control Board's

1 request.

2 BY MR. SAINES:

3 Q. The next question states as follows:

4 If no monitoring of the CWS well No. 2 is planned,  
5 how will you ensure that the well hasn't been  
6 impacted?

7 A. From my understanding, the well is  
8 already being monitored.

9 Q. Okay. Is that similar to the question  
10 that we discussed previously related to the ongoing  
11 monitoring obligation of the Village?

12 A. Correct.

13 Q. Okay. The next question states: If  
14 the unthinkable happens and the injection wells do  
15 impact the CWS well, have you discussed a  
16 contingency plan with the Village?

17 A. No.

18 Q. Okay. The next question: Have you  
19 talked to the Regenesi ORC representative about  
20 what to do in the event that the CWS well is  
21 impacted? Could you describe some likely actions,  
22 such as a boil order?

23 So let's take the first question  
24 first. Have you talked to the Regenesi ORC

1 representative?

2 A. I spoke with the subcontractor.

3 Q. Related to this question?

4 A. Yes.

5 Q. Okay. And what was the nature of the  
6 conversation in general terms?

7 A. I'm sorry. I misspoke.

8 No, I have not spoken to him on  
9 the ORC issue.

10 Q. Okay. So you spoke to him for other  
11 reasons, but you didn't talk about this particular  
12 issue?

13 A. Right.

14 Q. Okay. Let's go to the next question:  
15 Could you describe some likely actions, such as a  
16 boil order?

17 Given the nature of the  
18 constituents here, what would you think would be the  
19 likely response action that would need to be taken  
20 to the extent there was contamination found in the  
21 municipal well?

22 A. My understanding of the injection  
23 process and the compounds being injected, if there  
24 was to be an impact to the well, there would have to

1 be some kind of a pretreatment.

2 Q. Now, when we talk about impact to the  
3 well, for purposes of context, I mean, is it  
4 possible -- let me ask this question: Is it  
5 possible that you would have impacts from the ORC  
6 compound without there being any impacts from the  
7 existing contamination?

8 A. They would have to follow the same  
9 pathway.

10 Q. So to the extent there's impacts of  
11 the ORC compound, that would mean there would be  
12 impacts of the existing contamination, correct?

13 A. Correct.

14 Q. And the point of using the ORC  
15 compound is to clean up the existing contamination  
16 and get rid of it?

17 A. Correct.

18 Q. Okay. The last question in this  
19 series is: Does the Village have another source of  
20 community water supply besides well No. 2?

21 A. I believe they have two additional  
22 wells, well No. 3 and a third one, which is either  
23 on line or near completion, but the city engineer  
24 would be able to respond to that -- or the Village

1 engineer.

2 Q. Okay. Fair enough.

3 Do you have any idea, and if you  
4 want to defer to the Village engineer, that's fine,  
5 but do you have any idea following on from the  
6 question asked by the Illinois Pollution Control  
7 Board, could you please describe how it compares to  
8 the subject well No. 2?

9 A. They are both completed in bedrock  
10 approximately 400 feet deep.

11 Q. Okay. And just for reference, how  
12 deep is this contaminant zone that's currently there  
13 right now, what are we talking about?

14 A. Within the first ten, 15 feet of the  
15 surface.

16 Q. Okay. And the last question -- or  
17 last statement here from the series of questions  
18 states as follows: Petition at eight indicates the  
19 expected time to complete the in-situ bioremediation  
20 is one year, and the IEPA recommends that  
21 groundwater remediation efforts continue for a  
22 minimum of two consecutive quarters with no  
23 exceedance of the Class I standards or 35 IAC 742  
24 remedial objectives.

1                   The question is: Do you foresee  
2 any problems with having the setback exception  
3 expire once these conditions are met?

4           A.       Once the site is cleaned up and we can  
5 demonstrate that the groundwater meets Class I, I  
6 see no reason why the setback exception should be  
7 enforced, so the variance should expire.

8                   MR. SAINES: Okay. That concludes my  
9 questioning of Mr. Swenson and we're happy to  
10 take questions from anybody else.

11                   HEARING OFFICER HALLORAN: Thank you,  
12 Mr. Saines.

13                   Mr. Buick?

14                   MR. BUICK: At this time, your Honor,  
15 I think that we would defer and -- I guess we  
16 would prefer to allow the IEPA to proceed and  
17 then we may reserve if there's any follow-up  
18 questions, but I guess I would be more  
19 comfortable allowing Mr. Gunnarson to proceed  
20 before we try to take the horns.

21                   HEARING OFFICER HALLORAN: Okay.  
22 Thank you.

23                   MR. SAINES: Could we take two minutes  
24 off the record real quick?

1 HEARING OFFICER HALLORAN: Sure.

2 We're off the record, Maria.

3 (Whereupon, a discussion was had  
4 off the record.)

5 HEARING OFFICER HALLORAN: We're on  
6 the record.

7 Mr. Gunnarson, do you have any  
8 questions of Mr. Swenson?

9 MR. GUNNARSON: I don't have any  
10 direct questions of the petitioner's witness.  
11 I'm ready to proceed with our case in chief  
12 at this time.

13 HEARING OFFICER HALLORAN: Okay. Let  
14 me -- hold on.

15 Mr. Saines, have you rested your  
16 case in chief?

17 MR. SAINES: I don't have a formal  
18 closing statement prepared, but I would like  
19 to say if this is the time to say it, that  
20 the goal here, of course, is to clean up  
21 existing contamination that is there.

22 HEARING OFFICER HALLORAN: Okay.  
23 Ms. Liu may have some questions as well.  
24 We'll do the closing --

1 MR. SAINES: Later?

2 HEARING OFFICER HALLORAN: -- when the  
3 time comes.

4 MR. SAINES: Okay. Fair enough. With  
5 the exception of that, yeah, I'm done.

6 HEARING OFFICER HALLORAN: Okay.  
7 Thank you.

8 So if Mr. Buick and Mr. Gunnarson  
9 do not have any questions of Mr. Swenson,  
10 Ms. Liu, do you have any questions of  
11 Mr. Swenson?

12 MS. LIU: I do. I have one question.

13 HEARING OFFICER HALLORAN: Okay.

14 MS. LIU: You mentioned that the  
15 Village monitors its community water supply  
16 for nitrates and I was wondering if the  
17 nutrient source that you're using in the  
18 injection process is a nitrogen-based one?

19 MR. SWENSON: Well, first of all, my  
20 understanding is they monitor for nitrates.  
21 I'm not stating that as a fact. The nutrient  
22 source is urea, ammonium nitrate, and an  
23 orthophosphate.

24 MS. LIU: Thank you.



1 MR. SAINES: Can I ask a follow-up on  
2 that?

3 HEARING OFFICER HALLORAN: Yes, you  
4 may.

5 FURTHER EXAMINATION

6 BY MR. SAINES:

7 Q. So urea ammonium nitrates, would that  
8 be within the family of constituents that Ms. Liu  
9 requested because she said nitrates and she was  
10 asking a general question about nitrates. You  
11 mentioned urea ammonium nitrate. Would that be a  
12 yes to her question; in other words, she said is the  
13 media you're using a nitrate-based media and so the  
14 answer is yes, it is?

15 A. Yes.

16 Q. And the specific compound is urea  
17 ammonium nitrate?

18 A. Urea, ammonium nitrate, and  
19 orthophosphate, three sources.

20 Q. Okay. Urea, comma, ammonium  
21 nitrate --

22 A. Yes.

23 MR. SAINES: Okay. Fair enough.

24 MS. LIU: Thank you.

1 HEARING OFFICER HALLORAN: Okay.

2 Anything further, Ms. Liu?

3 MS. LIU: No. Thank you.

4 HEARING OFFICER HALLORAN: Okay.

5 Thank you.

6 Mr. Gunnarson, you want to proceed  
7 with your case in chief? I think Mr. Saines  
8 has completed his.

9 Mr. Buick?

10 MR. BUICK: If I could have one  
11 opportunity as to his follow-up question  
12 related to Ms. Liu's question and  
13 Mr. Swenson's responses --

14 HEARING OFFICER HALLORAN: Okay.

15 E X A M I N A T I O N

16 BY MR. BUICK:

17 Q. Just from the Village's standpoint,  
18 Mr. Swenson, knowing I suppose perhaps better than I  
19 what the routine tests that the Village would  
20 administer, for example, for bacteria and other  
21 types of --

22 MR. BEEH: Contaminants.

23 BY MR. BUICK:

24 Q. (Continuing) -- would the type of

1 remediation that this would involve involve  
2 necessary screening for additional types that would  
3 not have been part of the Village's ordinary testing  
4 process?

5 A. I think Paul Johnson and the Village  
6 would have to sit down and take a look at that to  
7 verify that everybody's on the same page.

8 Q. Are you familiar with anything  
9 specific in the way of additional problems that this  
10 would pose that, again, could be something that  
11 might slip under the Village's radar if they're  
12 doing the standard battery of ordinary tests?

13 A. Not that I'm aware of.

14 Q. But it is a possibility and something  
15 that should be looked at?

16 A. It should be looked at, I would agree  
17 to that.

18 MR. BUICK: Thank you.

19 HEARING OFFICER HALLORAN: Any  
20 redirect, so to speak, Mr. Saines?

21 FURTHER EXAMINATION

22 BY MR. SAINES:

23 Q. Well, just as a general matter, I  
24 guess I'll ask the following question: To the

1 extent there's a demand or formal request to augment  
2 or perform some additional monitoring of these  
3 community wells to make the parties comfortable and  
4 that falls within the scope of the leaking  
5 underground storage tank cleanup pursuant to which  
6 we're operating as part of this, I don't know, would  
7 you be amenable to doing that type of monitoring?

8 A. Yes.

9 FURTHER EXAMINATION

10 BY MR. BUICK:

11 Q. I'll ask a follow-up to that. If that  
12 type of follow-up monitoring is done and I don't  
13 know, Mr. Swenson, if you're able to speak to this,  
14 but based on your discussions with Paul Johnson,  
15 Inc., do you believe that they're amenable to  
16 handling the cost of that responsibility or the cost  
17 of that so the cost is not inadvertently passed on  
18 to the Village in the process?

19 MR. SAINES: Well, let me -- if you  
20 don't mind, if I can address that as a legal  
21 matter. Paul Johnson, Inc. is currently  
22 undergoing a remediation process under the  
23 leaking underground storage tank program,  
24 which provides for reimbursement of approved

1 expenditures related to remediation.

2 So I think that the short answer  
3 is that we would submit that documentation  
4 and everything else to the Illinois EPA for  
5 approval as part of the cleanup and we would  
6 see what they would say as to whether or not  
7 in fact they would deem that as approved  
8 expenditures that you would get reimbursed  
9 for.

10 So the initial cost would be  
11 funded by Paul Johnson, Inc. and then  
12 ultimately be reimbursed on the fund.

13 BY MR. BUICK:

14 Q. And if I could ask, Mr. Swenson, in  
15 your experience, are those the types of expenses  
16 that are in fact approved in your past experience?

17 A. Yes.

18 MR. BUICK: Okay. Thank you.

19 HEARING OFFICER HALLORAN: Any further  
20 questions of this witness, Mr. Swenson? And  
21 it may come to pass, I'm not sure if anybody  
22 wants to ask Mr. Beeh any questions, but if  
23 so, we'll put him under oath as well.

24 With that said, I guess Mr. Saines

1 has rested his case in chief.

2 Mr. Gunnarson?

3 MR. GUNNARSON: Thank you. As noted  
4 before, I'm here on behalf of the Illinois  
5 EPA as is Mr. Dunaway in a technical nature.

6 The Agency filed its response to  
7 Paul Johnson, Inc.'s petition for the water  
8 well setback exception on January 27th of  
9 2005, and essentially that response  
10 recommended granting the exception pending  
11 that three conditions were met, two involved  
12 the submittal of additional information into  
13 the record here today regarding the  
14 effectiveness of the in-situ or direct push  
15 technology in treating the hydrocarbon  
16 contamination of the shallow groundwater and  
17 also follow-up information regarding the  
18 environmental impact of that technique.

19 And by the petitioner's  
20 introduction of Exhibit 1, we believe they  
21 have satisfied that and that is the  
22 information that was provided to the Agency  
23 subsequent to the filing of the petition, so  
24 I think the Agency is comfortable in saying

1 at this point that we believe those two  
2 conditions have been met.

3 The third one is essentially that  
4 if the Board does decide to grant the  
5 exception, that that exception is granted on  
6 the condition that Paul Johnson, Inc. can  
7 demonstrate two consecutive quarters of  
8 compliance with the Class I groundwater  
9 standards.

10 We feel that's necessary to ensure  
11 that the remediation has in fact been  
12 completed satisfactorily and gives us a level  
13 of confidence to feel that the site has  
14 indeed been addressed, so we would ask that  
15 the Board consider that when it is  
16 considering whether or not to grant this  
17 exception.

18 And perhaps one point of  
19 clarification: I would like to ask  
20 Mr. Dunaway a question related to something  
21 that Mr. Saines had mentioned. I think it  
22 was also mentioned in the Board's questions  
23 to the petitioner if I might at this point?

24 HEARING OFFICER HALLORAN: We should

1           probably swear him in.

2                           Maria, please?

3                           (Witness sworn.)

4   WHEREUPON:

5                           LYNN E. DUNAWAY

6   called as a witness herein, having been first duly  
7   sworn, deposeth and saith as follows:

8                           E X A M I N A T I O N

9   BY MR. GUNNARSON:

10           Q.       Mr. Dunaway, earlier in this hearing,  
11   counsel was referencing to a question that had come  
12   about pursuant to the Pollution Control Board's  
13   submittal of questions that was dated March 7, 2005,  
14   and essentially what it addressed was a comment made  
15   in the Agency's petition -- response to the  
16   petition, pardon me, at Paragraph 15, the last  
17   sentence of that on Page 7 of our response and I'll  
18   read that quote from the response here, it says:  
19   Section 1, Page 3 indicates that Clayton has  
20   recently installed additional monitoring points  
21   indicating more extensive groundwater contamination  
22   and I believe Section 1, Page 3 refers to the  
23   petition. Can you perhaps put that sentence or that  
24   comment in a context when you were doing your review



1 and what your thoughts were at that point?

2           A.       Yes. In our response, it was  
3 referring to that section of the petition and it was  
4 sort of the context in which the petition was  
5 written and that it's referring to the new areas as  
6 being those north of Adams Street. And additional  
7 information was submitted showing that that had in  
8 fact been investigated, but the way it was submitted  
9 in the petition, it sounded as though there were  
10 additional areas beyond that.

11                       But if you look at the data in  
12 fact with the new additional data that was submitted  
13 and that was entered as I believe Group Exhibit 1,  
14 it's clear that they were talking about the area  
15 north of Adams Street that had already been  
16 discovered, but it was better defined with the  
17 additional borings.

18                       And they were referring to the  
19 area that had not been treated with ORC as that area  
20 with the understanding on their part, and it wasn't  
21 necessarily clear from that paragraph, that they had  
22 treated the base of the excavation with ORC. And it  
23 was -- when we were doing the response without the  
24 additional information, it was not clear where that

1 area was, but with the additional information, it  
2 became clear after we had submitted our response.

3 HEARING OFFICER HALLORAN: Thank you,  
4 Mr. Dunaway?

5 MR. GUNNARSON: Thank you,  
6 Mr. Dunaway.

7 At this point, Mr. Hearing  
8 Officer, the Agency doesn't have anything  
9 additional in its case in chief, but we're  
10 certainly available for any questions from  
11 the Board or the other parties.

12 HEARING OFFICER HALLORAN: Thank you.  
13 Mr. Saines?

14 MR. SAINES: I have no questions.

15 HEARING OFFICER HALLORAN: Okay.  
16 Ms. Liu?

17 MS. LIU: I would like to ask the  
18 Village a question if they would like to be  
19 sworn in.

20 HEARING OFFICER HALLORAN: Okay. So  
21 no further questions of Mr. Dunaway at this  
22 time.

23 So, Mr. Beeh, would you please  
24 raise your right hand and the court reporter

1 will swear you in?

2 (Witness sworn.)

3 MS. LIU: Mr. Beeh, one of the  
4 questions we asked was regarding an alternate  
5 water supply and Mr. Gunnarson indicated that  
6 there was another 400-foot deep well. I was  
7 wondering if you would comment on its  
8 capacity and ability to act as an alternate  
9 water supply?

10 MR. BEEH: The Village of Waterman  
11 currently has three active wells, this is one  
12 of them. In 2002, we began developing a new  
13 well approximately 1500 feet north/northeast  
14 of this current site and, you know, have  
15 completed the well and the well house, we  
16 have that online.

17 Just for the record, in drilling  
18 and developing it, we did not encounter shale  
19 until we were below the limestone and it was  
20 at the depth of between 406 and 425 feet, but  
21 we did go through a significant layer of  
22 clay.

23 But the Village has two other  
24 wells that are currently online and active at

1 the same time. But we also use the well in  
2 question all of the time and it is -- I guess  
3 also for the record, all three wells are in  
4 the limestone formation or lower. The new  
5 well is in limestone and sandstone and it  
6 goes down to 685 feet.

7 So we do have other sources, but  
8 you never know if a well is going to go down  
9 and you should always have a backup. In the  
10 letter from Clayton dated March 4, 2005, they  
11 refer to the shale formations and presumably  
12 that's because they're a fairly impervious  
13 layer, but, you know, our -- and I'm not sure  
14 why this new well log didn't show up in your  
15 search, but it's not -- the shale does vary  
16 depending upon where you're at.

17 I do have one question and I was  
18 wondering what is the --

19 HEARING OFFICER HALLORAN: Excuse me.  
20 Can Mr. Buick ask the question?

21 MR. BEEH: Oh, sure. I'm sorry.

22 HEARING OFFICER HALLORAN: I know this  
23 is kind of informal but --

24 MR. BUICK: Does Ms. Liu have any

1 follow-up? I do have a couple of things I  
2 would like to ask Mr. Beeh, if possible.

3 MS. LIU: No. Thank you.

4 E X A M I N A T I O N

5 BY MR. BUICK:

6 Q. Before we get to your question,  
7 Mr. Beeh, just directing your attention to the  
8 Board's questions that were submitted and  
9 specifically the question No. 14 that was posed  
10 regarding if the unthinkable happens and the  
11 injection wells do impact the CWS well,  
12 Mr. Swenson's testimony was that there was no  
13 contingency plan that had been discussed with the  
14 Village.

15 From the Village engineer's  
16 standpoint, could you give the Board and the hearing  
17 officer some idea of what type of contingency plan  
18 would be appropriate for what the situation would  
19 present?

20 A. I guess in my opinion if the well were  
21 to become contaminated, the contingency plan would  
22 be to replace it and we would have to begin a  
23 planning proceeding with that process. The well  
24 completed in the last couple years, the total cost

1 would have been between 400 and 500,000.

2 Q. Your question, Mr. Beeh, do you have  
3 an answer to the question regarding what the life  
4 cycle of the treatment method would be? I mean,  
5 from your standpoint, do you have any understanding  
6 of what the life cycle I guess of the ORC compounds  
7 would have been?

8 A. No, I really don't. And I would be  
9 interested in knowing how long the treatment process  
10 will be going on underground, is it something which  
11 continues indefinitely, is it something which will  
12 end at some point?

13 MR. BUICK: Thank you.

14 HEARING OFFICER HALLORAN: Mr. Saines?

15 MR. SAINES: Does he need to be  
16 re-sworn?

17 HEARING OFFICER HALLORAN: No. He's  
18 still under oath.

19 MR. SAINES: Mr. Swenson, please feel  
20 free to respond to that.

21 MR. SWENSON: Are you talking about  
22 once we inject it, how long it will be --

23 MR. BEEH: (Indicating.)

24 MR. SWENSON: Well, once the ORC is

1            basically added to water, it begins releasing  
2            oxygen compound and it will continue  
3            releasing for approximately 180 days by that  
4            stretch of drop-off.

5                            As far as the bacteria being  
6            injected, the whole purpose of that is to  
7            increase -- kind of spike the native  
8            population of bacteria. There are bacteria  
9            there now consuming the hydrocarbons.

10                            The whole idea being is to promote  
11            their development by giving them the oxygen  
12            needed and the nutrients to promote their  
13            growth. The other thing with bio is, the  
14            hydrocarbon degrading bacteria, the class,  
15            are very slow in kind of coming out of  
16            their -- I'm blanking on the word.

17                            MS. LIU: Dormant.

18                            MR. SWENSON: (Continuing) -- their  
19            dormant stage, whereas, if you just put ORC,  
20            you know. There's other classes of bacteria  
21            that degrade plant matter, animal matter, you  
22            know, the whole gamut of compounds, and what  
23            would happen is you would spike those  
24            populations up that would then be competing

1 with your hydrocarbon degrading bacteria.

2 So the purpose of adding the  
3 hydrocarbon degrading bacteria from day one  
4 is to bring everybody up onto an even playing  
5 field with degrading the hydrocarbons. Once  
6 we're done and the contaminants -- as we  
7 monitor the contaminants -- or the nutrients,  
8 the nutrients are used up by the bacteria in  
9 the subsurface at the groundwater interface.

10 Once we're done and we show that  
11 we've got the two quarters clean and we close  
12 out, we will not be introducing anymore  
13 oxygen and the bacteria counts will drop back  
14 to their preexisting levels because there  
15 will be nothing to support the additional  
16 plate counts.

17 HEARING OFFICER HALLORAN: Thank you.

18 MR. BUICK: Mr. Hearing Officer, would  
19 I be permitted one question in follow-up to  
20 that?

21 HEARING OFFICER HALLORAN: Sure. I  
22 guess we've somewhat suspended the formal  
23 procedural rules, but if there's no  
24 objection, sure, go ahead Mr. Buick.



1 MR. BUICK: Thank you.

2

3

4

FURTHER EXAMINATION

5 BY MR. BUICK:

6 Q. This is maybe an obvious question, but  
7 is this bacteria harmful for human consumption that  
8 you're referencing?

9 A. That, I don't know. I would have to  
10 follow up with that.

11 MR. BUICK: Okay.

12 HEARING OFFICER HALLORAN: Okay.

13 Ms. Liu, any question?

14 MS. LIU: No. Thank you.

15 HEARING OFFICER HALLORAN: Mr. Saines?

16 MR. SAINES: I was wondering if I  
17 could ask a question of Mr. Beeh?

18 HEARING OFFICER HALLORAN: Okay.

19 MR. SAINES: It relates to the new  
20 data log, is that okay?

21 HEARING OFFICER HALLORAN: That's  
22 fine.

23 E X A M I N A T I O N

24 BY MR. SAINES:

1 Q. Okay. Because we don't show it on  
2 our -- what was previous marked as Exhibit 2, I've  
3 taken the liberty of marking an additional  
4 Exhibit 5, and I was wondering if you would be so  
5 kind as to the best you can to put an X on the site  
6 diagram on Exhibit 5 as to where that new well is  
7 located?

8 A. (Indicating.)

9 Q. Okay. And for the record, the -- can  
10 you make it a little bit bigger so it will be easier  
11 to read there, easier to see?

12 A. (Indicating.)

13 Q. For the record, to the best of your  
14 knowledge, the well log information shows that you  
15 went through a significant layer of clay but you did  
16 not encounter shale at this location until  
17 approximately 600 feet?

18 A. No. Four hundred and six feet.

19 Q. Four hundred and six feet, okay.

20 A. Below the limestone.

21 Q. Below the limestone, okay.

22 Do you recall about how thick the  
23 clay layer was that you went through?

24 A. Ninety-five feet.

1 Q. Ninety-five feet of clay?

2 A. Well, clay or sandy clay, yes.

3 MR. SAINES: Okay. Thank you.

4 And I will submit this as Exhibit  
5 No. 5. Unfortunately, I don't have multiple  
6 copies of this, but we can get that done.

7 HEARING OFFICER HALLORAN: Thank you.

8 MR. SAINES: Thank you.

9 HEARING OFFICER HALLORAN: I'm not  
10 sure where we are. I think, Mr. Buick,  
11 you're still -- I think Mr. Gunnarson and the  
12 IEPA has rested their case in chief.

13 Mr. Buick?

14 MR. BUICK: I think we have nothing  
15 further at this time.

16 HEARING OFFICER HALLORAN: Okay.

17 While I have you all sworn in, Ms. Liu, do  
18 you have any questions?

19 MS. LIU: No. Thank you.

20 HEARING OFFICER HALLORAN: Mr. Saines,  
21 any rebuttal?

22 FURTHER EXAMINATION

23 BY MR. SAINES:

24 Q. One question to clarify the question

1 from the Village, which I think was in relation to  
2 sort of how long are we going to be doing the  
3 treatment. Mr. Swenson, can you just, without being  
4 precise in terms of number of days, but anticipated,  
5 you know, what you anticipate the time from when you  
6 start the ORC process until when you're completed  
7 with it, can you give a general sense of what you  
8 anticipate that time frame to be?

9 A. Our goal was to have the remediation  
10 done within one year.

11 MR. SAINES: Okay. Thank you.

12 HEARING OFFICER HALLORAN: Thank you.

13 Any other questions, follow-up of  
14 Mr. Swenson?

15 (No response.)

16 Okay. Before I forget and we'll go  
17 off the record shortly, I do want to address  
18 two things: I'm supposed to give a  
19 credibility determination. Based on my  
20 observations, experience, legal knowledge, I  
21 find that there are no credibility issues  
22 with the witnesses, all three of them, who  
23 testified here today.

24 And it's my understanding that

1 Mr. Saines has offered Exhibits No. 1 through  
2 5, I believe, into evidence. Any objection,  
3 Mr. Gunnarson or Mr. Buick?

4 MR. BUICK: No.

5 MR. GUNNARSON: None.

6 HEARING OFFICER HALLORAN: These  
7 Exhibits 1 through 5 are admitted into  
8 evidence.

9 Any closing, Mr. Saines?

10 C L O S I N G S T A T E M E N T

11 BY MR. SAINES:

12 Just a real brief statement just to  
13 reiterate that the goal that we're trying to  
14 accomplish is in fact to clean up existing  
15 hydrocarbon contamination in the shallow  
16 groundwater zone and that, you know, the  
17 purpose of this proceeding is to allow us to  
18 do that in what we believe is the most  
19 effective and efficient manner.

20 HEARING OFFICER HALLORAN: Thank you.

21 Mr. Buick, anything?

22 C L O S I N G S T A T E M E N T

23 BY MR. BUICK:

24 From the Village of Waterman's

1           standpoint, we're very supportive of that  
2           goal, of course, and our concern is only to  
3           try to ensure that if, as the Board had  
4           indicated, the unthinkable occurs and there  
5           is some migration of the bioremediation into  
6           the Village's water supply, that there's some  
7           manner of dealing with it, some manner of  
8           addressing that. That's the concern that we  
9           would have.

10                       HEARING OFFICER HALLORAN: Thank you.

11                               Mr. Gunnarson?

12                       MR. GUNNARSON: Thank you, Mr. Hearing  
13           Officer.

14                               C L O S I N G   S T A T E M E N T

15   BY MR. GUNNARSON:

16                       Just to reiterate, the IEPA continues  
17           to stand behind its response filed on  
18           January 27th. Essentially it seems like the  
19           only issue remaining from that are the three  
20           conditions we had suggested was that the  
21           Board, again, consider requiring two  
22           consecutive quarters of clean monitoring  
23           pursuant to Class I groundwater standards  
24           prior to allowing the remediation to cease.

1 HEARING OFFICER HALLORAN: Thank you.

2 Mr. Saines?

3 MR. SAINES: Just one response to  
4 that. For the record, that's not  
5 objectionable to the petitioner. We would  
6 agree to adhere to that regime.

7 HEARING OFFICER HALLORAN: Okay.  
8 Before we go off the record to discuss post  
9 hearing briefs, I do want to note for the  
10 record that this hearing was noticed up  
11 pursuant to Section 101.602 of the Board's  
12 Procedural Rules.

13 At this time we'll go off the  
14 record to discuss post hearing briefs and  
15 we'll come back on momentarily. Thank you.

16 (Whereupon, a discussion was had  
17 off the record.)

18 HEARING OFFICER HALLORAN: We're back  
19 on the record. We've been discussing post  
20 hearing briefing schedules. We concluded  
21 that the transcript will be ready on or  
22 before March 18th, I believe.

23 We've scheduled simultaneous post  
24 hearing opening briefs and they're due on or

1           before March 25; simultaneous reply briefs,  
2           if any, due on or before March 31st. I have  
3           set public comment due date March 21st. Any  
4           other things I forgot to mention?

5                                 (No response.)

6                                 I think that's it. I want to thank  
7           Mr. Gunnarson, Mr. Dunaway, Mr. Beeh,  
8           Mr. Buick, Mr. Swenson, Mr. Saines. Thanks  
9           for coming today and I want to thank the City  
10          of Sandwich for their hospitality.

11                                I want to thank specifically  
12          Mr. Gunnarson and Mr. Dunaway for coming all  
13          the way from Springfield and making it, you  
14          know, 20 to 9:00, well before that time. I  
15          appreciate that. With that said, thanks and  
16          have a safe drive home. This concludes the  
17          hearing today.

18                                (Which were all the proceedings  
19                                had in the above-entitled cause  
20                                on this date.)

21  
22  
23  
24



1 STATE OF ILLINOIS )  
 ) SS.  
2 COUNTY OF DUPAGE )

3

4

5 I, MARIA E. SHOCKEY, CSR, do  
6 hereby state that I am a court reporter doing  
7 business in the City of Chicago, County of DuPage,  
8 and State of Illinois; that I reported by means of  
9 machine shorthand the proceedings held in the  
10 foregoing cause, and that the foregoing is a true  
11 and correct transcript of my shorthand notes so  
12 taken as aforesaid.

13

14

15

\_\_\_\_\_  
Maria E. Shockey, CSR  
Notary Public,  
DuPage County, Illinois

16

17

18 SUBSCRIBED AND SWORN TO  
before me this \_\_\_ day  
19 of \_\_\_\_\_, A.D., 2005.

20

21 \_\_\_\_\_  
Notary Public

22

23

24

