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STATE OF ILLINOIS  
Pollution Control Board

April 19, 2005

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VIA HAND DELIVERY

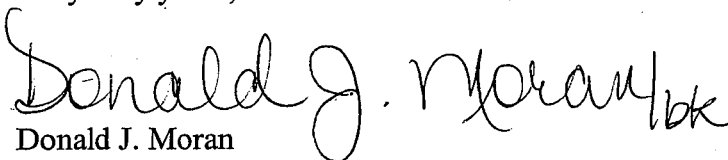
Ms. Dorothy Gunn, Clerk  
Illinois Pollution Control Board  
100 West Randolph St., Suite 11-500  
Chicago, Illinois 60601

Re: *Waste Management of Illinois, Inc. v. County Board of Kankakee County, Illinois*  
*No. PCB 04-186*

Dear Ms. Gunn:

Enclosed please find copies of the evidence depositions of board members, Duane Bertrand and William Olthoff for filing in the above-referenced case.

Very truly yours,

  
Donald J. Moran

DJM/btk

410794 v 1

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

STATE OF ILLINOIS  
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC.	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. PCB 04-186
	)	
COUNTY BOARD OF KANKAKEE	)	
COUNTY, ILLINOIS	)	
	)	
Respondent.	)	

The evidence deposition of WILLIAM H. OLTHOFF, taken in the above-entitled matter on the 14<sup>th</sup> day of April, A.D., 2005, at the hour of 11:05 a.m., at 189 East Court Street, 1<sup>st</sup> Floor Conference Room, Kankakee, Illinois, pursuant to the provisions of the Code of Civil Procedure of the State of Illinois and the Rules of the Supreme Court and the Illinois Pollution Control Board, before MARILYNN MROZYNSKI, CSR, a notary public and court reporter certified by the State of Illinois (Certificate No. 84-667).


MARILYNN MROZYNSKI, C.S.R.

*Certified Shorthand Reporters*  
One Dearborn Square  
Suite 510  
Kankakee, Illinois 60901  
815-935-0545 Fax 708-636-3839

## APPEARANCES:

THE LAW FIRM OF:  
PEDERSON & HOUP, by  
MR. DONALD J. MORAN  
161 North Clark Street  
Suite 3100  
Chicago, Illinois 60601-3224

Appeared on behalf of the Petitioner;

THE LAW FIRM OF:  
HINSHAW & CULBERTSON, LLP, by  
MR. RICHARD S. PORTER  
100 Park Avenue  
Rockford, Illinois 61105-1389

Appeared on behalf of the Respondent;

MR. EDWARD D. SMITH, STATE'S ATTORNEY  
KANKAKEE COUNTY, by  
MS. BRENDA L. GORSKI  
ASSISTANT STATE'S ATTORNEY, KANKAKEE COUNTY  
189 East Court Street  
Kankakee, Illinois 60901

Appeared for Kankakee County.

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(WITNESS SWORN)

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WILLIAM H. OLTHOFF,  
called as a witness by the Petitioner  
herein, having been first duly sworn on oath, was  
examined and testified as follows:

DIRECT EXAMINATION

BY MR. MORAN:

Q: Could you tell us your full name and spell  
your last name for the court reporter?

A: William H. Olthoff. O-L-T-H-O-F-F.

Q: What is your address, Mr. Olthoff?

A: 4503 East 3000 North Road, Bourbonnais,  
Illinois, 60914.

Q: How long have you lived there?

A: Thirty-five years.

Q: What is your occupation?

A: I am a farmer.

Q: Are you a Member of the Kankakee County  
Board?

A: Yes.

Q: For how long have you been on the Kankakee  
County Board?

A: Since the fall -- since December of 2002.

Q: You were elected then?

1 A: Yes.

2 Q: Are you familiar with a Siting Application  
3 that was filed by Waste Management of Illinois, Inc. to  
4 expand the existing Kankakee landfill on August 16<sup>th</sup> of  
5 2002?

6 A: No.

7 Q: Okay. Were you aware that there was an  
8 Application at some point filed by Waste Management of  
9 Illinois, Inc. to expand the existing Kankakee landfill?

10 A: Yes.

11 Q: I will refer to the Application that was  
12 filed on August 16<sup>th</sup> of 2002 as the 2002 Application or  
13 the First Application.

14 Did you at some point become aware of the  
15 First Application?

16 A: What do you mean aware?

17 Q: Well, were you aware it had been filed and  
18 that there were steps taken by the County Board to vote  
19 on that First Application?

20 A: After I became a Member of the County  
21 Board I became aware of those issues, yes.

22 Q: You became a Member of the County Board in  
23 December of 2002?

24 A: Yes.

1 Q: Did the County Board vote on the 2002  
2 Application on January 31<sup>st</sup> of 2003?

3 A: I am not aware of the date.

4 Q: Did you vote --

5 A: No.

6 Q: -- (continuing) on that First Application  
7 in January of 2003?

8 MR. PORTER: Wait until he is done asking  
9 the question.

10 THE WITNESS: A: No.

11 MR. MORAN: Q: What was your reason why  
12 you didn't vote?

13 A: I was out of town.

14 Q: So you missed that Board Meeting?

15 A: Uh huh.

16 Q: You need to say yes or no.

17 A: Yes.

18 Q: Prior to the County Board vote on the  
19 First Application, the one that occurred in January of  
20 2003, had you received any phone calls from anyone  
21 regarding the proposed expansion?

22 A: No.

23 Q: Prior to that vote on January 31<sup>st</sup> of 2003  
24 which you did not attend, did you receive any letters or

1 any written materials from any persons regarding the  
2 proposed expansion?

3 A: I don't remember.

4 Q: Are you aware that a Second Application  
5 was filed on September 26<sup>th</sup> of 2003?

6 A: Yes.

7 Q: I will refer to that as the 2003  
8 Application or the Second Application.

9 A: (Nodding head)

10 Q: Were the public hearings on the Second  
11 Application conducted in January of 2004?

12 A: I believe so.

13 Q: Did you attend any of the hearings?

14 A: Yes.

15 Q: These were the hearings at the Quality  
16 Inn?

17 A: Yes.

18 Q: How many of those sessions did you attend?

19 A: I'm not certain. I -- I would say four.

20 Q: Are you aware that the Kankakee County  
21 Regional Planning Commission conducted those hearings?

22 A: Yes.

23 Q: And that the Regional Planning Commission  
24 prepared a written report with recommendations concerning

1 the Application?

2 A: Yes.

3 Q: And that that written report had  
4 recommended approval of the Second Siting Application  
5 with various conditions?

6 A: Yes.

7 Q: Did you vote on the Second Application?

8 A: Yes.

9 Q: That vote occurred on March 17<sup>th</sup> of 2004?

10 A: I believe so.

11 Q: How did you vote on the Second  
12 Application?

13 A: I voted nay on three of the criterion.

14 Q: Were those criterion 1, 3 and 6?

15 A: I believe so.

16 Q: Prior to your vote on March 17<sup>th</sup> of 2004  
17 did you receive any phone calls from any persons  
18 regarding the proposed expansion?

19 A: No.

20 Q: Prior to your vote on March 17, 2004 did  
21 you receive any letters or written materials regarding  
22 the proposed expansion?

23 A: Yes.

24 Q: Where did you receive these letters?

1 A: At my home.

2 Q: How many letters did you receive  
3 approximately?

4 A: Twenty to thirty.

5 Q: How did you know that the letters related  
6 to the proposed expansion?

7 Did you open them and read them or was  
8 there some other way?

9 A: I opened them and when I saw they were  
10 about the expansion I put them in a stack and turned them  
11 all in to the County Clerk.

12 Q: Did you read any of the letters?

13 A: Just to determine what it was about. Then  
14 I put them on the stack.

15 I did not read them. They were addressed  
16 to me personally by often just the address of the person  
17 sending it.

18 Q: And the letters that you read, were they  
19 opposed to the proposed expansion?

20 A: By not reading them all the way through I  
21 am surmising they were, but I don't -- I didn't read  
22 them.

23 Q: And you said you turned them in?

24 A: Uh huh.

1 Q: You need to say yes or no.

2 A: Yes.

3 Q: To whom did you turn them in?

4 A: Someone here at the County building.

5 Q: When did you do that?

6 A: I am not sure of when.

7 Q: Did you have any meetings or discussions  
8 with any persons regarding the proposed expansion prior  
9 to March 17<sup>th</sup> of 2004?

10 A: Yes.

11 Q: With whom did you have such meetings or  
12 conversations?

13 A: Mr. Harrison.

14 Q: Is this Mr. Bruce Harrison?

15 A: Yes.

16 Q: How did you first have any communication  
17 or contact with Mr. Harrison?

18 A: He came to our church.

19 Q: What is the name of your church?

20 A: Calvary Bible Church.

21 Q: Where is it located?

22 A: Bradley, Illinois.

23 Q: Is Mr. Harrison a member of the church?

24 A: No.

1 Q: How did he come to have communication with  
2 you through the church?

3 A: He made a request of our Associate Pastor  
4 to speak to our congregation about the landfill.

5 Q: Who was your Associate Pastor?

6 A: Robert Guilford.

7 Q: When did he make that request of Mr.  
8 Guilford?

9 A: I don't know the date.

10 Q: Sometime prior to March 17, 2004?

11 A: I believe so.

12 Q: And sometime after September 26<sup>th</sup> of 2003?

13 A: I believe so.

14 Q: And how did you learn of this request that  
15 Mr. Harrison made?

16 A: Mr. Guilford called me.

17 Q: At home?

18 A: Yes.

19 Q: And what did he say to you?

20 A: He says, "There's a gentleman here who  
21 wants to speak to our church about the landfill."

22 And I said, "Tell him no."

23 Q: And do you have any positions within the  
24 church?

1           A:           I am an elder of the church and the church  
2 moderator.

3           Q:           Was anything further said in the  
4 discussion regarding Mr. Harrison's request?

5           A:           He said, "Would you tell him no?"

6           Q:           And what was your response?

7           A:           I said yes.

8           Q:           Did you then call Mr. Harrison?

9           A:           No.

10          Q:           How did you get in contact with Mr.  
11 Harrison?

12          A:           He came to the church.

13          Q:           How long after that conversation did Mr.  
14 Harrison come to the church?

15          A:           That I don't remember.

16          Q:           A few days, couple weeks?

17          A:           No, probably a few days.

18          Q:           Was it during the week or was it on a  
19 weekend?

20          A:           Don't recall.

21          Q:           Did you have any understanding as to when  
22 Mr. Harrison may be coming by and speaking about his  
23 request either with you or with anyone else at the  
24 church?

1           A:           Mr. Guilford told me when he was coming to  
2   the church.

3           Q:           Oh, he did?

4           A:           Yes.

5           Q:           Mr. Guilford knew a specific date when Mr.  
6   Harrison was going to appear at the church, is that  
7   correct?

8           A:           Yes.

9           Q:           And Mr. Guilford told you what that date  
10   was?

11          A:           Yes.

12          Q:           And that date was on a weekend?

13          A:           Don't remember.

14          Q:           You don't remember.

15                        So you were aware that Mr. Harrison would  
16   be stopping by to speak with you at the church?

17          A:           Yes.

18          Q:           Do you have any information to know  
19   whether Mr. Guilford called Mr. Harrison back to say it  
20   would be okay for him to come and talk with you at the  
21   church?

22          A:           No.

23          Q:           Where did you meet with Mr. Harrison at  
24   the church; in an office?

1 A: Conference room.

2 Q: In a conference room at the church?

3 A: Yes.

4 Q: Was Mr. Harrison by himself?

5 A: Yes.

6 Q: What did Mr. Harrison say to you during  
7 this meeting?

8 A: That he wanted to speak to the  
9 congregation regarding the landfill.

10 Q: And was he referring to the proposed  
11 expansion of the existing Waste Management landfill or  
12 was he talking about the proposed new landfill of Town  
13 and Country utilities in the City of Kankakee?

14 A: He didn't distinguish at that time. He  
15 just said the landfill.

16 Q: What did you understand him to mean when  
17 he indicated he wanted to talk about the landfill?

18 A: A landfill in Kankakee County.

19 I mean I didn't -- I didn't know which one  
20 he was talking about. I didn't ask.

21 Q: At that time, though, you were aware of  
22 the Second Application, that is the one to expand the  
23 existing landfill, correct?

24 A: I believe so.

1 Q: Were you aware of any other requests to  
2 approve landfills in the County other than the one that  
3 approved the proposed expansion?

4 A: I knew of the one in the Minnie Creek area  
5 because -- well, I knew of that one.

6 Q: Was it your understanding that Mr.  
7 Harrison was there to talk to you about the proposed  
8 expansion?

9 A: I am not sure.

10 Q: What else did Mr. Harrison say to you  
11 during this meeting?

12 A: Just I told him no, I didn't feel it was  
13 an appropriate venue to speak to our congregation.

14 He tried to make it a spiritual issue.

15 Q: When you say he tried to make it a  
16 spiritual issue, what do you mean?

17 A: Well, that that was the reason he wanted  
18 to speak to the congregation.

19 Q: And what was your response to his wishing  
20 to make it a spiritual issue?

21 A: I didn't agree.

22 Q: And you told him that?

23 A: Yes.

24 Q: Did Mr. Harrison say anything about the

1 location of the landfill that he wanted to speak to the  
2 congregation about?

3 A: I don't recall.

4 Q: Did he refer to Waste Management or any  
5 Waste Management Company when he made his request?

6 A: I don't recall.

7 Q: Did Mr. Harrison have any notepad or paper  
8 with him when he met with you?

9 A: I don't recall.

10 Q: Did he at any point write anything down  
11 during the course of your meeting with him?

12 A: Don't recall.

13 Q: Did Mr. Harrison indicate that he wished  
14 to speak against the landfill to the congregation?

15 A: Yes.

16 Q: Did he indicate to you during the course  
17 of this discussion that it was necessary or appropriate  
18 to oppose the proposed expansion because of its potential  
19 threat or harm to the environment?

20 A: Yes.

21 Q: And that if the proposed expansion were  
22 allowed we would be threatening the environment, did he  
23 indicate that to you as well?

24 A: No, those specific words I don't recall.

1 Q: Did you respond to what he said regarding  
2 the statement about how the environment may be affected?

3 A: Yes, and I don't recall how I responded,  
4 but I -- I don't recall the exact words there.

5 Q: Did you indicate to him that the County  
6 has a responsibility or duty to take care of its own  
7 waste?

8 A: Yes.

9 Q: And you also indicated that to send it  
10 someplace else was not a responsible position to take?

11 A: Yes.

12 Q: And you said that in response to Mr.  
13 Harrison's statement about whether this expansion ought  
14 to take out of County waste?

15 Did he mention that to you? Is that one  
16 of the reasons he was opposing this was that the facility  
17 would take out of County waste?

18 A: I believe so.

19 Q: And isn't it true that he indicated that  
20 the waste ought to be taken to Pontiac, instead of having  
21 this expansion the waste could be sent to Pontiac?

22 A: That was an option that he mentioned.

23 Q: That facility is located in Livingston  
24 County?

1 A: Yes.

2 Q: So Mr. Harrison did indicate that it was  
3 or it would be inappropriate or wrong to accept waste  
4 from Chicago here in Kankakee?

5 A: Yes.

6 Q: And did he also indicate that from a  
7 spiritual standpoint that people should take care of  
8 their own waste and shouldn't be accepting waste from  
9 outside the County or from other areas?

10 A: No.

11 Q: Let me just for a moment direct your  
12 attention to a transcript of your deposition that we took  
13 a number of months ago.

14 You do remember appearing for that  
15 deposition, don't you?

16 A: Yes.

17 Q: And that was on August 4<sup>th</sup> of 2004?

18 A: Yes.

19 Q: And at that time you took an oath to tell  
20 the truth?

21 A: Yes.

22 Q: All I want to do is show you page 23 and I  
23 will just ask you if you were asked the following  
24 question and did you give the following answer: Did he

1 make any argument about a spiritual dimension to the fact  
2 that perhaps people should take care of their own and  
3 shouldn't be out accepting waste from outside the County  
4 or from other areas.

5 Answer: That was the point he was making.

6 Did you give that answer to that question?

7 A: If that's what the transcript says, I did.  
8 I guess when you were stressing that, the way I recall it  
9 now was that he was making this point from an  
10 environmental aspect and I didn't -- I don't remember  
11 that he had said anything about that. Taking out of  
12 County waste was a spiritual problem.

13 Q: So it was just a question that he made the  
14 statement but you don't remember him saying it in the  
15 context of it being a spiritual matter or spiritual  
16 issue?

17 A: The Chicago part?

18 Q: Yes.

19 A: Maybe I was thinking something else when I  
20 answered that.

21 He was referring to the spiritual side of  
22 it as far as the environmental issue.

23 Q: Did Mr. Harrison make any reference to any  
24 of the signs that were posted in and around the area that

1 said No Dump, No Chicago Garbage?

2 A: I don't recall.

3 Q: Do you remember seeing any of those signs  
4 in and around the area?

5 A: Yes.

6 Q: Did they say No Dump, No Chicago Garbage?

7 A: Yes.

8 Q: Did Mr. Harrison say anything else to you  
9 during this meeting in the conference room at the church?

10 A: Not that I recall, no.

11 Q: Did you say anything more to him?

12 A: I don't recall.

13 Q: How long did the meeting last?

14 A: Somewhere around 15 minutes.

15 Q: How did you conclude the meeting with him?

16 A: I just said he couldn't speak to the  
17 congregation. That is the way we left it.

18 Q: And what did he say in response?

19 A: I don't recall.

20 Q: Did you request that the meeting come to  
21 an end?

22 A: I believe so, yes.

23 Q: Did Mr. Harrison indicate that he wanted  
24 to further follow up with maybe members of the

1 congregation or with you at some later point with his  
2 request?

3 A: No.

4 Q: Did he indicate that he had been speaking  
5 with any other County Board Members?

6 A: No.

7 Q: Did he state or indicate that he had  
8 spoken or intended to speak at any other churches?

9 A: He said he had, I believe, spoken at  
10 another church.

11 Q: Did he indicate the name of the church or  
12 where that was?

13 A: I believe it was the Church of God, but I  
14 am not sure which one.

15 Q: There are a number of Churches of God in  
16 the area?

17 A: (Nodding head)

18 Q: You need to say yes.

19 A: Yes.

20 Q: Did he state what he said when he made the  
21 presentation with the Church of God?

22 A: No.

23 Q: Did you have any further communications,  
24 discussions, contacts with Mr. Harrison regarding the

1 proposed expansion after he came to meet with you at the  
2 church?

3 A: One time at the County building when we  
4 were going in for a meeting he was outside.

5 Q: Was that on March 17, 2004?

6 A: Yes.

7 Q: Were there any picketers outside the  
8 building that day?

9 A: Yes.

10 Q: He was one of the picketers?

11 A: Yes.

12 Q: How many picketers did you see that day  
13 approximately?

14 A: Six.

15 Q: Were they carrying signs?

16 A: Yes.

17 Q: Were they the same signs we referred to  
18 before, the No Dump, No Chicago Garbage signs?

19 A: I believe so.

20 Q: And what did Mr. Harrison say to you on  
21 that occasion?

22 A: Hello.

23 Q: Did you say anything to him other than  
24 exchange of greeting?

1 A: No.

2 Q: Have you had any communications with Mr.  
3 Harrison since that day?

4 A: He stopped by my farm one day.

5 Q: When did that occur?

6 A: It was after the March 17<sup>th</sup> meeting. I  
7 don't know when.

8 Q: Do you recall that there was a Motion to  
9 Renew Consideration of the County Board vote on March  
10 17<sup>th</sup>?

11 MR. PORTER: April 13<sup>th</sup>? Oh, it's a vague  
12 question. I object.

13 MR. MORAN: Q: Do you understand my  
14 question?

15 A: I am not sure when the Motion to  
16 Reconsider was made.

17 Q: Are you aware there was a Motion to  
18 Reconsider the County Board's vote which occurred on  
19 March 17<sup>th</sup>?

20 A: Yes.

21 Q: And the County Board ultimately voted on  
22 that Motion to Renew Consideration on April 13, 2004, is  
23 that correct?

24 A: If that's what the date is. I am not

1 familiar with the date.

2 Q: When Mr. Harrison came out to your farm  
3 was it in that period between March 17<sup>th</sup> and April 13<sup>th</sup> of  
4 2004?

5 A: I can't say definitely. I don't remember.

6 Q: Did Mr. Harrison come to your farm  
7 unannounced?

8 A: Yes.

9 Q: Uninvited?

10 A: Yes.

11 Q: Was it during the week?

12 A: Yes.

13 Q: Or weekend?

14 A: I believe it was during the week.

15 Q: Daytime hours or in the evening?

16 A: Daytime.

17 Q: What did he say to you?

18 MR. PORTER: I'm going to object on  
19 relevancy and as you know, Mr. Moran, an objection was  
20 sustained by Mr. Halloran concerning statements made  
21 after March 17, 2004 or at least by the end of the  
22 hearing that objection was sustained quite often.

23 I believe that he would sustain my  
24 objection at this time and I'll allow you to ask the

1 question as an offer of proof.

2 How do you wish to proceed at this time?

3 MR. MORAN: Well, without having a ruling  
4 from him today, I would recognize your objection and  
5 simply request the response recognizing that it may only  
6 come in as an offer of proof if he sustains the objection  
7 and if he doesn't sustain the objection, it comes in for  
8 whatever it's worth.

9 So either way it's to make a record, to  
10 have this available and I think it would be up to  
11 Halloran to just rule on that objection you're going to  
12 make. If he sustains it, then we will make the offer of  
13 proof.

14 MR. PORTER: I would direct the witness  
15 not to answer the question that was posed, but allow him  
16 to respond as an offer of proof. That suffices for our  
17 record.

18 MR. MORAN: That's fine.

19 MR. PORTER: So now, if you would have  
20 that read back -- or, answer the question.

21 MR. MORAN: Why don't you read it?

22 (Whereupon the desired portion was read by  
23 the reporter)

24 MS. GORSKI: This is the beginning of your

1 offer of proof?

2 MR. MORAN: Yes.

3 THE WITNESS: A: I am confused.

4 MR. PORTER: Don't worry about all that.  
5 Just answer the question. What did he say to you?

6 MR MORAN: Q: This is Mr. Harrison when  
7 he came to your farm.

8 A: He wanted to thank me for my vote.

9 Q: What else did he say?

10 A: Very little. I had someone else in the  
11 office and I didn't have time to speak with him.

12 Q: This is your office at your farm?

13 A: At the farm.

14 Q: Who was the other person?

15 A: I don't recall.

16 Q: What did you say to Mr. Harrison when he  
17 said, "Thank you for your vote"?

18 A: "I'm busy."

19 Q: Did you say anything else to him?

20 A: I don't recall.

21 Q: Did he say any more to you?

22 A: I don't recall.

23 Q: Now how long did the meeting last?

24 A: Thirty seconds.

1 Q: Did he leave your property at that point?

2 A: Yes.

3 Q: Did you have any further communication,  
4 contacts or discussions with Mr. Harrison after that  
5 date?

6 A: I believe he was in a County Board meeting  
7 in the public area, but I mean one of the seats behind  
8 the County Board one time that I remember. That's all.

9 Q: Did you speak with him or communicate with  
10 him in any way at that point?

11 A: No.

12 Q: That will end this offer of proof.

13 Let's go back for a moment to the First  
14 Application, the one that you didn't vote on when you  
15 were unavailable for that County Board vote.

16 Prior to that County Board vote on January  
17 31, 2003 had anyone come to your church and requested the  
18 right to speak to the congregation about the proposed  
19 expansion?

20 A: No.

21 Q: In fact, at any point prior to Mr.  
22 Harrison appearing and making that request had anyone  
23 ever come to the church asking to speak to the  
24 congregation about any landfill matters?

1 A: No.

2 Q: Do you recall having received any written  
3 materials in which the following statement was contained:  
4 Dump the dump or we'll dump you?

5 A: Yes.

6 Q: And did you receive that communication  
7 prior to March 17<sup>th</sup> of 2004?

8 A: Yes.

9 Q: It was prior to the vote on the Second  
10 Application?

11 A: Yes.

12 Q: Did you receive that written material at  
13 home?

14 A: Yes.

15 Q: Was it mailed to you or did somebody leave  
16 it at your house?

17 A: Mailed.

18 Q: Did you have any discussion or  
19 communication with any person about that statement?

20 A: Not that I recall.

21 Q: Was it your understanding that the person  
22 who had sent that statement was indicating that unless  
23 you oppose the expansion that there would be some efforts  
24 made to defeat you if you elected to run again for the

1 County Board?

2 MR. PORTER: Objection, calls for  
3 conjecture, calls for a statement that is not an ex parte  
4 communication because those letters were filed by the  
5 mailers with the County Clerk Bruce Clark.

6 Regardless, I'm going to go ahead and let  
7 the witness answer it, reserving my objection.

8 THE WITNESS: A: What's the question?  
9 (Whereupon the desired portion was read by  
10 the reporter)

11 THE WITNESS: A: Not specifically.

12 MR. MORAN: Q: What was your  
13 understanding of this statement: Or We'll Dump You?

14 A: I wasn't sure.

15 Q: Did you have any understanding as to what  
16 that meant?

17 MR. PORTER: Same objection.

18 MR. MORAN: Q: Did you understand it to  
19 mean there might be some physical violence inflicted upon  
20 you?

21 A: I was just puzzled by it, I guess, is my  
22 answer.

23 Q: And you were puzzled by it --

24 A: What it meant.

1 Q: -- (continuing) because?

2 Did you think of the different meanings  
3 this phrase may have had and did they include the ones  
4 that I just identified?

5 A: Yes.

6 MR. MORAN: No further questions.

7 MR. PORTER: I have a few.

8 CROSS EXAMINATION

9 BY MR. PORTER:

10 Q: You mentioned you were a church moderator.  
11 What does that mean?

12 A: I handle the congregational meetings. I  
13 chair them.

14 Q: And if someone were to make a request to  
15 speak at the church would you be responsible for setting  
16 that agenda?

17 A: Yes.

18 Q: Were you meeting with Mr. Harrison as a  
19 County Board Member?

20 A: No.

21 Q: Now how were you meeting with Mr.  
22 Harrison?

23 A: As the church moderator.

24 Q: And was your purpose in meeting with Mr.

1 Harrison to inform him he could not speak to the church  
2 about the landfill application or the landfill in  
3 general?

4 A: Yes.

5 Q: Was your purpose to learn what his  
6 position was on landfilling or Waste Management's  
7 Application?

8 A: No.

9 Q: Did you feel threatened or intimidated by  
10 Mr. Harrison's statements?

11 MR. MORAN: Objection. You can answer it.

12 MR. PORTER: Q: He has to make an  
13 objection for the record.

14 A: No.

15 Q: You had been instructed to disregard any  
16 statements that were made outside of the hearing process,  
17 is that correct?

18 A: Yes.

19 Q: Did you follow that instruction?

20 MR. MORAN: Objection.

21 THE WITNESS: A: Yes.

22 MR. PORTER: Q: There was some mention of  
23 some letters you received before March 17<sup>th</sup> of 2004.

24 Did you feel threatened or intimidated by

1 the receipt of those letters?

2 MR. MORAN: Objection.

3 THE WITNESS: A: No.

4 MR. PORTER: Q: There was some mention of  
5 some picketers that you saw on your way in to vote on  
6 March 17<sup>th</sup>.

7 Did you feel threatened or intimidated in  
8 seeing those picketers?

9 MR. MORAN: Objection.

10 THE WITNESS: A: No.

11 MR. PORTER: Q: It was also mentioned  
12 that the signs were posted around Kankakee. Did you feel  
13 threatened or intimidated by those signs?

14 MR. MORAN: Objection.

15 THE WITNESS: A: No.

16 MR. PORTER: Q: In regard to the letters,  
17 picketers and signs, again did you follow the instruction  
18 to disregard statements or materials that were submitted  
19 outside of the hearing process?

20 MR. MORAN: Objection.

21 THE WITNESS: A: Yes.

22 MR. PORTER: I have nothing further

23 REDIRECT EXAMINATION

24 BY MR. MORAN:

1           Q:           Mr. Olthoff, did Mr. Harrison know that  
2     you were a County Board Member when he met with you at  
3     the church that day?

4                   MR. PORTER:  Objection, calls for  
5     conjecture, but I will let the witness answer.

6                   THE WITNESS:  A:  I don't know.

7                   MR. MORAN:  Q:  Did he in any way refer to  
8     his actions in attempting to contact other County Board  
9     Members regarding the proposed expansion?

10           A:           No.

11           Q:           Was the Pastor of your church aware you  
12     were a County Board Member?

13                   MR. PORTER:  Same objection.  You can  
14     answer.  You can answer.

15                   THE WITNESS:  A:  I am not sure, but I  
16     would guess yes.

17                   MR. MORAN:  Q:  Was Mr. Guilford aware you  
18     were a County Board Member?

19           A:           That's what we were talking about.

20           Q:           I'm sorry.  I thought he was the Associate  
21     Pastor.

22           A:           He was the Associate.  You said your  
23     Pastor.

24           Q:           Your Pastor, yes.

1 A: Yes.

2 Q: Okay. So just so we're clear, your answer  
3 is yes, both the Pastor and Associate Pastor knew you  
4 were a County Board Member?

5 MR. PORTER: I'll object. That  
6 mischaracterizes the previous testimony.

7 THE WITNESS: A: I know --

8 MR. PORTER: Yes to the Associate Pastor.  
9 Go ahead.

10 THE WITNESS: A: I would say that is  
11 accurate.

12 MR. PORTER: What is accurate; my objection  
13 or his question?

14 THE WITNESS: A: This was so early in the  
15 process that I am just saying yeah, I believe they knew I  
16 was a County Board Member or ran for the County Board,  
17 but, you know, I don't know for sure.

18 MR. MORAN: Q: Well, you were elected  
19 County Board Member in December of 2002, correct?

20 A: Yes.

21 Q: This conversation with Mr. Harrison took  
22 place in --

23 A: Yes.

24 Q: -- (continuing) 2004?

1           A:           Okay. They knew I was a County Board  
2 Member. I was thinking incorrectly.

3           Q:           With respect to this witness, as I did  
4 with other witnesses, I would now ask this witness the  
5 same series of questions I asked Ms. Hertzberger about  
6 the reasons and bases for his vote on, in this case,  
7 criteria 1, 3 and 6 and exclude those questions that ask  
8 why he changed his vote. Obviously Mr. Olthoff never  
9 voted the first time and with that I have no further  
10 questions.

11                       MR. PORTER: Obviously my same objections  
12 would apply.

13                       We have nothing further.

14                       MR. MORAN: Thank you, Mr. Olthoff. We  
15 are done.

16                                       FURTHER DEPONENT SAITH NOT...

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1 STATE OF ILLINOIS )

2 COUNTY OF C O O K )

3

4 I, MARILYNN MROZYNSKI, a Notary Public within  
5 and for the County of Cook, State of Illinois, and a  
6 Certified Shorthand Reporter of said state, do  
7 hereby certify:

8 That previous to the commencement of the  
9 examination of the witness, WILLIAM OLTHOFF, he was  
10 by me first duly sworn to testify the whole truth  
11 concerning this matters; herein;

12 That the foregoing deposition was reported  
13 stenographically by me, and thereafter reduced to  
14 typewriting under my personal direction;

15 That the said deposition was taken before me at  
16 the time and place specified;

17 That the reading and signing of said deposition  
18 was not waived by counsel for the respective parties  
19 and the witness, and that the said deposition  
20 constitutes a true record of the testimony given by  
21 said witness;

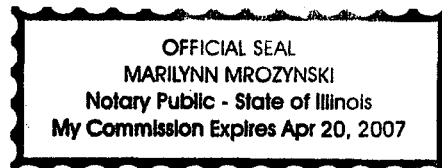
22 That I a not a relative of, or employee or  
23 attorney or counsel for any of the parties, nor a  
24 relative or employee of any attorney or counsel for

1 any of the parties hereto, nor interested directly  
2 or indirectly in the outcome of this action.

3 IN TESTIMONY WHEREOF, I have hereunto set my  
4 hand and affixed my notarial seal this 15<sup>th</sup> day of  
5 April, A.D. 2005.

6  
7 

8 Notary Public, Cook County, Illinois.



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APR 19 2005

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD  
STATE OF ILLINOIS  
Pollution Control Board

WASTE MANAGEMENT OF ILLINOIS, INC.	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. PCB 04-186
	)	
COUNTY BOARD OF KANKAKEE	)	
COUNTY, ILLINOIS	)	
	)	
Respondent.	)	

The evidence deposition of DUANE BERTRAND, taken in the above-entitled matter on the 14<sup>th</sup> day of April, A.D., 2005, at the hour of 1:00 p.m., at 189 East Court Street, 1<sup>st</sup> Floor Conference Room, Kankakee, Illinois, pursuant to the provisions of the Code of Civil Procedure of the State of Illinois and the Rules of the Supreme Court and the Illinois Pollution Control Board, before MARILYNN MROZYNSKI, CSR, a notary public and court reporter certified by the State of Illinois (Certificate No. 84-667).



MARILYNN MROZYNSKI, C.S.R.

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APPEARANCES:

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Appeared on behalf of the Petitioner;

THE LAW FIRM OF:  
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Appeared on behalf of the Respondent;

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KANKAKEE COUNTY, by  
MS. BRENDA L. GORSKI  
ASSISTANT STATE'S ATTORNEY, KANKAKEE COUNTY  
189 East Court Street  
Kankakee, Illinois 60901

Appeared for Kankakee County.

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1 (WITNESS SWORN)

2 DUANE BERTRAND,

3 called as a witness by the Petitioner  
4 herein, having been first duly sworn on oath, was  
5 examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MORAN:

8 Q: What is your name and spell your last name  
9 for our court reporter.

10 A: Duane Bertrand. B-E-R-T-R-A-N-D.

11 Q: What is your address, Mr. Bertrand?

12 A: 3969 South 4000 West Road, Kankakee,  
13 Illinois.

14 Q: How long have you lived there?

15 A: At that residence since '78. I built the  
16 house.

17 Q: Are you a Kankakee County Board Member?

18 A: Yes, sir.

19 Q: How long have you been on the Kankakee  
20 County Board?

21 A: Be twelve years. I think it will be  
22 twelve years in December or thirteen, one of the two.  
23 '93 anyhow.

24 Q: Are you aware that Waste Management of

1 Illinois filed an Application to expand the existing  
2 Kankakee landfill in August of 2002?

3 A: Yes.

4 Q: I will refer to that as the First  
5 Application or --

6 A: All right.

7 Q: The 2002 Application.

8 Was there then another Application filed  
9 in September of 2003 to expand that landfill?

10 A: Well, I don't recall the date. I don't  
11 recall the date, but yeah, the Second Application, sure.

12 Q: And I will refer to that Application as  
13 the 2003 or the Second Application.

14 A: All right.

15 Q: Prior to the vote on the First Application  
16 which occurred on January 31<sup>st</sup> of 2003 did you receive any  
17 phone calls regarding the proposed expansion?

18 A: Yes, I did.

19 Q: And about how many of these calls would  
20 you have received?

21 A: Six maybe.

22 Q: Now I am talking about the First  
23 Application, not the Second one.

24 A: All right.

1 Q: You received about six before the first  
2 one?

3 A: Well, maybe it wasn't that many. I don't  
4 recall.

5 Q: Did you receive any letters or written  
6 materials prior to the First Application which would have  
7 been prior to January of 2003?

8 A: Yes.

9 Q: You received those at your home?

10 A: Yes.

11 Q: How many did you receive?

12 A: Oh, I don't recall, but I turned them all  
13 in to the County Clerk.

14 Q: The first time?

15 A: All of my letters I received.

16 Q: And you voted on the First Application?

17 A: Yes.

18 Q: And you voted to approve the First  
19 Application?

20 A: Yes.

21 Q: You voted on the Second Application?

22 A: Yes.

23 Q: That occurred on March 17<sup>th</sup> of 2004?

24 A: Whatever (gesturing).

1 Q: And did you vote to approve the Second  
2 Application?

3 A: Yes.

4 Q: Was the First Application essentially the  
5 same as the Second Application?

6 A: In my opinion.

7 Q: Yes?

8 A: Yes.

9 Q: Prior to your vote on the Second  
10 Application, this would have been prior to March 17<sup>th</sup> of  
11 2004, did you receive any phone calls?

12 A: Yes.

13 Q: You received about a half a dozen phone  
14 calls?

15 A: I would say yes.

16 Q: One of the people who called you was Doug  
17 Flageole?

18 A: Yes.

19 Q: What did Mr. Flageole say to you in that  
20 phone conversation?

21 A: He wanted to know how I was going to vote  
22 and I wouldn't tell him.

23 Q: What else did he say to you?

24 A: Well, he kept asking me questions and I

1 wasn't answering and he said, "Well, you're going to vote  
2 for it and I can just tell by that."

3 So he said, "I'm going to run against you  
4 and beat you the next time you are up for election."

5 But I told him, I said, "Well, you will  
6 have to move because I am not in your District."

7 Q: Did you view his statements as being a  
8 threat to you?

9 A: Not really.

10 Q: Did you view it as a form of a threat of  
11 sorts?

12 A: I think it was.

13 Q: And did he make that statement or threat  
14 to you in the event you voted in favor of the expansion?

15 A: Well, he could tell that by, you know, my  
16 not answering him that I was going to be in favor of it.  
17 No doubt about that. At least that was his opinion.

18 Q: And is that the way that you took his  
19 statement, he would run against you, in the event you  
20 voted for it he would run against you?

21 A: Yes.

22 Q: Did he indicate to you that there were  
23 reasons why he opposed the expansion?

24 A: No.

1 Q: Like the water, the safety, safety,  
2 anything like that?

3 A: He just got angry and hung up.

4 Q: So he hung up on you?

5 A: Yes.

6 Q: How long did the conversation last?

7 A: I don't know. Five minutes maybe.

8 Q: Did you also receive phone calls from  
9 individuals who lived in Bradley-Bourbonnais?

10 A: I might have received one, but I can't  
11 recall who it was.

12 Q: Are you aware that there were certain  
13 County Board Members who voted to approve the First  
14 Application and then changed their votes and voted  
15 against the Second Application?

16 A: Yes.

17 Q: And were two of those Board Members Ed  
18 Meents and Jim Vickery?

19 A: Yes.

20 Q: Did you have any facts or information that  
21 would indicate why these two County Board Members changed  
22 their vote from approval on the First Siting Application  
23 to disapproval on the Second Siting Application?

24 A: No.

1 Q: Would it refresh your recollection if I  
2 were to refer you to the deposition that you had given in  
3 this case a number of months ago and I had asked you that  
4 very question and you had indicated that yes, you did  
5 have some information but that in your view it was just  
6 based on your understanding at that time.

7 Would that refresh your recollection as to  
8 the fact that you told me --

9 A: I don't remember saying that, but, you  
10 know.

11 MR. PORTER: Okay. You've answered the  
12 question.

13 MR. MORAN: Q: Mr. Bertrand, do you  
14 remember appearing for your deposition in this matter on  
15 June 29<sup>th</sup> of 2004?

16 A: Yes.

17 Q: And at that time you took an oath to tell  
18 the truth?

19 A: Yes.

20 Q: And you did that on that occasion, is that  
21 correct?

22 A: Yes.

23 Q: Do you recall being asked the following  
24 question and giving the following answer on page 15 of

1 the deposition transcript. You can read along with me.

2 The question was: Do you have any facts  
3 or information that would explain or indicate why these  
4 two County Board Members changed their vote from approval  
5 for the First Siting Application to disapproval for the  
6 Second Siting Application?

7 Mr. Porter interposed an objection or  
8 instruction: Same caution, calls only for a yes or no  
9 response and you are free to answer that if you know.

10 And your response to that question was,  
11 Answer: Well, I would say yes but I would like to say I  
12 just have speculation.

13 Did you give that answer to that question?

14 A: I think I did.

15 Q: And you were aware that there were other  
16 County Board Members who changed their vote from an  
17 approval on the First Application to a disapproval on the  
18 Second Application --

19 A: Yes.

20 Q: -- (continuing) is that correct?

21 You told us about some of the phone calls  
22 you received on the Second Siting Application prior to  
23 March 17<sup>th</sup> of 2004.

24 Did you receive any letters or any written

1 materials prior to March 17<sup>th</sup> of 2004 regarding the  
2 proposed expansion?

3 A: I don't recall, but I would have to say  
4 yes, I did but I don't recall.

5 Q: Did you receive any written materials  
6 prior to March 17, 2004 in which the statement was made:  
7 Dump the Dump or We'll Dump You?

8 A: Yes, I think I heard that.

9 Q: And did you have any understanding as to  
10 what that statement meant in reference to you?

11 MR. PORTER: I'm going to object. Calls  
12 for conjecture, is also argumentative, delves into the  
13 mental impressions of this witness.

14 Furthermore, it involves a statement made  
15 in the record itself and therefore, I am very concerned  
16 about the mental impression. I object to it.

17 You can go ahead and answer if you know.

18 THE WITNESS: What was your question  
19 again?

20 MR. MORAN: Q: That phrase, Dump the Dump  
21 or We'll Dump You --

22 A: Well, I suppose they were talking about my  
23 political office.

24 Q: Did you understand that part of that

1 statement which said: We'll Dump You to mean that person  
2 or whoever was writing this would work to defeat you if  
3 you sought re-election to your post?

4 A: Yes.

5 Q: Did that statement We'll Dump You indicate  
6 to you that the author or the person who wrote that  
7 statement might inflict some physical violence or in some  
8 other way --

9 A: No.

10 Q: -- (continuing) provide that kind of a --

11 A: No.

12 Q: -- (continuing) threat to you?

13 A: No.

14 Q: You only viewed it from the standpoint  
15 that someone would try to defeat you --

16 A: Sure.

17 Q: -- (continuing) in your re-election to the  
18 County Board?

19 A: Yes, yes.

20 Q: Now on March 17, 2004 were there picketers  
21 outside this building?

22 A: Yes.

23 Q: How many picketers were there?

24 A: I have no idea because I just walked right

1 by them and came into the building.

2 Q: Were any of them carrying signs?

3 A: Pardon?

4 Q: Were any of them carrying signs?

5 A: Oh, yes.

6 Q: Did you read any of the signs?

7 A: Only the one where it said No Dump, No  
8 Chicago Waste. I didn't read the rest of the signs.

9 Q: And in fact, were those signs, the ones  
10 that said No Dump, No Chicago Garbage located at various  
11 places throughout Kankakee?

12 A: Oh, yes.

13 Q: You saw all those?

14 A: Well, I didn't see them all, but I saw  
15 enough of them.

16 Q: You saw a number of them?

17 A: Yes. In fact, there is one right next  
18 door to me yet. My neighbors.

19 Q: It's still there?

20 A: Yeah.

21 Q: Do you know an individual by the name of  
22 Bruce Harrison?

23 A: Yes, I do.

24 Q: Can you tell us who Mr. Harrison is?

1 A: Can I tell you who he is?

2 The only thing I know about Bruce is that  
3 first time I met him was when he came to meetings and  
4 he's recognized by his beard, but I don't know anything  
5 else about him.

6 Q: Did Mr. Harrison oppose the proposed  
7 expansion of the existing landfill?

8 A: Yes.

9 Q: Did you ever meet with Mr. Harrison?

10 A: Yes.

11 Q: When?

12 A: It was before the second hearing.

13 Q: Was it before the vote of the County Board  
14 on the Second Application?

15 A: Yes.

16 Q: Sometime prior to March 17<sup>th</sup> of 2004?

17 A: Yes.

18 Q: And where did that meeting take place?

19 A: At Bill's Café on Kennedy.

20 Q: Was anyone else present?

21 A: Ed Meents.

22 Q: What time of day did the meeting take  
23 place?

24 A: Seven or seven-thirty.

1 Q: In the morning?

2 A: Yes. It was a breakfast.

3 Q: What did Mr. Harrison say at this meeting?

4 A: Well, he wanted to talk to us about the  
5 dangers of landfills.

6 Q: Did he identify generally or in any way  
7 what those dangers were?

8 A: Well, the longer he talked the more expert  
9 he became.

10 Q: Did he mention the danger to the water  
11 supply?

12 A: Oh, everything.

13 Q: That was one thing?

14 A: Yes.

15 Q: What other dangers did he talk about?

16 A: I don't recall.

17 At this time we never answered him. We  
18 just listened.

19 Q: What he was telling you were reasons why  
20 he believed the proposed expansion should not be  
21 approved?

22 A: Yes. He thought that there -- there was  
23 better ways to handle garbage and definitely no out of  
24 County garbage.

1 Q: He said that was not something that the  
2 County ought to allow, out of County garbage?

3 A: Yes.

4 Q: Did he indicate in any way the fact that  
5 the proposed expansion was located close to the river and  
6 that was a possible problem?

7 A: I don't recall. Just he jabbered on and  
8 on for half an hour.

9 Q: Did he talk about the high water table on  
10 that day?

11 A: Probably, but I don't recall.

12 Q: And he was giving you this information for  
13 the purpose of trying to persuade you to vote against the  
14 Second Application?

15 MR. PORTER: Objection, calls for  
16 conjecture.

17 You can go ahead and answer.

18 THE WITNESS: I can answer?

19 MR. PORTER: Yes.

20 THE WITNESS: A: Yes.

21 MR. MORAN: Q: Did Mr. Harrison make any  
22 statements about the applicant Waste Management of  
23 Illinois, what kind of a company it was or whether it was  
24 reliable or capable of operating --

1 A: No, I don't recall.

2 Q: -- (continuing) a landfill?

3 A: I don't recall.

4 Q: Now how long did the breakfast meeting  
5 last with Mr. Harrison?

6 A: Oh, half hour, forty-five minutes.

7 Q: Did you say anything to Mr. Harrison  
8 during the course of this meeting?

9 A: Just that we wouldn't -- we'd listen, but  
10 we wouldn't answer any questions.

11 Q: Did Mr. Meents say anything to Mr.  
12 Harrison?

13 A: Same thing I said.

14 Q: That you would listen but you wouldn't  
15 make any comment --

16 A: No.

17 Q: -- (continuing) is that correct?

18 A: That's correct.

19 Q: And was it your understanding that Mr.  
20 Harrison was talking to you about the proposed expansion  
21 of the existing landfill?

22 A: Yes.

23 Q: Was there any mention or reference made by  
24 Mr. Harrison to the proposed Town and Country utilities

1 landfill in the City of Kankakee?

2 A: No.

3 Q: After that meeting with Mr. Harrison and  
4 Mr. Meents did you have any other communications or  
5 contacts with Mr. Harrison?

6 A: No.

7 Q: Did you see him at the County Board  
8 meeting when you voted on March 17, 2004?

9 A: Yes.

10 Q: He was out here?

11 A: Yes.

12 Q: Was he carrying a sign?

13 A: I don't recall, but he did introduce me as  
14 Mr. Bertrand and I live in Otto and I voted for it the  
15 first time around.

16 Q: And that is how he introduced you to the  
17 other picketers?

18 A: Yes. I kept right on walking.

19 Q: You wouldn't say anything to him --

20 A: No.

21 Q: -- (continuing) or to any of the  
22 picketers?

23 A: No.

24 Q: Do you know Mr. Ron Thompson?

1 A: Yes.

2 Q: Who is Mr. Thompson?

3 A: He is the Supervisor of Otto Township.

4 Q: And was Mr. Thompson opposed to the  
5 proposed expansion?

6 A: Yes.

7 Q: Did you have any communications with Mr.  
8 Thompson prior to March 17, 2004 in which he stated to  
9 you his opposition to the proposed expansion?

10 A: Yes.

11 Q: Was that outside the context of the public  
12 hearings on the Second Application?

13 A: Yes.

14 Q: Did Mr. Thompson indicate to you that he  
15 had spoken with any other County Board Members regarding  
16 the proposed expansion?

17 A: No, no.

18 Q: I believe you indicated that you had  
19 several meetings with Mr. Thompson prior to March 17,  
20 2004 regarding this proposed expansion.

21 MR. PORTER: I object. He never indicated  
22 that.

23 MR. MORAN: Q: Is that true?

24 MR. PORTER: Same objection. The question

1 is if he's indicated it. This assumes facts that aren't  
2 in evidence.

3 THE WITNESS: You want me to answer that?

4 MR. PORTER: You can answer as an offer of  
5 proof.

6 THE WITNESS: A: I wouldn't say several.

7 MR. MORAN: Q: How many times did you  
8 have any communications or discussions with Mr. Thompson  
9 about the proposed expansion outside the context of a  
10 public hearing prior to March 17, 2004?

11 A: Oh, couple times maybe is all.

12 Q: In these discussions was he indicating to  
13 you that he was trying to get you to change your vote  
14 from approving to disapproving the proposed expansion?

15 A: Yes.

16 Q: The meeting that you had with Mr. Harrison  
17 and Mr. Meents, did you report that meeting to anyone at  
18 the County?

19 A: No.

20 Q: Do you know if Mr. Meents reported it to  
21 anyone at the County?

22 A: I don't know.

23 Q: At any point during the meeting with Mr.  
24 Harrison did he write any of it down? Did he have a

1 notepad with him or a pen or a pencil?

2 A: No.

3 Q: Did he have any written materials with  
4 him?

5 A: Not that I recall.

6 Q: He didn't offer to give you any written  
7 materials at that point?

8 A: No.

9 Q: At any point during that conversation did  
10 Mr. Harrison indicate that he had been speaking with the  
11 Kankakee County State's Attorney or any other County  
12 Board Members regarding the proposed expansion?

13 A: No.

14 Q: I believe you indicated that during that  
15 meeting with Mr. Harrison he had kind of described  
16 himself as being an expert in landfills?

17 A: Yes.

18 Q: Thank you, Mr. Bertrand.

19 A: You're welcome.

20 Q: I have nothing more.

21 MR. PORTER: I have a few follow ups.

22 CROSS EXAMINATION

23 BY MR. PORTER:

24 Q: You did not believe that Mr. Harrison was

1 an expert in landfills, did you?

2 A: No.

3 MR. MORAN: Objection.

4 THE WITNESS: A: No. He just thought he  
5 was. He was a hydrologist, too, and geologist and  
6 whatever.

7 MR. PORTER: Q: Is it your understanding  
8 he was a hydrologist and geologist?

9 A: Do I understand?

10 Q: You said he was a hydrologist and  
11 geologist?

12 A: He thought he was.

13 Q: You knew he was not, right?

14 A: Oh, yes, I knew that.

15 Q: You were being sarcastic when you said  
16 that he was, correct?

17 A: Well, that's what he talked about mostly.

18 Q: I'm just asking because it's very  
19 difficult for the court reporter to take down sarcasm.

20 So you were trying to be sarcastic when  
21 you made that statement?

22 A: I guess.

23 Q: There was some reference to Mr. Flageole  
24 and when you spoke to Mr. Flageole there was some

1 statement that maybe he was threatening to run against  
2 you.

3 Did you feel threatened by that statement?

4 MR. MORAN: Objection.

5 MR. PORTER: Q: You can answer.

6 A: No, I didn't feel threatened.

7 Q: Did you feel intimidated in any way by  
8 that statement?

9 MR. MORAN: Objection.

10 THE WITNESS: A: Not really.

11 MR. PORTER: Q: There was a mention of  
12 picketers that were present on March 17, 2004.

13 Were you threatened or intimidated by the  
14 presence of the picketers?

15 A: No.

16 Q: There was a mention of some letters.

17 Were you threatened or intimidated by any  
18 letters you received?

19 A: No.

20 Q: By the way, you actually voted in favor of  
21 Waste Management's application both times, is that right?

22 A: Yes.

23 Q: There was some mention of signs. Strike  
24 that.

1 In regard to the letters there was some  
2 mention of letters stating Dump the Dump or We'll Dump  
3 You.

4 Were you threatened or intimidated by that  
5 statement in the letter?

6 MR. MORAN: Objection.

7 THE WITNESS: A: No.

8 MR. PORTER: Q: There was some mention of  
9 signs that were posted in Kankakee County.

10 Were you threatened or intimidated by any  
11 signs?

12 MR. MORAN: Objection.

13 THE WITNESS: A: No.

14 MR. PORTER: Q: There was a mention of  
15 breakfast where Mr. Harrison was present with you and Mr.  
16 Meents.

17 Isn't it true that at that breakfast you  
18 informed Mr. Harrison several times you were not going to  
19 speak to him about the landfill?

20 MR. MORAN: Objection.

21 THE WITNESS: A: Yes.

22 MR. MORAN: Objection, leading.

23 MR. PORTER: Q: What did you say to Mr.  
24 Harrison about whether you would speak to him concerning

1 the landfill?

2 A: What was that again?

3 Q: What did you say to Mr. Harrison about  
4 whether you would speak to him concerning landfills?

5 A: We told him that we wouldn't. We would  
6 listen but we wasn't going to say anything.

7 Q: Now you had been instructed by the State's  
8 Attorney's office to disregard any statements made to you  
9 outside of the hearing process concerning landfill  
10 applications, is that right?

11 A: Yes.

12 Q: Did you follow that instruction?

13 MR. MORAN: Objection.

14 THE WITNESS: A: Well, the best you  
15 could. People come up to you and start talking. Well,  
16 you know, you tell them you couldn't talk about it.

17 MR. PORTER: Q: And when they would start  
18 talking to you would you disregard their statements if  
19 they were made outside the hearing?

20 MR. MORAN: Objection.

21 THE WITNESS: A: Yes.

22 MR. PORTER: Q: There was some mention of  
23 Mr. Ron Thompson and some statements of Ron Thompson.

24 Did you feel intimidated or threatened by

1 any statement Mr. Thompson made?

2 MR. MORAN: Objection.

3 THE WITNESS: A: No.

4 MR. PORTER: Q: Again did you follow the  
5 instruction to disregard statements made outside the  
6 hearing process?

7 MR. MORAN: Objection.

8 MR. PORTER: Q: Did you follow that  
9 instruction?

10 A: Yes.

11 Q: How long have you been on the County  
12 Board, Mr. Bertrand?

13 A: Since '93.

14 Q: And what is your age?

15 A: My age?

16 Q: Yes.

17 A: Seventy-five.

18 Q: After Mr. Harrison made the statements to  
19 you and Mr. Thompson made his statements to you did you  
20 change your vote?

21 A: No.

22 Q: So you voted the same way you did the  
23 first time, correct?

24 A: Yes.

1 MR. PORTER: I have nothing further.

2 REDIRECT EXAMINATION

3 BY MR. MORAN:

4 Q: Mr. Bertrand, did you know for a fact that  
5 Mr. Harrison is not a geologist?

6 A: Yes.

7 Q: And what information do you have to  
8 support the conclusion that Mr. Harrison is not a  
9 geologist?

10 A: Everything he said I knew was, you know,  
11 something he must have read or something, you know.

12 I didn't think he was that learned.

13 Q: Did he ever represent himself as a  
14 geologist?

15 A: No.

16 Q: It was just that you had that impression  
17 from the way he was describing his objections to the  
18 proposed expansion?

19 A: Yes.

20 Q: And in fact, he talked to you and Mr.  
21 Meents about geology?

22 A: Yes.

23 Q: And he talked to you and Mr. Meents about  
24 hydrology?

1 A: Yes.

2 Q: And he made it appear as though he knew  
3 what he was talking about in connection with his  
4 references to the geology and hydrology regarding the  
5 proposed expansion?

6 A: Yes.

7 MR. MORAN: Thank you.

8 THE WITNESS: Okay.

9 RECROSS EXAMINATION

10 BY MR. PORTER:

11 Q: At no time did you actually believe --

12 A: No.

13 Q: -- (continuing) he knew what he was  
14 talking about, correct?

15 A: No, I didn't believe anything.

16 MR. PORTER: Nothing further.

17 MR. MORAN: Thank you.

18 THE WITNESS: Because I attended the  
19 hearings.

20 MR. PORTER: There is nothing further.

21 Thank you very much.

22 THE WITNESS: Okay.

23 FURTHER DEPONENT SAITH NOT...

24

1 STATE OF ILLINOIS )

2 COUNTY OF C O O K )

3

4 I, MARILYNN MROZYNSKI, a Notary Public within  
5 and for the County of Cook, State of Illinois, and a  
6 Certified Shorthand Reporter of said state, do  
7 hereby certify:

8 That previous to the commencement of the  
9 examination of the witness, DUANE BERTRAND, he was  
10 by me first duly sworn to testify the whole truth  
11 concerning this matters; herein;

12 That the foregoing deposition was reported  
13 stenographically by me, and thereafter reduced to  
14 typewriting under my personal direction;

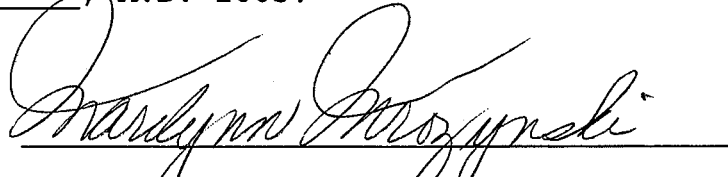
15 That the said deposition was taken before me at  
16 the time and place specified;

17 That the reading and signing of said deposition  
18 was not waived by counsel for the respective parties  
19 and the witness, and that the said deposition  
20 constitutes a true record of the testimony given by  
21 said witness;

22 That I a not a relative of, or employee or  
23 attorney or counsel for any of the parties, nor a  
24 relative or employee of any attorney or counsel for

1 any of the parties hereto, nor interested directly  
2 or indirectly in the outcome of this action.

3 IN TESTIMONY WHEREOF, I have hereunto set my  
4 hand and affixed my notarial seal this 15<sup>th</sup> day of  
5 April, A.D. 2005.

6   
7  
8 Notary Public, Cook County, Illinois.



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