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ILLINOIS POLLUTION CONTROL BOARD

WASTE MANAGEMENT OF ILLINOIS, INC.,	)
	)
Petitioner,	)
	)
Vs	) PCB 04-186
	)
COUNTY BOARD OF KANKAKEE COUNTY,	)
	)
Respondent.	)

REPORT OF PROCEEDINGS had before HEARING OFFICER BRADLEY P. HALLORAN, taken stenographically before TERRY A. BUCHANAN, CSR, a notary public within and for the County of Will and State of Illinois, at 189 East Court Street, Kankakee, Illinois, on the 6th day of April, A.D., 2005, commencing at 9:15 o'clock a.m.

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

ILLINOIS POLLUTION CONTROL BOARD,  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
(312) 814-8917  
BY: BRADLEY P. HALLORAN, HEARING OFFICER

PEDERSEN & HOUPPT,  
161 North Clark Street  
Suite 3100  
Chicago, Illinois 60601  
(312) 261-2149  
BY: MR. DONALD J. MORAN and  
MS. NANCY RICHARDSON

    Appeared on behalf of the Petitioner,

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HINSHAW & CULBERTSON,  
100 Park Avenue  
Rockford, Illinois 61105  
(815) 490-4900  
BY: MR. CHARLES F. HELSTEN and  
MR. RICHARD PORTER

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Appeared on behalf of the Respondent.

ALSO PRESENT: Ms. Brenda Gorski

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HEARING OFFICER HALLORAN: Good morning everyone. My name is Bradley Halloran. I'm the hearing officer with the Illinois Pollution Control Board. I'm also assigned to this matter, Waste Management of Illinois, Inc., petitioner versus County Board of Kankakee County, respondent, PCB 4-186. It's a pollution control facility siting appeal. It's April 6, 2005. It is approximately 9:14 a.m. This hearing has been scheduled in accordance with the Illinois Environmental Protection Act and the Pollution Control Board rules and procedures. It will be conducted according to the procedural rules found at Sections 107 and 101(f) of the Board's rules.

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I do want to note I see some possible members of the public back there, they're encouraged to come up and make a public comment or a public statement. You can either just stand up here and give your comment or stand up here and be sworn in by the court reporter and that would be subject to cross-examination. Depending on your

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decision, the Board will weigh your comment or testimony accordingly.

I do have a sign-up sheet on the last table in the room, feel free to sign up. If anybody has an emergency, they have to go to work or something like that, let me know and I can squeeze you in before the case in chief, just raise your hand and I'll acknowledge it.

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I think the majority of the people here are already familiar with this process. I will not be making the ultimate decision in the case, rather it is up to the Pollution

14 Control Board, which is comprised of five  
15 members. They will take a look at the  
16 record, study the transcript and look at any  
17 post hearing briefs before rendering the  
18 decision.

19 My job is to ensure that this  
20 hearing is orderly and the record is clear  
21 and developed so that the board can have all  
22 the proper information before deciding the  
23 case.

24 Right now I guess I will allow the  
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1 attorneys, Mr. Moran and Mr. Porter to  
2 introduce themselves.

3 MR. MORAN: Yes. My name is Donald  
4 Moran, I represent the petitioner, Waste  
5 Management of Illinois, Inc.

6 MR. PORTER: Good morning,  
7 Mr. Halloran, and the Pollution Control  
8 Board, Rick Porter on behalf of the County  
9 Board of Kankakee County. I will also be  
10 accompanied by Attorney Chuck Helsten and  
11 the State's Attorney's office I will allow to  
12 introduce themselves.

13 MS. GORSKI: Good morning, Officer  
14 Halloran. This is Brenda Gorski, assistant  
15 state's attorney for the County of Kankakee  
16 on behalf of the County Board of Kankakee  
17 County and representing Ed Smith, the state's  
18 attorney of Kankakee County.

19 HEARING OFFICER HALLORAN: While we're  
20 at that juncture, I would ask Mr. Porter and  
21 Ms. Gorski to file an appearance. I don't  
22 think Mr. Porter's appearance is on file as  
23 of yet. I think Mr. Helsten's is, but it's  
24 better to have both.

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1 In any event, we had a telephone  
2 status conference yesterday between the  
3 parties, Mr. Moran, Mr. Porter, myself, a  
4 couple of things we discussed. Mr. Moran had  
5 filed a motion to compel on March 15th, 2005  
6 and that motion was to compel answers to  
7 questions that are posed in discovery  
8 depositions taken between June 22nd, 2004 and  
9 I believe January 2005. These questions  
10 related to reasons why certain members of the  
11 respondent, County Board of Kankakee, had  
12 voted against the siting application at issue  
13 here.

14 On March 30th, 2005, Mr. Porter  
15 and the County filed its response.

16 Yesterday I ruled that Mr. Moran,  
17 Waste Management's motion to compel was  
18 denied. With that, Mr. Porter had questioned  
19 whether or not an offer of proof -- it was  
20 going to be allowed. At that juncture

21 Mr. Porter stated he was going to file a  
22 trial brief, which he has given me and I have  
23 marked it Hearing Officer Exhibit 1. I noted  
24 to the parties yesterday that they would be

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1 allowed to embellish the arguments and  
2 Mr. Moran would have an opportunity to  
3 respond this morning.

4 The other issue out there,  
5 Mr. Porter had file a motion in limine again  
6 yesterday, I think it was April 5th, 2005,  
7 and Mr. Porter can talk about that in a few  
8 minutes.

9 But right now, Mr. Porter, would  
10 you like to embellish, I guess, on your  
11 argument that Waste Management should not  
12 have an opportunity to question the witness  
13 even under an offer of proof?

14 MR. PORTER: Certainly, Mr. Halloran.  
15 Thank you.

16 Quite simply stated, we've already  
17 addressed the issue of whether or not Waste  
18 Management can even conduct discovery as to a  
19 County Board member's mental impressions or  
20 deliberative process in coming to the  
21 decisions that they came to in regard to the  
22 nine criteria and this hearing officer  
23 appropriately ruled that the integrity of the  
24 decision-making process of the Kankakee

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1 County Board requires that mental processes  
2 of decision-makers be safeguarded here.  
3 Petitioner, Waste Management, has made no  
4 strong showing of bad faith or improper  
5 behavior to justify inquiry into the  
6 decision-making process. What Waste  
7 Management I understand is proposing to do is  
8 to conduct offers of proof in the sense of  
9 asking the witnesses to go ahead and respond  
10 to questions that delve into mental  
11 impressions or deliberative process. That,  
12 if it was allowed, would obviously completely  
13 obviate the hearing officer's order and  
14 essentially allow Waste Management to conduct  
15 discovery into the mental impressions and  
16 deliberative process of Board members.  
17 Particularly regarding decisions that were  
18 made over a year ago, the Board members would  
19 be in the unenviable position of having to  
20 recreate how they came to their decisions,  
21 which is exactly what the (inaudible)  
22 precedent and the Morgan -- the United States  
23 Supreme Court Morgan case have held is  
24 inappropriate. What I have provided last

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1 night and in a copy of a trial brief today to  
2 Hearing Officer Halloran is some relevant

3 authority and the case that jumps out to me  
4 is the County of LaSalle versus Illinois  
5 Environmental Protection Agency case, PCB  
6 81-10, which I do have copies of if  
7 Mr. Halloran needs them. In that case, and  
8 I'll quote, the hearing officer in general  
9 should allow offers of proof where there is a  
10 reasonable doubt as to admissibility. We  
11 have no reasonable doubt here that the mental  
12 impressions and deliberative process of Board  
13 members is absolutely inadmissible and if we  
14 were to allow or direct the witnesses to  
15 answer those questions, that would be putting  
16 them in the unenviable position of having to,  
17 I guess, be held in contempt in order to  
18 bring the issue to an Appellate level, which  
19 is simply unnecessary. We know that the law  
20 is clear, you cannot delve into mental  
21 impressions and deliberative process and  
22 therefore it would be highly inappropriate to  
23 allow an offer of proof on those very  
24 subjects. If we're going to allow an offer

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1 of proof, I think the only way it can be  
2 accomplished is to allow Mr. Moran to give a  
3 narrative offer of proof of what he hoped or  
4 thought the evidence would show as opposed to  
5 directing the witnesses to answer. At this  
6 point, I have no further comment.

7 HEARING OFFICER HALLORAN: Thank you.  
8 Mr. Moran?

9 MR. MORAN: Mr. Hearing Officer, I've  
10 just been handed the trial brief literally  
11 moments ago. I am reading it as I hear  
12 Mr. Porter make his argument.

13 The one thing that comes across  
14 very clearly to me is that the offers of  
15 proof as they have generally been applied in  
16 these proceedings would be to address the  
17 very situation that we're dealing with here  
18 and that is a situation in which there has  
19 been a seed change in consideration and  
20 decision of a siting application for  
21 expansion of a landfill, which completely  
22 reversed from a decision on the same siting  
23 application a little over a year prior.

24 You, Mr. Hearing Officer, decided

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1 our motion to compel and determined that  
2 indeed we had not established an appropriate  
3 basis to determine why there was this seed  
4 change in vote on what was the same  
5 application. It is this very issue about the  
6 question of whether such evidence should be  
7 admitted and considered for the very reason  
8 that there would be no other way to evaluate  
9 and determine whether the Board's ruling on

10 what I will refer to as the 2003 application  
11 properly and appropriately considered those  
12 factors, those facts, that evidence that was  
13 presented of record, which make the decision  
14 fundamentally fair and a valid decision.

15 There is indeed, in my view, much  
16 room for difference of opinion on whether  
17 this particular question and the question of  
18 the reasons for the change could be delved  
19 into.

20 Your ruling establishes that at  
21 least at this point that showing has not been  
22 made and that inquiry cannot be made.

23 However, based upon our  
24 contentions in this appeal, we will argue

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1 that indeed there were no legitimate bases  
2 for the reversal of position by County Board  
3 members other than improper influences and  
4 improper factors that were taken into account  
5 and as such with our appeal either the  
6 Pollution Control Board or an Appellate Court  
7 would need to have before it the evidence of  
8 such reasons given by the County Board  
9 members so it may properly evaluate whether  
10 your ruling was accurate and whether indeed  
11 that evidence is relevant for purposes of  
12 ruling on and evaluating the issues we've  
13 raised in this appeal.

14 The case that I'm very familiar  
15 with that's cited in the trial brief is the  
16 Tazewell County case, which, in fact, was one  
17 of the first appeals that was brought under  
18 the Siting Act back in 1982 and that case  
19 also involved a very unusual series of  
20 developments by way of the local county  
21 decision. There the County Board had  
22 initially approved the siting application and  
23 upon a motion filed by the city of East  
24 Peoria, which was a participant or at least

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1 an entity that wished to participate in the  
2 hearings, the County Board reconsidered its  
3 decision and reversed its decision and turned  
4 an approval into a denial and that denial was  
5 appealed and the Pollution Control Board had  
6 before it a motion that was filed by the city  
7 of East Peoria to introduce additional  
8 evidence into the record. Something that by  
9 all accounts, looking at the Act, considering  
10 the past practice was something that clearly  
11 should have been excluded as additional  
12 evidence offered pursuant to an appeal before  
13 the Pollution Control Board and indeed the  
14 ruling by the Board was that that evidence  
15 would be excluded. The city of East Peoria  
16 then made an offer of proof and said we'd

17 still like to be able to at least establish  
18 what we would have presented and what would  
19 have been the evidence had we been given the  
20 opportunity to do so. That offer of proof  
21 was allowed and that offer of proof was  
22 provided, the appeal proceeded and I think  
23 the rest of us are aware of how the Appellate  
24 Court ultimately decided the question, but in

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1 that instance, as in many other instances,  
2 this is precisely the kind of case where an  
3 offer of proof provides that measure of  
4 reviewability and perfectibility of an appeal  
5 so that there can be a complete and thorough  
6 review by an appellate body, both the  
7 Pollution Control Board and the Appellate  
8 Court for purposes of this very critical  
9 issue.

10 So in our view clearly the request  
11 to deny the right to provide an offer of  
12 proof is clearly without basis and ought be  
13 denied.

14 HEARING OFFICER HALLORAN: Thank you,  
15 Mr. Moran. Mr. Porter, anything further?

16 MR. PORTER: Yes. Mr. Moran even  
17 admitted in his discussion right there that  
18 there must be a strong showing of bad faith  
19 or improper behavior before any inquiry into  
20 the decision-making process can be made, yet  
21 he's trying to put the cart before the horse.  
22 He's trying to get the inquiry and then  
23 hopefully that will then justify his position  
24 that there's some improper conduct. That's

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1 exactly what your ruling has prescribed and  
2 restricted. You cannot do that. If he had  
3 some basis for improper conduct, then and  
4 only then would he be allowed to conduct  
5 inquiry into mental impressions. What this  
6 would do is open up the flood gates for all  
7 of these cases now. Whenever an applicant is  
8 denied, he'll then be allowed to ask the  
9 board member why they came to the decision  
10 that they did in the auspices of an offer of  
11 proof and then hopefully by the time he gets  
12 to the Pollution Control Board he's got a  
13 case piecemealed together. It doesn't work  
14 that way. He has to have some evidence of  
15 some improper conduct and then and only then  
16 can he conduct that inquiry.

17 So, again, I think the only  
18 appropriate method of an offer of proof, if  
19 you're going to allow any, would be for  
20 Mr. Moran to give a narrative of what he  
21 believes the evidence would show. He cannot  
22 use this proceeding to conduct discovery.

23 HEARING OFFICER HALLORAN: Any

24 follow-up, Mr. Moran?

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1 MR. MORAN: Well, certainly from the  
2 standpoint of my providing a narrative of  
3 what I believe the evidence will show will  
4 necessarily be incomplete only because as in  
5 all these cases, there is very rarely, if at  
6 all, any direct evidence provided by  
7 individuals as to their admission that there  
8 has somehow been improper influence, improper  
9 behavior, bad faith in one sense or another  
10 and that that information can really only be  
11 gleaned based upon the statements made by  
12 individuals who were involved in the review  
13 and the decision-making process or if it  
14 relates to ex parte communications, those  
15 communications and the only way you can  
16 perfect an appropriate record to allow for  
17 that kind of reviewability is to have the  
18 specific Board members address and testify  
19 what the basis was, what the reasons were for  
20 this reversal and I disagree entirely that  
21 somehow allowing offers of proof here will  
22 open up the flood gates in every siting case  
23 for any disappointed applicant who may wish  
24 to challenge a decision to somehow say we

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1 want to be able to explore the mental  
2 processes of decision-makers and the reason  
3 we're not going to see that is because we're  
4 not going to see, in my view, in many  
5 instances, what occurred here, where you had  
6 an approval of a siting application in  
7 January of 2003 and 14 months later a  
8 reversal on very similar criteria of the same  
9 application, which itself raises very  
10 significant questions and which has been the  
11 first time in my experience any such result  
12 has occurred. So it isn't going to be a  
13 situation where we end up basically opening  
14 up the possibility that any disappointed  
15 applicant is going to be able to just simply  
16 say I want to be able to present an offer of  
17 proof and perfect my appeal rights so that I  
18 can explore mental processes. It ain't going  
19 to happen, but this case is different and  
20 this case supports the view that in order to  
21 properly review and consider the issues we  
22 have raised in this appeal that that offer of  
23 proof be allowed for these County Board  
24 Members.

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1 HEARING OFFICER HALLORAN: Thank you,  
2 Mr. Moran. I've heard enough and to digress  
3 a tad, I sympathize with your just being able  
4 to read the trial brief this morning as have  
5 I, however, Mr. Porter did cite two of the

6 cases yesterday during the telephone status  
7 conference, PCB 81-10, which is the County of  
8 LaSalle and also Waste Management, PCB 82-55,  
9 which is also cited in his trial brief and I  
10 did take a gander at those.

11 Secondly, I think both parties are  
12 at fault for all these 11th hour filing and  
13 posturing. Again, as I've stated numerous  
14 times and also in my motion to compel order  
15 that this case was filed April 2004. These  
16 depts could have been finished August,  
17 September. This is not the Enron case. You  
18 know, this didn't have to happen, but it did  
19 and if this ever gets to part three of this  
20 matter I definitely will set deposition  
21 deadlines, motion deadlines, discovery  
22 deadlines, but as I was told during the  
23 numerous telephone status conferences,  
24 everything was going well.

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1 With that said, and I'm looking at  
2 the County of LaSalle, PCB 81-10, second  
3 paragraph, the hearing officer in general  
4 should allow offers of proof where there's a  
5 reasonable doubt as to its admissibility.

6 I find that there is substantial  
7 case law that supports the County argument.  
8 I don't find there is any reasonable doubt  
9 here and I agree with the County that in  
10 order to get to step two, you have to pass  
11 step two to the threshold. I don't believe  
12 Waste Management has shown any strong showing  
13 of bad faith or improper behavior. Merely  
14 because members have changed their vote  
15 doesn't pierce the veil, if you will.  
16 There's case law out there on that and I  
17 think have been filed with the Board. Again,  
18 the decision-makers are presumed to make  
19 their decision without bias.

20 So, therefore, with that said, I  
21 will grant the County's motion and I will  
22 deny any offer of proof on the mental  
23 processes of the County Board members.

24 With that said, I think we also

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1 have Mr. Porter's motion in limine that was  
2 filed April 5th, 2005, which was yesterday.  
3 Mr. Porter, do you want to expound on that,  
4 please?

5 MR. PORTER: Certainly. We can take  
6 this up now or immediately before  
7 Ms. Bernard's testimony.

8 HEARING OFFICER HALLORAN: Let's take  
9 it up now.

10 MR. PORTER: Okay. The general gist  
11 is that Waste Management, petitioner, has  
12 supplied in a production response several

13 documents that make it clear that they are  
14 going to attempt to admit evidence concerning  
15 statements that Ms. Bernard made while she  
16 was running for the Illinois state  
17 legislature, plus those questions came up at  
18 her deposition. We are merely seeking a  
19 motion in limine to bar them from delving  
20 into those issues. It's well established  
21 under Section 39.2(d) that the fact that a  
22 member of the County Board or governing body  
23 of the municipality has publically expressed  
24 an opinion on an issue related to a site

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1 review proceeding shall not preclude the  
2 member from taking part in the proceeding and  
3 voting on the issue. Furthermore, the U.S.  
4 Constitution expressly allows federal and  
5 governmental employees to express opinions on  
6 political subjects. That's Amendment I.  
7 It's axiomatic that an individual running for  
8 public office has not only a right, but a  
9 duty to inform the public of their position  
10 on issues and particularly in this  
11 legislative district, landfilling is a very  
12 relevant issue that the public wanted and  
13 needed to know and Ms. Bernard has testified  
14 that when, at deposition, that when asked  
15 questions concerning her stance on  
16 landfilling she would respond. That was  
17 perfectly and absolutely appropriate and  
18 should not and cannot be used in this  
19 proceeding as a basis for somehow trying to  
20 give a suggestion of improper ex parte  
21 communications. Those communications were  
22 given as a candidate for legislative office,  
23 not as a member of a County Board with a  
24 pending siting application and that's why

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1 those questions and those documents that  
2 Waste Management has supplied concerning her  
3 bid for the legislature should be barred.

4 HEARING OFFICER HALLORAN: Thank you.  
5 Mr. Moran?

6 MR. MORAN: The applicable provision  
7 of the Act at Section 39.2(d) states as  
8 follows and I'm quoting, the fact that a  
9 member of the County Board or governing body  
10 or municipality has publically expressed an  
11 opinion on an issue related to a site review  
12 proceeding shall not preclude the member from  
13 taking part in the proceeding and voting on  
14 the issue, close quote. What we have from  
15 Ms. Bernard, although they certainly in some  
16 respects are comments that were made during  
17 the course of her campaign for state  
18 representative, her statements are clearly  
19 not simply expressions of opinion about

20 whether she favors landfilling or whether she  
21 favors some other alternative means of waste  
22 disposal or otherwise, these statements  
23 indicate a specific opposition to a specific  
24 proposal that has been made and has been

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1 pending before her sitting in her adjudicatory  
2 capacity as a decision-maker on a siting case  
3 and that's a very significant difference.  
4 Certainly what the legislature had in mind  
5 here was that in the process of campaigning  
6 for office or even if you weren't  
7 campaigning, simply expressing opinions about  
8 landfilling, the process of waste disposal,  
9 whatever it might be, you may have opinions  
10 that aren't consistent with allowing  
11 landfilling in a particular area, but these  
12 opinions are expressed with respect to the  
13 generic or general category of landfills or  
14 otherwise, not the specific proposals that  
15 have been made to approve a specific facility  
16 and when someone as Ms. Bernard did and did  
17 repeatedly, to come out and indicate that she  
18 was opposed to this proposal, that she would  
19 fight against it, that she was strictly  
20 objecting to it and had found it to be  
21 inconsistent with any supporting evidence or  
22 criteria that would allow for its approval,  
23 we're not talking about a mere expression of  
24 opinion, we're talking about someone who has

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1 prejudged a specific application, which is  
2 something that clearly she's unable to do and  
3 these types of comments and these statements  
4 she made unequivocally show that she was  
5 opposed and would vote against this specific  
6 proposal before the evidence was in, before  
7 the County Board voted, before she voted and  
8 that's why this evidence is very critical to  
9 the question of whether she prejudged this  
10 application. Had it been a mere expression  
11 of opinion, we wouldn't be seeking to  
12 introduce it. It relates to this specific  
13 matter and it relates to her specific  
14 decision to oppose this proposal. So we  
15 request that this motion in limine be denied.

16 HEARING OFFICER HALLORAN: Thank you.  
17 Mr. Porter, any follow-up?

18 MR. PORTER: On the latter issue, when  
19 we get to the specific documents perhaps this  
20 is better addressed as specific items of  
21 evidence are sought to be admitted, but we  
22 will see that the vast majority of the  
23 purported statements post date the close of  
24 the hearing. For example, one of the primary

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1 documents that Waste Management is apparently

2 relying upon is Ms. Bernard's general  
3 assembly questionnaire, which she filed on  
4 January 8th, '04 and if it's a statement made  
5 of an opposition to their application after  
6 the close of evidence, so be it. One, she  
7 has a right of freedom of speech to make  
8 these statements running for office and  
9 that's the primary basis. We don't want to  
10 quell that freedom of speech when someone is  
11 running for public office, but two, the  
12 evidence is closed and so where is the harm  
13 at that stage. So I don't believe that  
14 Mr. Moran's statement that these were made  
15 before they had an opportunity to present  
16 their case is accurate and I think that can  
17 only be addressed on a piecemeal basis, but  
18 beyond that, though, the reason we brought it  
19 in limine rather than doing it as each piece  
20 of evidence is submitted is because of the  
21 overall prescription on the 39.2 of barring  
22 someone from testifying -- or from deciding  
23 an application merely because they stated an  
24 opinion and that's exactly what they're

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1 attempting to do here by bringing out  
2 Ms. Bernard's web page when she was running  
3 for office as well as her legislative  
4 questionnaire.

5 HEARING OFFICER HALLORAN: Thank you.  
6 One more response, Mr. Moran?

7 MR. MORAN: Yes. The document that  
8 Mr. Porter just referred to, the answers to  
9 the questions which specifically indicated  
10 her opposition to this proposal dated January  
11 8th, 2004 was a week before the hearing  
12 began. So clearly we're talking about  
13 statements that were made prior to this  
14 hearing even beginning and there isn't, at  
15 least in our view, any question that the  
16 comments made were indicative of a  
17 prejudgement by Ms. Bernard.

18 HEARING OFFICER HALLORAN: Here's what  
19 I'm going to do, I'm going to grant  
20 respondent's motion in limine. I do find and  
21 I still -- from the premise that a  
22 decision-maker is presumed to act without  
23 bias, however, with that said, I will allow  
24 Mr. Moran, under an offer of proof, to

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1 solicit any information regarding the  
2 argument that you so chose. Again, I grant  
3 the motion in limine, but Mr. Moran may pose  
4 it in an offer of proof setting and I'll  
5 let the Board decide. Let's take about a  
6 five-second break, I need some coffee, and  
7 then we can go back on the record.

8 (Whereupon, after a short

9 break was had, the  
10 following proceedings  
11 were held accordingly.)

12 HEARING OFFICER HALLORAN: We're back  
13 on the record. I do want to betrust my  
14 ruling, my first ruling on the mental  
15 processes, I'm looking at the Board rules,  
16 procedural rules Section 101.626(a) where  
17 it says evidence, the hearing officer may  
18 admit evidence that is material, relevant and  
19 would be relied upon by prudent persons in  
20 the conduct of series affairs unless the  
21 evidence is privileges and I did find that  
22 the evidence was privileged.

23 With that said, there is a  
24 gentleman in the back row, he wants to come

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1 up and make a public comment and if you  
2 could, state and spell your name for the  
3 court reporter. You don't want to be sworn  
4 in?

5 MR. BRUCK: I don't know -- I'm not a  
6 lawyer so I don't know whether it's a good  
7 idea or if it's necessary, let's put it that  
8 way. Do my comments carry more weight if I'm  
9 --

10 HEARING OFFICER HALLORAN: Yes, sir,  
11 if you're sworn in.

12 MR. BRUCK: Then I'll swear in.

13 HEARING OFFICER HALLORAN: And then  
14 you're subject to cross-examination.

15 MR. BRUCK: Well, it doesn't -- sure,  
16 if we want to do that, fine. I don't care.  
17 I'll swear in.

18 (Mr. Bruck was sworn in.)

19 HEARING OFFICER HALLORAN: State you  
20 name and spell it for the record, please.

21 MR. BRUCK: I'm Darrel Bruck, Junior,  
22 that's D-A-R-R-E-L, Bruck, B-R-U-C-K, and I'm  
23 a life long resident of Kankakee County.

24 I noticed some inconsistencies in

0030  
1 Mr. Moran's statements this morning. In his  
2 first motions he talked about that the first  
3 application -- or the second application was  
4 essentially the same as the first and  
5 because there wasn't a consistent vote by the  
6 County Board the second time around in favor  
7 of the applicant that it could -- that  
8 demonstrates potentially problems with the  
9 decision-making of the County Board's, then  
10 when he talked about Ms. Bernard who voted no  
11 at the first hearing to the landfill -- to  
12 the criteria and she was consistent and  
13 voted no at the second time around, the  
14 second application he contends that her  
15 consistency shows that she was biased. So

16 I'm -- you know, it doesn't make a whole lot  
17 of sense to me. Either consistency is good  
18 for one if it's in the favor of the  
19 applicant, but if it's not in the favor of  
20 the applicant, then it's not a good thing.  
21 Thank you.

22 HEARING OFFICER HALLORAN: Thank you.  
23 Mr. Moran, any questions of this witness.  
24

0031

1 C R O S S E X A M I N A T I O N  
2 by Mr. Moran  
3 Q. Mr. Bruck, did you attend the hearings  
4 on the siting application filed in 2002?  
5 A. Yes, I did.  
6 Q. And you attended the hearings on the  
7 siting application that was filed in 2003?  
8 A. Yes.  
9 Q. Were you able to determine if there  
10 were any differences in the two applications that  
11 were filed?  
12 A. There was some differences, yes.  
13 Q. What were the differences?  
14 A. They were not major differences, but  
15 there was a little more in-depth exploring of the  
16 criteria.  
17 Q. Which criteria?  
18 A. The criteria regarding public safety  
19 and the criteria regarding traffic, also the  
20 criteria in real estate, the property guarantee.  
21 Q. Well, isn't it true that there was  
22 some additional data that was submitted in support  
23 of the need criterion for the second application?  
24 MR. PORTER: Mr. Hearing Officer, I

0032

1 guess I'm going to voice an objection now  
2 though it's unusual because this is just a  
3 member of the public, but I can see this  
4 coming up quite a bit. Application and the  
5 hearing transcripts and the underlying first  
6 hearing and second hearing, all of that is  
7 already in the record, so we don't need to be  
8 spending a lot of time throughout this  
9 hearing discussing what was different between  
10 one and two. We already have that in the  
11 record. So I think it's arguably irrelevant  
12 to the fundamental fairness of the proceeding  
13 and at a minimum it's redundant and so I'm  
14 going to voice that objection now.

15 HEARING OFFICER HALLORAN: It's  
16 overruled. Mr. Moran, you may proceed.

17 BY MR. MORAN:

18 Q. Mr. Bruck, do you remember my  
19 question?

20 A. No.

21 Q. Okay. Isn't it true that there was  
22 some additional data presented in support of

23 criterion one, the need criterion in the second  
24 application?

0033

1 A. There was a -- yes, there was  
2 additional data presented that allegedly supported  
3 it.

4 Q. And was that also true with respect to  
5 criterion three, the real estate impact, there were  
6 some additional property sales that were submitted  
7 in support of criterion three?

8 A. Allegedly, yes, they were allegedly in  
9 support.

10 Q. And, in fact, there was no new data or  
11 information presented with respect to the design or  
12 operation of the facility in the second application,  
13 was there?

14 A. I believe there was.

15 Q. And this was submitted by whom?

16 A. I think it was in regards to answering  
17 questions that was presented by the objectors in  
18 regards to inspecting of truck loads of garbage and  
19 so forth.

20 Q. Was there any additional data  
21 submitted with respect to the traffic criterion?

22 A. I believe there was by objectors.

23 Q. By whom?

24 A. I believe -- by Mr. Carlock and

0034

1 Mr. Watson regarding school bus traffic and so  
2 forth.

3 Q. Are you just speculating now or do you  
4 actually remember that --

5 A. This is as I recall it, yes, because I  
6 was there.

7 Q. Other than those items that we've just  
8 identified, do you recall any other new information  
9 or data being submitted in support of the second  
10 application?

11 A. In support, yes. Waste Management did  
12 present some new data and information to answer  
13 questions of the objectors. They explored things in  
14 more detail.

15 Q. On which criterion?

16 A. Transportation, property guarantee,  
17 public safety questions, need, need was very much --  
18 was very much discussed in detail. That's all I  
19 recall at this time.

20 Q. So is it your testimony that the  
21 objectors had more questions regarding those  
22 criteria for the applicant in the second application  
23 than they did in the first?

24 A. Yes.

0035

1 MR. MORAN: I have nothing further.

2 HEARING OFFICER HALLORAN: Thank you,

3 Mr. Moran. Mr. Porter?

4 D I R E C T E X A M I N A T I O N

5 by Mr. Porter

6 Q. Mr. Bruck, I am going to ask you a  
7 follow-ups.

8 A. Sure.

9 Q. In regard to the first criterion, I  
10 understand you attended all the hearings, correct?

11 A. Yes.

12 Q. Isn't it true that at the time that  
13 this application -- Waste Management's application  
14 was decided, the city of Kankakee had already sited  
15 a landfill in the county?

16 A. Yes.

17 Q. In regard to criterion three, were you  
18 present when the questioning of Ms. McGarr was done  
19 by one of the objectors?

20 A. Yes.

21 Q. And there was substantially more  
22 impeachment of her credentials in this hearing than  
23 there was in the previous hearing, is that correct?

24 A. Yes.

0036

1 Q. And likewise, in regard to criterion  
2 six, a whole new witness was put on concerning the  
3 impacts to transportation, is that right?

4 A. Yes.

5 Q. And I think you even referenced, that  
6 witness was particularly concerned about the fact  
7 that the application did not take into account  
8 school bus loading zones, is that correct?

9 A. Yes.

10 Q. As a matter of fact, he also was  
11 concerned about the size of the entry and exit way  
12 from the landfill, is that right?

13 A. Yes.

14 MR. PORTER: Nothing further.

15 HEARING OFFICER HALLORAN: Mr. Moran?

16 R E C R O S S E X A M I N A T I O N

17 by Mr. Moran

18 Q. Mr. Bruck, at the time the County  
19 Board considered the second application, the city's  
20 approval of the Town & County application was under  
21 appeal to the Pollution Control Board, is that  
22 correct?

23 A. Yes.

24 Q. And for the first Town & Country

0037

1 siting approval by the city of Kankakee, that  
2 approval was reversed by the Pollution Control  
3 Board, wasn't it?

4 A. Yes.

5 Q. With respect to the testimony of  
6 Mr. Culter, who was the transportation expert  
7 offered by one of the objectors, Mr. Culter  
8 presented no new data or information with respect to  
9 the traffic report, did he?

10 A. I believe he did.

11 Q. What did he present?

12 A. He talked about bus -- the number of  
13 buses as well as the truck traffic that's already on  
14 49/52, the highway.

15 Q. That information was already in the  
16 application, wasn't it, Mr. Culter just missed it,  
17 isn't that right?

18 A. That, I do not know.

19 MR. MORAN: Nothing more.

20 MR. PORTER: No follow-ups. Thank  
21 you.

22 HEARING OFFICER HALLORAN: Thank you.  
23 You may step down.

24 Anybody else before we get started

0038

1 with Waste Management's case in chief? It  
2 doesn't look so -- it doesn't look like  
3 anybody is raising their hand, so Mr. Moran  
4 you may do your opening if you so chose or  
5 call your witness or Mr. Porter.

6 MR. MORAN: We will waive any opening  
7 at this time.

8 HEARING OFFICER HALLORAN: Mr. Porter?

9 MR. PORTER: Likewise.

10 HEARING OFFICER HALLORAN: Mr. Moran?

11 MR. MORAN: We have subpoenaed three  
12 witnesses who I believe are all here at the  
13 moment. Mr. Porter has indicated that  
14 Ms. Hertzberger apparently is only available  
15 this morning to be examined. I frankly can  
16 begin with Ms. Hertzberger or I can begin  
17 with the witnesses that we have subpoenaed.  
18 Have those subpoenas been filed with you with  
19 respect to these witnesses?

20 HEARING OFFICER HALLORAN: I don't  
21 know what witnesses you're talking about.  
22 There has been some subpoenas filed.

23 MR. MORAN: The witnesses I'm talking  
24 about are Mr. Runyon, Ms. Bates and

0039

1 Mr. Keller.

2 HEARING OFFICER HALLORAN: I believe  
3 so. Yes. Three came in, I think, Monday or  
4 last Thursday. In any event, yes, they have  
5 been filed.

6 MR. MORAN: With that, I'm certainly  
7 prepared to proceed with Ms. Hertzberger.

8 MR. PORTER: We would appreciate the  
9 accommodation. Ms. Hertzberger would like to  
10 get this out of the way so she can get back  
11 to work.

12 HEARING OFFICER HALLORAN: Okay. So  
13 agreed.

14 (Ms. Hertzberger was sworn in.)

15 D I R E C T E X A M I N A T I O N  
16 by Mr. Moran

17 Q. Can you tell us your full name and  
18 spell your last name?

19 A. Karen Hertzberger, the last name is  
20 spelled H-E-R-T-Z-B-E-R-G-E-R.  
21 Q. What is your address?  
22 A. 179 South May Avenue, Kankakee.  
23 Q. How long have you lived there?  
24 A. About nine years.

0040

1 Q. What is your occupation?  
2 A. I'm the managing broker of Coldwell  
3 Banker Residential Brokerage.  
4 Q. Are you a member of the Kankakee  
5 County Board?  
6 A. Yes, I am.  
7 Q. When were you first elected to the  
8 County Board?  
9 A. In 2003, December 2003 -- November  
10 started -- is that right? Yeah.  
11 Q. Would it have been December of 2002?  
12 A. 2002. I'm not good with dates.  
13 Q. You were elected in November of 2002  
14 and you were sworn in as a County Board member in  
15 December of 2002?  
16 A. Yes.  
17 Q. And you've been sitting on the County  
18 Board since that time?  
19 A. Yes.  
20 Q. Are you familiar with a site location  
21 application to expand the existing Kankakee  
22 landfill?  
23 A. Yes.  
24 Q. And that application was filed by

0041

1 Waste Management of Illinois, Inc., correct?  
2 A. Yes.  
3 Q. Now, are you aware that there was an  
4 application filed on August 16th of 2002 for the  
5 expansion of that facility?  
6 A. Yes.  
7 Q. And I'll refer to that as the 2002  
8 siting application, fair enough?  
9 A. Yes.  
10 Q. You were sworn in as a member of the  
11 County Board after the hearings on the 2002  
12 application, is that correct?  
13 A. Yes.  
14 Q. Did you attend any of these hearings?  
15 A. Yes.  
16 Q. Did you vote on the 2002 siting  
17 application?  
18 A. Yes.  
19 Q. When?  
20 A. I believe it was in January of 2003.  
21 Q. It was, in fact, on January 31st of  
22 2003?  
23 A. Yes.  
24 Q. How did you vote on the 2002 siting

0042

1 application?

2 A. I voted yes.

3 Q. Did you vote to approve each of the  
4 nine statutory criteria?

5 A. Yes.

6 Q. Prior to January 31st of 2003, did you  
7 receive any phone calls from any individuals  
8 regarding the 2002 siting application?

9 MR. PORTER: Objection, irrelevant.

10 HEARING OFFICER HALLORAN: Mr. Moran?

11 MR. MORAN: The question of  
12 communications, discussions, ex parte  
13 contacts or otherwise are relevant to a  
14 determination of the fundamental fairness of  
15 this proceeding and looked at in terms of  
16 this entire process which as you, Mr. Hearing  
17 officer, have pointed out is really a  
18 continuum beginning the 2002 application and  
19 continuing through the 2003 application and  
20 the question of whether there were -- whether  
21 there was fundamental fairness in this  
22 proceeding, that is the 2003 application, is  
23 certainly affected and implicated by what  
24 occurred on the vote on the 2002 siting

0043

1 application. I believe I'm entitled to  
2 establish the foundation for making those  
3 arguments based upon what's occurred for the  
4 siting applications in this case for this  
5 expansion.

6 HEARING OFFICER HALLORAN: Mr. Porter?

7 MR. PORTER: I would just submit that  
8 any communications that occurred before the  
9 application was filed are irrelevant.  
10 There's no suggestion that the decision  
11 regarding the first application was  
12 fundamentally unfair. Indeed, Waste  
13 management never appealed that decision  
14 because it was approved.

15 HEARING OFFICER HALLORAN: Bear with  
16 me for a minute.

17 (Brief pause.)

18 HEARING OFFICER HALLORAN: I'm going  
19 to overrule your objection, Mr. Porter, at  
20 this point. Mr. Moran can proceed.

21 BY MR. MORAN:

22 Q. Ms. Hertzberger, do you remember my  
23 question?

24 A. Could you repeat it, please?

0044

1 Q. Did you receive any telephone calls  
2 with respect to the proposed expansion prior to your  
3 vote on January 31st, 2003 on the 2002 siting  
4 application?

5 A. Not that I recall.

6 Q. Did you receive any letters or any  
7 written materials from anyone regarding the proposed

8 expansion prior to your vote on January 31st, 2003?

9 A. That's a possibility, but I couldn't  
10 tell you from who because we were all receiving  
11 letters.

12 Q. Would it be fair to say that as you  
13 sit here today today you don't recall having  
14 received any specific letters or written materials  
15 regarding the 2002 siting application before you  
16 voted on it on January 31st, 2003?

17 A. I couldn't pinpoint that, no.

18 Q. So it would be accurate to say that  
19 you don't recall any as you sit here now?

20 A. Yes.

21 Q. That is correct?

22 A. That is correct.

23 Q. Did you become aware that at some  
24 point the approval of the 2002 siting application

0045

1 was vacated or invalidated?

2 A. I'm sorry, could you ask that question  
3 again?

4 Q. Yes. At some point did you become  
5 aware that the approval of the County Board on  
6 January 31st of 2003 was subsequently vacated, a  
7 term lawyers use, invalidated decision?

8 A. Yes.

9 Q. Did you become aware of a siting  
10 application which was filed on September 26th, 2003?

11 A. Yes.

12 Q. I'll refer to that as the 2003 siting  
13 application.

14 Did you attend the hearings on the  
15 2003 siting application?

16 A. No.

17 Q. Did those hearings take place in  
18 January of 2004, to the best of your knowledge?

19 A. Yes.

20 Q. Did you vote on the 2003 siting  
21 application?

22 A. No.

23 Q. At some point you voted on the 2003  
24 siting application?

0046

1 A. I voted on it yes, sorry. I'm sorry.

2 Q. And you voted on the 2003 siting  
3 application on March 17th, 2004?

4 A. Yes.

5 Q. And in voting on the 2003 siting  
6 application, you voted to deny certain of the  
7 criteria, is that correct?

8 A. That's correct.

9 Q. And you voted to deny certain of the  
10 criteria that you had approved when you voted on the  
11 2002 siting application, correct?

12 A. Correct.

13 Q. And those criteria that you voted no  
14 on were criterion one, relating to need, correct?

15 A. Correct.  
16 Q. Criterion two, relating to the design  
17 and operation of the facility, correct?  
18 A. Correct.  
19 Q. Criterion three, which related to  
20 whether the facility was located so as to minimize  
21 any incompatibility with the character of  
22 surrounding area, minimize affect on property value,  
23 correct?  
24 A. Correct.

0047

1 Q. You also voted no on criterion five,  
2 which referred to the plan of operation of the  
3 facility such that it would minimize any danger to  
4 the surrounding area from fire, spills or  
5 operational accidents, correct?  
6 A. Correct.  
7 Q. And you also voted no on criterion  
8 six, which is the criterion related to traffic  
9 impact, correct?  
10 A. Correct.  
11 Q. Now, was there a motion to renew  
12 consideration of the County's March 17th, 2004 vote  
13 on the 2003 siting application?  
14 MR. PORTER: Objection, irrelevant.  
15 HEARING OFFICER HALLORAN: Mr. Moran?  
16 MR. MORAN: It's very relevant. It's  
17 part of the decision-making process that  
18 occurred here. There was a decision on the  
19 17th of March, there was a motion to renew  
20 consideration that was considered and voted  
21 on by the Board subsequently.  
22 HEARING OFFICER HALLORAN: I'll allow  
23 it. You may proceed.  
24

0048

1 BY THE WITNESS:  
2 A. Could you repeat the question, please?  
3 BY MR. MORAN:  
4 Q. Yes. Was there a motion to renew  
5 consideration of the March 17th, 2004 vote?  
6 A. Yes.  
7 Q. And was the vote on that motion to  
8 renew consideration, did that take place on  
9 April 13th, 2004?  
10 A. To my recollection, yes.  
11 Q. And you voted on the motion to  
12 reconsider, correct?  
13 A. Yes.  
14 Q. Do you know an individual by the name  
15 of Bruce Harrison?  
16 A. I know who he is.  
17 Q. Who is he?  
18 A. Let me put it this way, I know he's a  
19 guy. I met him. That's about what I know about  
20 him.  
21 Q. When did you first meet Mr. Harrison?

22 A. I don't know exact dates. In between  
23 the January vote and the March 17th vote, sometime  
24 in between there.

0049

1 Q. So in that 14-month period between  
2 January 31st, 2003 and March 17th, 2004 you met  
3 Mr. Harrison?

4 A. Yes.

5 Q. Did Mr. Harrison come to where you  
6 were when you first met him?

7 A. Yes.

8 Q. So he approached you?

9 A. Yes.

10 Q. And where did he approach you?

11 A. In my office.

12 Q. And your office is located where?

13 A. In Bradley on Route 50.

14 Q. Did this first meeting occur at some  
15 point during January of 2004?

16 A. I really don't recall.

17 Q. Was it before January of 2004?

18 A. I really -- I really couldn't tell  
19 you.

20 Q. All you can tell us is that the  
21 meeting occurred sometime prior to March 17th of  
22 2004?

23 A. Yes.

24 Q. Can you tell us how far before

0050

1 March 17th that was, a few weeks, couple of months?

2 A. I really couldn't get specific.

3 Q. Was Mr. Harrison with anyone when he  
4 came to see you at your office?

5 A. No.

6 Q. Did you allow him in your office?

7 A. I couldn't stop him. I wasn't in the  
8 front. In my office I have two administrative  
9 assistants. People walk in the door. We have  
10 customers and clients that walk in the door. He  
11 walked in the door. I was in my office.

12 Q. What did he say to you?

13 A. My AA paged me and said I had a --  
14 someone that wanted to see me up front. I came up  
15 front. As usual, there's always people that want to  
16 see me, salesmen, other clients because I'm the  
17 manager. I didn't know who he was. He asked me if  
18 he could speak to me for a second. I took him in a  
19 conference room thinking it was a client of one of  
20 my agents and he had a complaint and he proceeded to  
21 tell me he was there to talk to me about the Waste  
22 Management siting application.

23 Q. What did he say to about the Waste  
24 Management siting application?

0051

1 A. I told him I couldn't talk to him  
2 about it.

3 Q. What did he say to you about it?

4 A. He said he wanted to talk to me about  
5 it. I told him I couldn't talk to him about it.  
6 Q. Did he say anything else to you?  
7 A. He tried, made attempts.  
8 Q. And what did he say in making these  
9 attempts?  
10 A. That he was against it, tried to  
11 persuade me to vote no.  
12 Q. How did he try to persuade you to vote  
13 no? What did he say to you?  
14 A. He didn't say a whole lot. He just  
15 said that he felt I should vote no on the -- because  
16 I told him I couldn't talk to him. So most of the  
17 time was spent telling him I couldn't talk to him.  
18 Q. And he would just talk and you would  
19 just listen, correct?  
20 A. Well, I wouldn't just listen. I would  
21 try to just politely tell him that I couldn't talk  
22 to him.  
23 Q. Did he make any reference to the  
24 proposed Town & County landfill in the city of  
0052  
1 Kankakee?  
2 A. No.  
3 Q. He was only talking about the proposed  
4 expansion of the Waste Management landfill?  
5 A. Yes.  
6 Q. How long did this meeting with  
7 Mr. Harrison last?  
8 A. Couple minutes.  
9 Q. Did you then ask him to leave?  
10 A. Yes, I did. I said I can't talk to  
11 you. I stood up and he stood up and he stayed well,  
12 sorry to bother you. Thank you for your time and  
13 he left. I didn't really have to ask him to leave.  
14 Q. Did he say anything to you about his  
15 having talked or spoken to other County Board  
16 members?  
17 A. He tried to mention that, yes.  
18 Q. And what did he say?  
19 A. He said that he had spoken to other  
20 County Board members.  
21 Q. Did he identify any of them by name?  
22 A. No.  
23 Q. You didn't ask him?  
24 A. No.  
0053  
1 Q. Did he say how many he had spoken to?  
2 A. He may have mentioned a number, but I  
3 couldn't tell you what it was.  
4 Q. Did you have another communication  
5 with Mr. Harrison?  
6 A. Mr. Harrison attempted to contact me  
7 maybe three or four times after that.  
8 Q. How did he attempt to contact you?  
9 A. He would either call me and I would  
10 tell him I can't talk to you and I would hang up or

11 he would walk into my office and I would see him and  
12 I ask him to leave and he would leave.

13 Q. How many subsequent times did he come  
14 to your office and try to talk to you?

15 A. He probably just came to my office  
16 maybe one or two more times before that.

17 Q. And these would have been prior to  
18 March 17th, 2004?

19 A. Yes.

20 Q. And the phone call as well was prior  
21 to March 17th?

22 A. Yes.

23 Q. Was there more than one phone call?

24 A. Maybe two.

0054

1 Q. Where they at your home or to your  
2 office?

3 A. I believe they were at my office, but  
4 he may have tried to call me at home.

5 Q. During either of these phone calls or  
6 the meetings, did he say anything more to you about  
7 his opposition to the proposed expansion?

8 A. No.

9 Q. Were there picketers outside this  
10 building on March 17th, 2004?

11 A. Yes.

12 Q. Was Mr. Harrison among them?

13 A. Probably.

14 Q. Did you see any of the picketers?

15 A. Yes.

16 Q. Were any of them carrying signs?

17 A. Yes.

18 Q. What did the signs say?

19 A. I don't recall.

20 Q. Did they say no dump, no Chicago  
21 garbage?

22 A. Possibly. I don't recall.

23 Q. By the way, did you see signs anywhere  
24 in the area prior to March 17th, 2004 that said no

0055

1 dump, no Chicago garbage?

2 A. Yes.

3 Q. Did you see those on individual's  
4 properties in the area?

5 A. Yes.

6 Q. Did you see them at places of  
7 business?

8 A. Yes.

9 Q. How many people appeared to picket, at  
10 least the ones you saw, the day of March 17th?

11 A. Not very many, eight or nine maybe.

12 Q. You saw eight or nine?

13 A. That's what I saw, yes.

14 Q. And you don't recall having seen  
15 Mr. Harrison?

16 A. He probably was there. It wasn't like  
17 I made a mental note is Mr. Harrison here, you know,

18 I just walked the through people.  
19 Q. Did any of the picketers speak to you?  
20 A. Not a whole lot, not really.  
21 Q. Did any of them say anything to you?  
22 A. I think one of them may have said  
23 hello, but that's about it.  
24 Q. Was that somebody you knew or someone  
0056  
1 you did not know?  
2 A. I know a lot of people, so it's --  
3 some people recognize me and I don't recognize them,  
4 so it's possible that I know that person.  
5 Q. Had you ever heard Mr. Harrison tell  
6 any County Board member that Mr. Harrison would work  
7 to oppose that County Board member's re-election?  
8 A. Only one instance.  
9 Q. Who did Mr. Harrison say that to?  
10 A. Carl Kruse.  
11 Q. And who is Mr. Kruse?  
12 A. He is the chairman of the County  
13 Board.  
14 Q. Did that occur at some point prior to  
15 March 17th?  
16 A. I believe so.  
17 Q. Now, is it true that Mr. Harrison  
18 works at United Disposal Company or has worked at  
19 United Disposal Company in the past?  
20 A. I've heard rumors to that effect. I  
21 don't have proof to that.  
22 Q. And United Disposal is a company owned  
23 or controlled by a Michael Watson?  
24 A. Yes.  
0057  
1 Q. Is that your understanding?  
2 A. Yes.  
3 Q. And who is Michael Watson?  
4 A. Other than he owns United Disposal, I  
5 have no idea.  
6 Q. Are you aware of whether Mr. Watson  
7 was an objector to this 2002 and 2003 siting  
8 application?  
9 A. Yes.  
10 Q. And you know that because?  
11 A. County Board meetings.  
12 Q. Now, prior to March 17th of 2004, did  
13 you receive any phone calls from anyone regarding  
14 the 2003 application?  
15 A. I'm sorry, say that again, the dates.  
16 Q. Prior to March 17th, 2004, did you  
17 receive any phone calls from any persons regarding  
18 the 2003 siting application?  
19 MR. PORTER: Other than Mr. Harrison  
20 she's already testified to?  
21 BY MR. MORAN:  
22 Q. Other than the number of calls  
23 Mr. Harrison placed to you.  
24 A. Not that I recall.

0058

1 Q. Did you receive any letters prior to  
2 March 17th, 2004 regarding the 2003 siting  
3 application?

4 A. I received letters, yes.

5 Q. I think you said you received many  
6 letters, is that correct?

7 A. Yes.

8 Q. And all of these letters were in  
9 opposition to the 2003 application?

10 A. I have no idea.

11 Q. You did read some of those letters,  
12 didn't you?

13 A. One.

14 Q. And was that letter opposing?

15 A. I didn't read it all the way through.  
16 I just opened it and noticed it had to do with the  
17 landfill, quit reading it, put it back.

18 Q. Okay. Do you have any information or  
19 facts to believe that any of those letters that you  
20 received were in support of the proposed expansion?

21 MR. PORTER: Objection, calls for  
22 conjecture.

23 HEARING OFFICER HALLORAN: Could you  
24 read the question back?

0059

1 (Whereupon, the requested  
2 portion of the record  
3 was read accordingly.)

4 HEARING OFFICER HALLORAN: I think she  
5 can answer if she's able and after her  
6 answer, I'm going to take a quick break, a  
7 five minute one. Thank you. You may answer.

8 BY THE WITNESS:

9 A. Do I have any facts?

10 BY MR. MORAN:

11 Q. Do you have any information to lead  
12 you to believe that any of those letters you  
13 received were in support of the 2003 application?

14 A. No, not that I could produce right  
15 now, no.

16 HEARING OFFICER HALLORAN: All right.  
17 We're going to go off the record for a  
18 second. Thanks.

19 (Whereupon, after a short  
20 break was had, the  
21 following proceedings  
22 were held accordingly.)

23 HEARING OFFICER HALLORAN: We're back  
24 on the record. Thanks for your indulgence.

0060

1 In any event, Mr. Moran will continue his  
2 direct of the witness.

3 MR. MORAN: Thank you.

4 BY MR. MORAN:

5 Q. Ms. Hertzberger, just going back to  
6 Mr. Harrison's visit to your office. Did you see

7 him writing any notes during any time that you were  
8 meeting with him?

9 A. No.

10 Q. Now, with regard to this letter that  
11 you said you opened and you started looking at it  
12 and you didn't do anything further with it, although  
13 my understanding is you still have that letter, is  
14 that correct?

15 A. Yes.

16 Q. You never turned it into anybody or  
17 told anybody about it, correct?

18 A. Correct.

19 Q. I believe you also indicated that in  
20 beginning to read the letter you concluded that from  
21 reading the part of the letter you did look at, that  
22 it was opposed to the expansion, correct?

23 A. It was an assumption on my part.

24 Q. Your assumption was based upon your

0061

1 reading that part of the letter which you actually  
2 looked at it, correct?

3 A. No.

4 Q. Do you remember appearing for your  
5 deposition in this proceeding back on August 4th,  
6 2004?

7 A. Yes.

8 Q. And at that time you took an oath to  
9 tell the truth and respond truthfully to the  
10 questions asked, is that correct?

11 A. Yes.

12 Q. And you did that, correct?

13 A. Yes.

14 Q. At that deposition were you asked the  
15 following questions and did you give the following  
16 answers with respect to this letter. Question: And  
17 the letter that you opened and read, that part of it  
18 that you read, did you conclude that the person who  
19 wrote the letter was opposed to the expansion?

20 Answer: I assumed that. I didn't conclude that. I

21 just assumed that. Question: From reading that

22 part of the letter that you looked at? Answer:

23 From -- right. Did you give those answers to those  
24 questions?

0062

1 A. If you say I did, I must have.

2 Q. Now, all of those letters that you  
3 received with regard to the 2003 application, you  
4 still have those letters?

5 A. Yes.

6 Q. Did you also receive any letters after  
7 March 17th, 2004, but before April 13th?

8 A. Yes.

9 Q. And how many of those letters did you  
10 receive?

11 A. I never counted them.

12 Q. Were there more than ten?

13 A. I never counted them.

14 Q. So you have no idea how many there  
15 were?  
16 A. No, I have no idea.  
17 Q. Do you still have those at home?  
18 A. Yes.  
19 Q. Were these thank you notes?  
20 A. I opened one, one was a thank you  
21 note. I assumed the other ones were.  
22 Q. Did you receive any postcards?  
23 A. Not that I recall.  
24 Q. And the thank you notes that you

0063

1 reviewed, what were you being thanked for?  
2 A. For my vote.  
3 Q. For your vote on the 2003 application,  
4 denying it?  
5 A. Yes.  
6 Q. And who was that letter from?  
7 A. I have no idea.  
8 Q. Did you receive any thank you notes  
9 for your vote on January 31st, 2003?  
10 MR. PORTER: Objection, irrelevant.  
11 HEARING OFFICER HALLORAN: Overruled.  
12 BY THE WITNESS:  
13 A. I don't know. I don't know. No, I  
14 guess not.  
15 BY MR. MORAN:  
16 Q. Were there any picketers outside the  
17 County Board meeting on January 31st, 2003?  
18 A. Not that I recall.  
19 Q. Do you recall having seen any signs,  
20 no dump, no Chicago waste on or before January 31st,  
21 2003?  
22 A. Yes.  
23 Q. And where did you see these signs?  
24 A. People's yards.

0064

1 Q. This is back before the first vote on  
2 the 2002 application?  
3 A. Correct.  
4 Q. And how many such signs did you see  
5 prior to January 31st, 2003?  
6 A. I really didn't count them. I believe  
7 most of them were in Otto Township.  
8 Q. Could those signs have been placed in  
9 or around the proposed Town & Country site located  
10 in the city of Kankakee?  
11 A. I don't know.  
12 Q. So whatever signs you saw, did you  
13 have any understanding as to what they were  
14 referring to?  
15 A. Did I?  
16 MR. PORTER: Objection. Right now  
17 we're asking for -- I'm going to withdraw it.  
18 Go ahead.  
19 BY THE WITNESS:  
20 A. Did I know there was opposition to the

21 landfill before January, yes.

22 BY MR. MORAN:

23 Q. No, that wasn't my question.

24 My question was whatever these

0065

1 signs were you saw prior to January of 2003, did you  
2 know if these signs were referring to the proposed  
3 Town & Country landfill in the city of Kankakee or  
4 the proposed expansion of the Waste Management  
5 landfill?

6 A. I had no idea.

7 Q. Okay. Prior to January 31 of 2003,  
8 did anyone come to your office to talk about the  
9 proposed expansion of the Waste Management landfill  
10 for the 2002 application?

11 A. No.

12 Q. Did you receive any communications  
13 from any individuals prior to March 17th of 2004  
14 which said dump the dump or we'll dump you?

15 A. No, not that I know of.

16 Q. Not that you recall?

17 A. Not that I recall, no.

18 Q. Ms. Hertzberger, what factors or  
19 information did you consider in deciding the 2002  
20 siting application?

21 MR. PORTER: Objection. That violates  
22 the motion in limine.

23 HEARING OFFICER HALLORAN: Terry,  
24 could you read that back, please?

0066

1 (Whereupon, the requested  
2 portion of the record  
3 was read accordingly.)

4 HEARING OFFICER HALLORAN: Sustained.

5 BY MR. MORAN:

6 Q. What was the source of the information  
7 or factors that you considered in deciding the 2002  
8 siting application?

9 MR. PORTER: This is the exact same  
10 road I went down in the depositions where  
11 Mr. Moran will rephrase the same question  
12 several different ways. It's the same  
13 objection.

14 HEARING OFFICER HALLORAN: Any  
15 response, Mr. Moran?

16 MR. MORAN: Well, I believe these are  
17 questions to which I, based upon our  
18 contentions about fundamental fairness of  
19 this proceeding are entitled to get answers  
20 to. I understand your ruling with respect to  
21 both the motion to compel and the motion in  
22 limine. I'm my record now.

23 Now, we can certainly go through  
24 these questions for this witness and with

0067

1 your approval simply identify these for each  
2 of these witnesses so that I can establish

3 this record in as much as I'm not going to be  
4 able to present offer of proof on them, but I  
5 believe I need to do this for purposes of  
6 making my record.

7 HEARING OFFICER HALLORAN: Mr. Porter,  
8 any response?

9 MR. PORTER: Well, I'm afraid I don't  
10 understand what Mr. Moran is proposing.

11 HEARING OFFICER HALLORAN: I'm a  
12 little confused as well.

13 MR. PORTER: If he's proposing to do  
14 it one time with this witness where I'm going  
15 to make an objection, assuming it will be  
16 sustained, okay, but if we're going to go  
17 through the same exercise with every witness,  
18 that's a complete waste of time and that's  
19 what happened to me at the deposition as well  
20 and I would strongly object to that and  
21 besides that, all it results in is whether or  
22 not I, as the attorney, can stay on my feet  
23 enough to miss an objection and I've already  
24 had a motion in limine and actually it's

0068

1 improper now to be asking these questions  
2 once the hearing officer has already ruled on  
3 the issue. So I guess the only thing I would  
4 agree, if that's what I'm being asked to do,  
5 would be this one witness. Other than that,  
6 I think it's too onerous of a burden on the  
7 County.

8 HEARING OFFICER HALLORAN: Mr. Moran?

9 MR. MORAN: I have no problem with  
10 going through the list of questions I think  
11 I'm entitled to ask and which I'm entitled  
12 the answers and for purposes of stipulating  
13 that these would be the questions I would ask  
14 of each of the County Board members based  
15 upon your ruling on both the motion to compel  
16 and the motion to exclude an offer of proof  
17 to make my record in that fashion.  
18 Otherwise, if you don't think sufficient, I'm  
19 happy to go through it with each one of these  
20 County Board witnesses, those questions,  
21 because I need to make my record.

22 HEARING OFFICER HALLORAN: Mr. Porter,  
23 you're comfortable with that with a standing  
24 objection?

0069

1 MR. PORTER: Absolutely, with one  
2 witness I'm perfectly comfortable with that.  
3 We're not going to repeat it every time a  
4 witness comes up is what I'm understanding  
5 Mr. Moran to be saying, is that correct?

6 MR. MORAN: Well, if Mr. Halloran  
7 agrees that I don't need to do that, I think  
8 I do, but if everyone can stipulate by asking  
9 these questions, which would be the questions

10 I would ask each County Board member as an  
11 offer of proof, we can do it in this fashion  
12 and stipulate that these would be the  
13 questions for each County Board member with  
14 your approval, I'm happy to do that. Without  
15 your approval, I'll go through it with each  
16 witness.

17 HEARING OFFICER HALLORAN: I'm  
18 inclined to approve it.

19 MR. PORTER: I agree.

20 HEARING OFFICER HALLORAN: We'll make  
21 it clear on the record what we're doing. So  
22 you'll ask these questions of this witness,  
23 the questions that have already been ruled  
24 upon and sustained and then we'll just apply

0070

1 it to the witnesses that you so say in the  
2 future. That's fine.

3 MR. MORAN: Yes.

4 HEARING OFFICER HALLORAN: So I assume  
5 all these questions are going to be a  
6 standing objection and I was going to give a  
7 standing sustainment.

8 MR. MORAN: Based on your ruling I  
9 think that's probably right.

10 HEARING OFFICER HALLORAN: Thank you.

11 MR. MORAN: Could you read back my  
12 last question?

13 (Whereupon, the requested  
14 portion of the record  
15 was read accordingly.)

16 MR. PORTER: Same objection.

17 HEARING OFFICER HALLORAN: That  
18 objection is sustained.

19 MR. PORTER: Same objection.

20 BY MR. MORAN:

21 Q. Did you consider any factors or  
22 information outside the record in rendering your  
23 decision on January 31, 2003?

24 MR. PORTER: No objection.

0071

1 BY THE WITNESS:

2 A. No.

3 BY MR. MORAN:

4 Q. The factors that you did take into  
5 account in voting on the January 31, 2003 vote, from  
6 what source or sources did you obtain that  
7 information?

8 MR. PORTER: Same objection, invades  
9 the deliberative process.

10 HEARING OFFICER HALLORAN: Sustained.

11 BY MR. MORAN:

12 Q. What information or facts did you  
13 consider in voting on the 2003 siting application on  
14 March 17th, 2004?

15 MR. PORTER: Same objection.

16 HEARING OFFICER HALLORAN: Sustained.

17 BY MR. MORAN:  
18 Q. What factors or information did you  
19 rely upon in changing your vote on criterion one  
20 from an approval to a denial for the 2003 siting  
21 application?  
22 MR. PORTER: Same objection.  
23 HEARING OFFICER HALLORAN: Sustained.  
24 BY MR. MORAN:

0072

1 Q. What facts or information did you  
2 consider in changing your vote on criterion two from  
3 an approval to a denial for the 2003 siting  
4 application?  
5 MR. PORTER: Same objection.  
6 HEARING OFFICER HALLORAN: Sustained.

7 BY MR. MORAN:  
8 Q. What facts or information did you  
9 consider in changing your vote from an approval to a  
10 denial on criterion three for the 2003 siting  
11 application?  
12 MR. PORTER: Same objection.  
13 HEARING OFFICER HALLORAN: Sustained.

14 BY MR. MORAN:  
15 Q. What facts or information did you  
16 consider in changing your vote from an approval on  
17 criterion five to a denial of criterion five in the  
18 2003 siting application?  
19 MR. PORTER: Same objection.  
20 HEARING OFFICER HALLORAN: Sustained.

21 BY MR. MORAN:  
22 Q. What facts or information did you  
23 consider in changing your vote from an approval to a  
24 denial on criterion six of the 2003 siting

0073

1 application?  
2 MR. PORTER: Same objection.  
3 HEARING OFFICER HALLORAN: Sustained.

4 BY MR. MORAN:  
5 Q. Why did you consider the factors that  
6 you've identified in changing your votes on these  
7 criteria from an approval to a denial in the 2003  
8 siting application?

9 MR. PORTER: Well, that presumes  
10 facts that are not in evidence and I guess  
11 it's also the same objection, but she hasn't  
12 identified any such factors, so it's not an  
13 answerable question.

14 HEARING OFFICER HALLORAN: You made  
15 your record, Mr. Moran. Sustained.

16 MR MORAN: I have no further  
17 questions.

18 HEARING OFFICER HALLORAN: Thank you.  
19 Mr. Porter?

20 MR. PORTER: A few quick redirect.

21 C R O S S E X A M I N A T I O N

22 by Mr. Porter

23 Q. Did you ever ask Mr. Harrison to come

24 to your office?

0074

1 A. Never.

2 Q. Did you ever solicit him for a  
3 conversation?

4 A. Never.

5 Q. Did you ever speak with him about the  
6 substance of the application?

7 A. Never.

8 Q. Did you ever speak with anyone outside  
9 of the record or the hearing about the substance of  
10 the application?

11 A. No.

12 Q. Did you consider anything Mr. Harrison  
13 said to be evidence?

14 A. No.

15 Q. Mr. Moran brought up letters that you  
16 received and you indicated that you had no reason to  
17 know whether or not those letters were in support of  
18 the application. Is that because you didn't read  
19 them?

20 A. Ask that question again, I'm sorry.

21 Q. Well, do you have any reason to  
22 believe that some of those letters that you did not  
23 read because you were concerned they had to do with  
24 the application might have been in support of the

0075

1 application?

2 A. They could have been. I don't know.

3 MR. PORTER: Nothing further.

4 HEARING OFFICER: Mr. Moran?

5 R E D I R E C T E X A M I N A T I O N  
6 by Mr. Moran

7 Q. Do you have any facts or information  
8 to suggest that any of the letters that you didn't  
9 open somehow supported this proposed expansion of  
10 the landfill?

11 A. No facts.

12 Q. You have no other information to  
13 support such a conclusion either, do you?

14 A. I guess not, no.

15 Q. Did Mr. Harrison's presence in your  
16 office make you feel uncomfortable?

17 A. Yes, it did.

18 Q. Because he was not invited?

19 A. No.

20 Q. You didn't want him there?

21 A. No.

22 Q. He was someone who was strongly  
23 opposed to this proposed expansion, right?

24 MR. PORTER: Objection, calls for

0076

1 conjecture.

2 HEARING OFFICER HALLORAN: She may  
3 answer if she's able. Overruled.

4 BY THE WITNESS:

5 A. I would have been uncomfortable with

6 anybody trying to talk to me about the landfill in  
7 my office or anywhere when I wasn't supposed to be  
8 talking about it, opposed or otherwise.

9 BY MR. MORAN:

10 Q. Mr. Harrison's appearance and then  
11 re-appearance at your office was highly unusual,  
12 wasn't it?

13 A. Since he's never been there before, I  
14 suppose so.

15 Q. And he was there to try to persuade  
16 you to vote against this proposed expansion, wasn't  
17 he?

18 A. It's an assumption on my part. I  
19 suppose. Maybe he was trying to date me. I don't  
20 know. I am single.

21 Q. Did he ask to date you?

22 A. I didn't give him a chance.

23 Q. There wasn't anything in what he said  
24 to you that led you to that conclusion, you're just

0077

1 speculating now?

2 A. I'm conceited. Who knows? I don't  
3 know. It could have been.

4 Q. You've been a member of the County  
5 Board since December of 2002, correct?

6 A. Yes.

7 Q. Since that time has any person  
8 approached you in the matter Mr. Harrison did to  
9 address an issue pending before the County Board?

10 MR. PORTER: Objection, irrelevant.

11 HEARING OFFICER HALLORAN: She may  
12 answer if she's able.

13 BY THE WITNESS:

14 A. Not to do with the landfill, but sure,  
15 people approach me all the time to talk to me about  
16 issues.

17 BY MR. MORAN:

18 Q. But I asked you specifically whether  
19 someone has come to your office unannounced and  
20 requested an audience with you to talk about a  
21 specific issue?

22 A. Yes.

23 Q. And have individuals done that on a  
24 repeated basis after coming to your office, been

0078

1 told what you've indicated to the person, the person  
2 keeps coming back?

3 MR. PORTER: Objection. I think that  
4 -- he added the -- telling them what she told  
5 -- hypothetical, which makes the question  
6 vague and unanswerable.

7 HEARING OFFICER HALLORAN: I agree  
8 with Mr. Porter and not only that, aren't we  
9 getting outside -- beyond the scope of these  
10 questions? I hate to throw in my own  
11 objection. Try to rephrase that.

12 MR. MORAN: He asked her about what

13 she considered with Mr. Harrison's comment.  
14 HEARING OFFICER HALLORAN: Try to  
15 rephrase that, Mr. Moran, the last question  
16 and we'll see what becomes of it, please.

17 BY MR. MORAN:

18 Q. Ms. Hertzberger, have you had any  
19 occasion when people have appeared unannounced in  
20 your office about an issue relating to County  
21 business?

22 A. Yes.

23 Q. Has there ever been a time when that  
24 person has returned repeatedly to your office

0079

1 unannounced to address that issue?

2 A. That is a possibility, but I don't  
3 keep count. The only place to find me is my office,  
4 I mean, I'm there 60 hours a week. If you call me  
5 at home, I don't answer.

6 Q. As you sit here now, do you recall any  
7 instances of an individual coming to your place of  
8 business uninvited, unannounced on repeated  
9 occasions to address with you an issue of County  
10 business other than Mr. Harrison?

11 A. As I sit here now, I could not pin  
12 point that, no.

13 MR. MORAN: Thank you.

14 R E C R O S S E X A M I N A T I O N

15 by Mr. Porter

16 Q. Did Mr. Harrison coming to your office  
17 in any way intimidate you?

18 A. Nobody intimidates me.

19 MR. PORTER: Nothing further.

20 MR. MORAN: I have nothing further.

21 HEARING OFFICER HALLORAN: Thank you.

22 You may step down. We're off the record for  
23 a second.

24 (Whereupon, a discussion

0080

1 was had off the record.)

2 HEARING OFFICER HALLORAN: We're back  
3 on the record. Mr. Moran?

4 MR. MORAN: Thank you. At this time  
5 we would call Debra Bates.

6 (Ms. Bates was sworn in.)

7 D I R E C T E X A M I N A T I O N

8 by Mr. Moran

9 Q. Please state your name and spell your  
10 last name for the court reporter.

11 A. Debbie Jane Bates, B-A-T-E-S.

12 Q. What is your address, Ms. Bates?

13 A. 1140 West Merchant Street, Kankakee.

14 Q. And is it accurate to say that you  
15 were served with a subpoena to appear here today to  
16 testify?

17 A. Yes, for 9:00 o'clock?

18 Q. I'm sorry?

19 A. For 9:00 o'clock.

20 Q. Yes. And you're appearing here today  
21 pursuant to that subpoena, correct?

22 A. Yes.

23 Q. What is your occupation?

24 A. I'm a neurodiagnostic technician.

0081

1 Q. And are you currently employed?

2 A. No.

3 Q. How long have you lived at your  
4 current address?

5 A. It's my family home. I've lived there  
6 all my life.

7 Q. Are you familiar with a request that  
8 has been made by Waste Management of Illinois to  
9 expand the existing Kankakee landfill?

10 A. Yes.

11 Q. And when did you become aware of that?

12 A. I don't remember.

13 Q. Within the last couple of years?

14 A. Yes.

15 Q. You don't live anywhere near the  
16 proposed expansion, is that true?

17 A. I live in west Kankakee. No.

18 Q. Well, how far do you live from the  
19 proposed expansion approximately?

20 A. I don't know; six, seven miles.

21 Q. Do you know Bruce Harrison?

22 A. Yes.

23 Q. Who is Mr. Harrison?

24 A. He's a friend of mine.

0082

1 Q. How long have you known him?

2 A. I met him in 2003.

3 Q. And what were the circumstances of  
4 your meeting with him?

5 A. I met him in church.

6 Q. Now, are you aware that Mr. Harrison  
7 has participated in public hearings and the process  
8 by which a request has been made to expand the  
9 existing Kankakee landfill?

10 A. Could you repeat that?

11 Q. Yes. Are you aware that Mr. Harrison  
12 has been involved in the request to expand the  
13 existing Kankakee landfill?

14 A. That he was requested to?

15 Q. He's been involved?

16 A. Involved?

17 Q. In the request to approve the  
18 expansion of that landfill?

19 A. No, I don't know that.

20 Q. Has he ever spoken to you about the  
21 proposed expansion?

22 MR. PORTER: Objection, hearsay.

23 HEARING OFFICER HALLORAN: Mr. Moran?

24 MR. MORAN: Well, we're trying to

0083

1 establish here the relationship that she has

2 with him, her knowledge about his activities  
3 and to the extent she has -- he has indicated  
4 to her what he has been doing she can  
5 certainly testify and address those  
6 statements.

7 HEARING OFFICER HALLORAN: I'm going  
8 to sustain the objection. It is clearly  
9 hearsay.

10 BY MR. MORAN:

11 Q. Ms. Bates do you have any information  
12 of any kind that Mr. Harrison is opposed to the  
13 proposed expansion of the Kankakee landfill?

14 A. Do I believe he's opposed to it?

15 Q. Do you have any information, do you  
16 have any facts, have you learned from any other  
17 people or from Mr. Harrison that he's opposed to  
18 this proposed expansion?

19 A. No, I don't know if he is or not.

20 Q. You have no idea whether he's opposed  
21 to it or not, is that correct?

22 A. Yes.

23 Q. Ms. Bates, during the course of July  
24 and August of 2004, did you see Mr. Harrison at all?

0084

1 A. I don't remember.

2 Q. You don't have any recollection?

3 A. No, I don't.

4 Q. Do you have any recollection of a  
5 person coming to your home and attempting to serve a  
6 subpoena on Mr. Harrison?

7 A. No, I don't believe so. I don't have  
8 any recollection of that. To serve him, no, just  
9 me.

10 Q. And you were served with a subpoena?

11 A. Yes.

12 Q. Are you saying that the attempts being  
13 made to serve subpoenas did not inquire about  
14 Mr. Harrison or his whereabouts?

15 MR. PORTER: That's also calling for  
16 hearsay. What purpose, I'm not sure even,  
17 but I think it's irrelevant and calling for  
18 hearsay.

19 HEARING OFFICER HALLORAN: Overruled.  
20 She can answer if she's able.

21 BY THE WITNESS:

22 A. Could you repeat the question?

23

24 BY MR. MORAN:

0085

1 Q. Did anybody ask you where Bruce  
2 Harrison was so that he could be served with papers?

3 A. They asked me if I've seen him when  
4 they served me my paper and I said no, I don't know  
5 where he is.

6 Q. Did the person ask whether  
7 Mr. Harrison was staying with you?

8 A. No.

9 Q. Did you indicate to the person you  
10 spoke to that Mr. Harrison was playing a game with  
11 the process server and evading his attempts to serve  
12 a subpoena?

13 A. No, I don't remember saying that.

14 Q. You don't recall saying that?

15 A. Huh-huh.

16 Q. I'm sorry, you need to answer yes or  
17 no.

18 A. Could you repeat the question?

19 Q. Yes. Do you recall having told the  
20 person who served you with a subpoena that  
21 Mr. Harrison was playing games and trying to avoid  
22 any service of a subpoena upon him?

23 A. No, I don't recall saying that.

24 Q. But you did say that, didn't you?

0086

1 A. I don't recall.

2 MR. PORTER: Objection.

3 HEARING OFFICER HALLORAN: Sustained.

4 BY MR. MORAN:

5 Q. Are you saying you simply don't recall  
6 having said that or are you denying that you ever  
7 told someone Mr. Harrison was playing games to try  
8 to avoid service?

9 A. I don't remember saying that.

10 Q. You just don't remember saying that,  
11 correct?

12 A. Yes.

13 Q. You're not denying that you said it,  
14 correct?

15 A. I don't remember saying it.

16 Q. Have you seen Mr. Harrison since July  
17 of 2004?

18 A. I saw him in October for about three  
19 hours.

20 Q. Was that here in Kankakee?

21 A. Yes.

22 Q. At your home?

23 A. Yes.

24 Q. Did Mr. Harrison indicate where he was

0087

1 living when you saw him in October of 2004?

2 A. No, he didn't.

3 Q. You didn't ask him?

4 A. No.

5 Q. Since that time you have not seen or  
6 spoken to Mr. Harrison, is that correct?

7 A. I have not seen him.

8 Q. You've spoken to him?

9 A. Yes.

10 Q. Since October of 2004?

11 A. Yes.

12 Q. By phone?

13 A. Yes.

14 Q. When?

15 A. It was February. He called me for my

16 birthday.  
17 Q. Did he indicate where he was calling  
18 from?  
19 A. No.  
20 Q. You didn't ask him?  
21 A. No.  
22 Q. You had no idea where he was?  
23 A. No.  
24 Q. And you don't have any idea to this

0088

1 day where he is?  
2 A. Correct.  
3 Q. Did you at any point attend any  
4 meeting in which the proposed expansion of the  
5 existing landfill was discussed?  
6 A. Yes, I did.  
7 Q. When was that?  
8 A. I don't recall the dates.  
9 Q. Where did this meeting take place?  
10 A. In this room.  
11 Q. In this room?  
12 A. I believe so, yes.  
13 Q. Who else was in attendance?  
14 A. I couldn't tell you. I don't know who  
15 was here. Bruce was here.  
16 Q. How many people were here  
17 approximately?  
18 A. At one time, the first one, that back  
19 area was filled, the second time the back area was  
20 filled with Waste Management and everybody else had  
21 to sit out by the elevators at the second meeting.  
22 Q. So this could have been a County Board  
23 meeting you're talking about?  
24 A. It could have been, yes.

0089

1 Q. You just aren't aware of what the  
2 meeting was?  
3 A. Well, I thought it was because of the  
4 dump, a vote for a dump.  
5 Q. And who asked you to attend the  
6 meeting?  
7 A. Nobody asked me to attend.  
8 Q. How did you become aware of it?  
9 A. I just knew -- I mean, Bruce told me  
10 that it was going to happen.  
11 Q. Bruce Harrison told you?  
12 A. Yes.  
13 Q. Was Bruce at that meeting?  
14 A. Yes, he was.  
15 Q. And he was opposed to the landfill?  
16 A. I don't know that.  
17 Q. Okay. Do you have any information or  
18 reason to know why Bruce attended that meeting?  
19 A. I have no idea why he attended the  
20 meeting.  
21 Q. And you attended because you were  
22 opposed to the landfill?

23 A. Yes.  
24 Q. Were any other people attending this  
0090  
1 meeting that you knew or were acquainted with?  
2 A. The pastor from my church was here, a  
3 couple members from my church.  
4 Q. What was your pastor's name?  
5 A. Pastor Rick Sexton.  
6 Q. And there were other members of your  
7 church who were here?  
8 A. Yeah.  
9 Q. Anybody else here at that meeting that  
10 you knew?  
11 A. No, that was about it.  
12 Q. And you don't recall when that meeting  
13 was?  
14 A. No, I don't have an idea what the  
15 dates were.  
16 Q. Do you know Mr. Robert Keller?  
17 A. Yes.  
18 Q. Who is Mr. Keller?  
19 A. He's just somebody I met.  
20 Q. You met him through Mr. Harrison?  
21 A. Yes.  
22 Q. In fact, did Mr. Harrison live on  
23 Mr. Keller's property for a period of time?  
24 A. That, I don't know.

0091  
1 Q. Do you know if Mr. Keller was opposed  
2 to the proposed expansion?  
3 A. I don't know what he felt.  
4 Q. Do you know if Mr. Keller lives near  
5 the proposed expansion?  
6 A. Yeah, I believe he does.  
7 Q. He lives there with his wife?  
8 A. I believe so.  
9 Q. Do you know his wife?  
10 A. No, I don't.  
11 MR. MORAN: Thank you. I have no  
12 further questions.  
13 HEARING OFFICER HALLORAN: Mr. Porter?  
14 MR. PORTER: I think I probably just  
15 have one.  
16 C R O S S E X A M I N A T I O N  
17 by Mr. Porter  
18 Q. The meeting you attended in this room,  
19 was it the day that the County Board members voted  
20 on the application?  
21 A. Yes, I believe so.  
22 MR. PORTER: Nothing further.  
23 HEARING OFFICER HALLORAN: Mr. Moran?  
24

0092  
1 R E D I R E C T E X A M I N A T I O N  
2 by Mr. Moran  
3 Q. Which application did they vote on?  
4 A. When you say application, there was a

5 series of things they were voting on, is that what  
6 you mean? Is that an application, the series of  
7 proposals?

8 Q. There were two votes by the County  
9 Board on siting applications, one occurred in 2003  
10 and one occurred in 2004. I'm asking which of those  
11 applications did the County Board vote on when you  
12 attended?

13 A. I'm not aware of what they were.

14 Q. Would it be fair to say that it would  
15 have been the meeting that was held in 2004, about a  
16 year ago?

17 A. I'm sorry, could you repeat that?

18 Q. Would it be accurate to say that the  
19 meeting you attended was the County Board meeting  
20 that occurred about a year ago, 2004?

21 A. I believe so. It was about a year  
22 ago. I don't know dates.

23 MR. MORAN: Thank you.

24 HEARING OFFICER HALLORAN: Mr. Porter?

0093

1 MR. PORTER: No.

2 HEARING OFFICER HALLORAN: Thank you  
3 very much, Ms. Bates. You may step down.  
4 You may call your next witness.

5 MR. MORAN: Thank you. I will call  
6 Mr. Robert Keller.

7 (Mr. Keller was sworn in.)

8 D I R E C T E X A M I N A T I O N

9 by Mr. Moran

10 Q. Please state your last and spell your  
11 last name for the court reporter.

12 A. Robert Keller, K-E-L-L-E-R.

13 Q. And what is your address, Mr. Keller?

14 A. 765 East 6000 South, Chebanse.

15 Q. And you're appearing here today  
16 pursuant to the subpoena that was served upon you?

17 A. Correct.

18 Q. How long have you lived at that  
19 address?

20 A. Approximately five years.

21 Q. Do you live there with your wife?

22 A. Yes, I do.

23 Q. What's her name?

24 A. Brenda.

0094

1 Q. What is your occupation?

2 A. Stone cutter.

3 Q. And for how long have you been a stone  
4 cutter?

5 A. Ten years approximately.

6 Q. When did you first become aware of the  
7 fact that Waste Management of Illinois was proposing  
8 to expand the existing Kankakee landfill?

9 A. No idea.

10 Q. Was it some time in early --

11 A. Within the last five years.

12 Q. It could have been some time early in  
13 2002?

14 A. It could have been, yes.

15 Q. And how did you first become aware of  
16 that?

17 A. Don't remember.

18 Q. Did you read it in a document? Did  
19 somebody tell you? Did you hear it in a  
20 conversation with somebody?

21 A. Do not recall.

22 Q. You don't recall?

23 A. I don't recall.

24 Q. Okay. Do you remember what you

0095

1 learned about the proposed expansion?

2 A. That Waste Management wanted to do 300  
3 and some acres basically across the street from me.

4 Q. And you live right across the street  
5 from the existing landfill, is that correct?

6 A. No.

7 Q. Could you describe for us where your  
8 house is in relation to the existing landfill?

9 A. Approximately a quarter mile to the  
10 east and to the north just, across the road to the  
11 north.

12 Q. So you moved to this property after  
13 the landfill had already been established, is that  
14 correct?

15 A. The one that's there now, yes.

16 Q. Yes. And you heard that the expansion  
17 was going to cover about 300 acres you said?

18 A. I believe that, yes.

19 Q. Did you receive at or around the time  
20 you learned of the proposed expansion any written  
21 materials regarding the proposed expansion?

22 A. No.

23 Q. Have you ever received any written  
24 materials regarding the proposed expansion?

0096

1 A. Yes.

2 Q. What have you received?

3 A. Something about a guarantee on my  
4 property, whether it would -- some kind of guarantee  
5 that my property wouldn't lose value.

6 Q. And when did you receive that?

7 A. I don't recall.

8 Q. Was it shortly after you first learned  
9 about the proposed expansion?

10 A. I believe this was on the latest  
11 proposal. I believe it was then, but I don't  
12 remember.

13 Q. Have you received any other written  
14 materials regarding the proposed expansion?

15 A. I don't remember what I've received,  
16 what all I've received, subpoenas from you for  
17 different things, all of that is what you're talking  
18 about or --

19 Q. No. I'm asking about any document  
20 that in any way described or had information about  
21 the proposed expansion?  
22 A. I don't remember.  
23 Q. Did you at any point receive any  
24 notice of the intent to file a siting application to  
0097  
1 expand the landfill?  
2 A. Yes, I did.  
3 Q. Is it accurate to say that the first  
4 of those notices that you received was in March  
5 of 2002?  
6 A. I don't remember dates.  
7 Q. And you received that notice by way of  
8 certified mail, is that correct, the very first one?  
9 A. I don't remember.  
10 Q. Do you know an individual named  
11 Michael Watson?  
12 A. Yes, I do.  
13 Q. Who is Mr. Watson?  
14 A. A neighbor to me.  
15 Q. How long have you known him?  
16 A. About the five years that I've lived  
17 out there.  
18 Q. Is he a friend of yours?  
19 A. I would consider him my friend now,  
20 yes.  
21 Q. Mr. Watson owns United Disposal?  
22 A. As far as I know, he definitely is  
23 there a lot.  
24 Q. And do you know what United Disposal  
0098  
1 is?  
2 A. A garbage company.  
3 Q. Where is it located?  
4 A. In Bradley.  
5 Q. Have you ever done work for United  
6 Disposal?  
7 A. I've drove a truck for them, yes.  
8 Q. When did you first drive a truck for  
9 United Disposal?  
10 A. No idea.  
11 Q. Was it after you first learned of the  
12 proposed expansion of the landfill?  
13 A. The first time I drove a truck for him  
14 was when I asked him if I could have him help me get  
15 my CDL from my place of business.  
16 Q. And when was that?  
17 A. Some time in the five years I've known  
18 him.  
19 Q. And what did Mr. Watson say?  
20 A. Yeah, he could help me get a CDL  
21 driver's license, he could teach me how to drive.  
22 Q. And in exchange for his assistance,  
23 you were willing to perform some services for United  
24 Disposal?  
0099

1 A. No. He just allowed me to do it.  
2 Q. And then you simply offered to drive a  
3 truck for United Disposal?  
4 A. You have to -- to learn how to drive a  
5 truck you have to have somebody in the truck that  
6 has a CDL.  
7 Q. And he has a CDL?  
8 A. Yes.  
9 Q. So you drove a United Disposal truck  
10 with him?  
11 A. Correct.  
12 Q. So that you could get your license?  
13 A. Correct.  
14 Q. After you got your license, did you  
15 continue driving a truck for United Disposal?  
16 A. I have drove for him since, yes.  
17 Q. And you drive whenever he asks you to  
18 do that?  
19 A. Yes.  
20 Q. Do you receive any compensation?  
21 A. Money, no.  
22 Q. But you receive other compensation  
23 from him for your --  
24 A. Things of friendship, yes.

0100

1 Q. Can you give us an idea of what kinds  
2 of things you get from him?  
3 A. He allowed me to use his bobcat to  
4 drill holes on my property to put up a fence, I've  
5 used other equipment of his to move things on my  
6 property, I've gotten hay from him before for my  
7 animals.  
8 Q. In addition to driving a truck for  
9 United Disposal, have you also performed services  
10 for Mr. Watson at the various properties that he  
11 owns?  
12 A. Yes.  
13 Q. And those are properties that are in  
14 and around the area of the existing landfill?  
15 A. Yes.  
16 Q. What types of services have you  
17 provided for him on his properties?  
18 A. Cut hay, help him bale hay, farm  
19 stuff.  
20 Q. Does he pay you for that work?  
21 A. No.  
22 Q. He just will provide from time to time  
23 other --  
24 A. Yes.

0101

1 Q. -- benefits to you?  
2 A. Yes.  
3 Q. And that's part of your friendship?  
4 A. Yes.  
5 Q. I think you said you would do  
6 something along those lines for a friend?  
7 A. Yes.

8 Q. Now, are you aware that Mr. Watson has  
9 appeared to oppose the proposed expansion?

10 A. From the newspapers and stuff I would  
11 know that, yes.

12 Q. Now, let's go back to the early part  
13 of 2002. Your relationship with Mr. Watson, would  
14 it be fair to say that except for those times when  
15 either you're on vacation or he's on vacation, that  
16 generally you will talk to him three or four times a  
17 week either by phone or in person?

18 A. I don't remember about in 2002. It's  
19 irrelevant for me to remember something like that.

20 Q. Well, isn't it accurate to say that as  
21 your relationship with him has developed that over  
22 the past two years generally you will speak to him  
23 three to four times a week?

24 A. Yes, it's definitely inclined from the  
0102 time I met him to now, yes.

2 Q. Okay. And at some times it may be  
3 more than three to four times a week and maybe other  
4 times it may be less?

5 A. Yes.

6 Q. But generally you're speaking with him  
7 and dealing with him on a continuing basis?

8 A. Now, yes.

9 Q. And you said that you became aware  
10 that he was opposed to the landfill by reading about  
11 it in the newspaper?

12 A. I could have. It may have been that  
13 he's talked to me and said something or maybe  
14 somebody else, hearsay. I can't tell you exactly  
15 when I learned he was opposed.

16 Q. And I believe you've indicated that in  
17 early November of 2002 while you were driving a  
18 truck for United Disposal -- or let me withdraw  
19 that.

20 In early November of 2002  
21 Mr. Watson asked you to drive a truck for United  
22 Disposal so he could attend certain hearings, is  
23 that correct?

24 A. If that's the hearings that I weren't  
0103 notified of, yes. I don't remember dates, so I

1 can't...

2 Q. So he told you at that point that he  
3 would like you to drive a truck because he was going  
4 to attend hearings?

5 A. There was a point in time that that  
6 happened, yes.

7 Q. And did he indicate to you that he was  
8 attending these hearings because he was opposed to  
9 what was being proposed?

10 A. I don't know if I knew then or if I  
11 found out later. I can't tell you that.

12 Q. You don't recall him ever saying that  
13 to you?  
14

15 A. Saying he was --  
16 Q. He was opposed?  
17 A. I don't know if that -- I'm assuming  
18 he said it because I know he's opposed to it, but I  
19 don't know that -- was that time or what, no.  
20 Q. And when he said to you he was going  
21 to hearings, you asked him what hearings?  
22 A. Yes.  
23 Q. Because you hadn't heard about  
24 anything, correct?

0104

1 A. Correct.  
2 Q. And he asked you whether you were  
3 aware of the hearings?  
4 A. Yes.  
5 Q. And you said no?  
6 A. Yes.  
7 Q. Did he then ask you if you had  
8 received any notice for the hearing?  
9 A. I don't remember the exact  
10 conversation. At that point in time, somewhere  
11 around there, is when he found out that I hadn't  
12 been. I don't know if he directly asked me or if I  
13 asked him or if somebody else asked. I don't  
14 remember.  
15 Q. Would there have been anybody else who  
16 asked you about whether you had received notice  
17 other than Mr. Watson?  
18 A. I don't remember. I can't answer that  
19 truthfully.  
20 Q. After this conversation with him, did  
21 there come a time when Mr. Watson gave you a  
22 document titled affidavit for you to sign about  
23 whether you had received notice?  
24 A. Correct.

0105

1 Q. Have you ever talked to anyone about  
2 what was to be in that affidavit before it was given  
3 to you by Mr. Watson?  
4 A. I don't recall.  
5 Q. And you took this document and you  
6 read it and you signed it, correct?  
7 A. Correct.  
8 Q. Is it also fair to say that a similar  
9 affidavit was prepared for your wife to sign?  
10 A. I know of that now, yes.  
11 Q. But you didn't know about it then?  
12 A. Correct.  
13 Q. So during that period when another  
14 affidavit had been prepared and given to your wife  
15 you weren't aware of any of that?  
16 A. Not then, no.  
17 Q. And you don't know who prepared the  
18 affidavit, either yours or your wife's?  
19 A. I assume a lawyer did, but I don't  
20 know, no. I didn't see somebody make it out, so I  
21 don't know.

22 Q. And Mr. Watson didn't tell you --

23 A. I don't remember.

24 Q. I'm sorry?

0106

1 A. I don't remember. He may have. I  
2 don't know.

3 Q. As you sit here now, you just don't  
4 remember if he did tell you?

5 A. Correct.

6 Q. And you signed it?

7 A. Correct.

8 Q. Now, did you appear during any part of  
9 those November 2002 hearings to testify or present  
10 evidence?

11 A. I don't remember if I went to them or  
12 not. I don't remember.

13 Q. But you did ultimately appear at those  
14 hearings to testify about the matters in your  
15 affidavit, correct?

16 A. I appeared at a set of hearings I  
17 know. I don't remember if it was those -- yeah, I  
18 believe that's true.

19 Q. And your wife appeared too?

20 A. Yes.

21 Q. To talk about what was in her  
22 affidavit?

23 A. Yes.

24 Q. And you were requested to appear at

0107

1 those hearings by Mr. Watson, weren't you?

2 A. By Mr. Watson or his attorney. I  
3 don't remember. Probably Mr. Watson and then his  
4 attorney might have talked to me while I was there.  
5 I don't remember.

6 Q. Do you recall who his attorney was?

7 A. A lady.

8 Q. You don't remember her name?

9 A. No -- Jennifer, yes, I do.

10 Q. And you appeared and you testified  
11 just for the purpose of addressing your affidavit or  
12 the matters mentioned in your affidavit?

13 A. Yes.

14 Q. Did you subsequently learn how the  
15 County Board voted on the application for which you  
16 appeared to testify?

17 A. Do I know how they voted?

18 Q. Did you subsequently learn how they  
19 voted on that application?

20 A. Yeah.

21 Q. And how did they vote?

22 A. In favor of.

23 Q. Did you have any discussions with  
24 Mr. Watson about the County's vote to approve that

0108

1 application?

2 A. I'm pretty sure I would have.

3 Q. What did you say to him in those

4 conversations?  
5 A. I wouldn't remember. I don't remember  
6 word for word, so I can't answer it correctly.  
7 Q. Do you generally remember what you  
8 said?  
9 A. No.  
10 Q. What did he say to you?  
11 A. If he told me how they -- I don't know  
12 if I read that in the paper how -- that they decided  
13 or if he told me. I don't remember.  
14 Q. Okay. And this is during the period  
15 when you're talking to him three to four times a  
16 week?  
17 A. Yes.  
18 Q. Did you appear at the County building  
19 in this room when the County Board voted on  
20 January 31st of 2003 to approve that application?  
21 A. I don't remember.  
22 Q. Did Mr. Watson attend?  
23 A. I don't know.  
24 Q. Did you become aware of an application  
0109  
1 filed by Waste Management on September 26th of 2003  
2 to expand the landfill?  
3 A. Is that the latest one?  
4 Q. Yes.  
5 A. Yes.  
6 Q. How did you become aware of that  
7 filing?  
8 A. Paper server came to my house and gave  
9 me papers.  
10 Q. Gave you a notice?  
11 A. Yes.  
12 Q. And you had discussions with  
13 Mr. Watson about it?  
14 A. I'm sure.  
15 Q. Do you know whether Mr. Watson had  
16 received a notice for the 2003 application?  
17 A. I have no idea.  
18 Q. You never talked to him about that?  
19 A. No.  
20 Q. Did you talk to Mr. Watson about  
21 appearing at the hearings on the 2003 application?  
22 A. I'm sure I did, yes.  
23 Q. And you told Mr. Watson that you would  
24 appear at the hearings to oppose the application?  
0110  
1 A. I don't know if I told him that. I  
2 mean, he knows I'm opposed to it and I know now that  
3 he's opposed to it.  
4 Q. Did you appear at the hearings on the  
5 2003 application?  
6 A. Some.  
7 Q. Who is Bruce Harrison?  
8 A. Bruce Harrison.  
9 Q. Do you know him?  
10 A. Yes, I do.

11 Q. How long have you known him?  
12 A. In excess of ten years.  
13 Q. What does Mr. Harrison do for a  
14 living, if you know?  
15 A. Jack of all trades, master and on.  
16 Q. Did Mr. Harrison live on your  
17 property?  
18 A. He has stayed there, yes.  
19 Q. For what period did he stay on your  
20 property?  
21 A. No idea.  
22 Q. Was it a couple of years, couple of  
23 months?  
24 A. In the months, on and off, not on a  
0111  
1 regular basis.  
2 Q. When did he begin living on your  
3 property?  
4 A. No idea.  
5 Q. Did he ask you if he could live on  
6 your property?  
7 A. He asked me to leave a trailer on my  
8 property.  
9 Q. His trailer?  
10 A. Yes.  
11 Q. And you agreed?  
12 A. Yes.  
13 Q. So he brought a trailer onto your  
14 property?  
15 A. Yes.  
16 Q. And he lived there for some period of  
17 time?  
18 A. Lived there, stayed there, it's -- I  
19 can't say that -- classify live?  
20 Q. Resided there for some period of time.  
21 A. He stayed there sometimes.  
22 Q. So what you're saying is sometimes he  
23 would come on the property, other days you wouldn't  
24 see him at all?  
0112  
1 A. Right.  
2 Q. He ultimately left your property?  
3 A. Yes.  
4 Q. When was that?  
5 A. I don't remember a date.  
6 Q. It was in April of 2004, wasn't it?  
7 A. It could have very well been, yes.  
8 Q. Isn't that went you decided he had to  
9 leave?  
10 A. At one point in time I decided it was  
11 time for him to go, yes. I don't remember a date.  
12 Q. And what were the reasons that you  
13 told him to go?  
14 A. Issues of a lot of trouble because of  
15 the camper being there, people banging on my door  
16 wanting to see him, it just starting bothering me,  
17 using electricity, things like this.

18 Q. Now, Mr. Harrison was opposed to the  
19 proposed expansion, is that correct?  
20 A. I assume that.  
21 Q. And you assume it on the basis of  
22 what?  
23 A. Hearsay.  
24 Q. What's the hearsay?  
0113  
1 A. Hear people talking, heard you talking  
2 about it, heard other people talking.  
3 Q. Well, Mr. Harrison has -- or appeared  
4 at the hearings on the 2003 application, correct?  
5 A. As far as I know, yes.  
6 Q. You saw him?  
7 A. Yes.  
8 Q. And Mr. Harrison has performed work  
9 for United Disposal, isn't that correct?  
10 A. No idea.  
11 Q. Mr. Watson has never indicated to you  
12 that Mr. Harrison has, in fact, done some work for  
13 United Disposal?  
14 A. Not that I recall, no.  
15 Q. Are you aware that Mr. Harrison also  
16 performs work for Mr. Watson at his various  
17 properties in and around the landfill?  
18 A. Bruce has been with me when I have  
19 done stuff. I don't know if you would consider him  
20 doing it or not.  
21 Q. He was with you when you were doing  
22 work on Watson's property?  
23 A. Yes, and he's helped me whether it was  
24 for -- if he had an agreement with Mr. Watson or  
0114  
1 something, I don't know.  
2 Q. What was your understanding as to why  
3 Mr. Harrison was with you while you were doing this  
4 work for Mr. Watson?  
5 A. He's a friend.  
6 Q. A friend of you?  
7 A. Yes.  
8 Q. And a friend of Mr. Watson?  
9 A. I assume, yeah.  
10 Q. Did you have any discussions or have  
11 you had any discussions with Mr. Harrison about his  
12 opposition to the proposed expansion?  
13 A. Yes.  
14 Q. And, in fact, hasn't Mr. Harrison told  
15 you that he has or he did contact various County  
16 Board members to express his views on the proposed  
17 expansion?  
18 MR. PORTER: Objection, hearsay.  
19 HEARING OFFICER HALLORAN: I'm sorry,  
20 could you read the question back, Terry?  
21 (Whereupon, the requested  
22 portion of the record  
23 was read accordingly.)  
24 HEARING OFFICER HALLORAN: Mr. Moran?

0115

1 MR. MORAN: He's clearly indicated  
2 that his communications and dealings with  
3 Mr. Harrison include discussions regarding  
4 their opposition, his, Mr. Watson's,  
5 Mr. Harrison's and that his approach and  
6 his intentions -- Harrison's intentions about  
7 talking to County Board members and going out  
8 to County Board members to try to persuade  
9 them is something he can address by way of  
10 Mr. Harrison's state of mind, his intent in  
11 addressing these issues.

12 HEARING OFFICER HALLORAN: Mr. Porter?

13 MR. PORTER: It's an out-of-court  
14 statement offered for the truth of the matter  
15 asserted. It's the definition of hearsay  
16 that meets no exceptions. Mr. Harrison is  
17 not here to testify and I'm allowing  
18 obviously the County Board members to answer  
19 any questions concerning whether or not  
20 Mr. Harrison contacted them because that does  
21 fall within the exception based on the ex  
22 parte communication that we all know we're  
23 allowed to get into in these proceedings.  
24 Asking this witness whether Harrison has ever

0116

1 told him he contacted a Board member, it's  
2 hearsay.

3 HEARING OFFICER HALLORAN: I would  
4 agree with the County on that. I will  
5 sustain the objection.

6 BY MR. MORAN:

7 Q. Mr. Keller, has Mr. Harrison discussed  
8 with you his efforts to oppose the proposed  
9 expansion?

10 A. One more time.

11 Q. Has Mr. Harrison discussed with you  
12 his actions, his efforts in opposing the proposed  
13 expansion?

14 A. No.

15 Q. Okay. Your testimony is he has never  
16 discussed anything he has done or said in connection  
17 with his opposition to the proposed expansion?

18 A. Not that I recall. Nothing that comes  
19 right to mind, no.

20 Q. You were aware that he was opposed to  
21 it, correct?

22 A. Yes, through the hearings.

23 Q. Well, isn't it true that Mr. Harrison  
24 placed phone calls to County Board members from your

0117

1 home?

2 A. You told me he did.

3 Q. I told you he did?

4 A. Yes.

5 Q. When did I tell you this?

6 A. During the hearings -- or during our

7 depositions.  
8 Q. And was it your agreement that  
9 Mr. Harrison did place those calls from your home to  
10 County Board members?

11 MR. PORTER: We're now getting into  
12 what he testified to at the deposition when  
13 it's not being used for purposes of  
14 impeachment. I think that question can be  
15 asked differently and I object. It's  
16 improper impeachment, I guess.

17 HEARING OFFICER HALLORAN: Mr. Moran?

18 MR. MORAN: I simply asked him if he  
19 agreed that Mr. Harrison placed the phone  
20 call to a County Board member from his home.

21 HEARING OFFICER HALLORAN: I agree.  
22 Overruled.

23 BY THE WITNESS:

24 A. I don't totally -- do I agree that

0118

1 Mr. Harrison made the phone calls or did I agree  
2 with him making the phone calls?

3 BY MR. MORAN:

4 Q. Do you agree with the fact that with  
5 or without your permission from your home he placed  
6 a phone call to a County Board member?

7 A. Just what I've heard.

8 Q. Is it accurate to say that  
9 Mr. Harrison used your phone at various times when  
10 he lived on your property?

11 A. Yes.

12 Q. Did he have permission to use your  
13 phone during that period when he lived on your  
14 property?

15 A. Did he ask me every time, no. Did I  
16 have an objection to him using my phone, not then I  
17 didn't.

18 Q. Now, isn't it accurate to say that  
19 since January of 2004, a little over a year ago, you  
20 had had communications with Mr. Harrison either by  
21 phone or in person?

22 A. Yes.

23 Q. And you've had that those  
24 conversations or communications with Mr. Harrison on

0119

1 the average of three to four time a week?

2 A. Now, no.

3 Q. Beginning in January of 2004 going  
4 through the end of 2004?

5 A. No.

6 Q. At what point did those continuing  
7 communications with Mr. Harrison end?

8 A. When he moved away.

9 Q. When was that?

10 A. I don't remember. You said a time  
11 that sounded about right earlier.

12 Q. Well, you were deposed in this  
13 proceeding in August of 2004, correct?

14 A. Deposed, what's --  
15 Q. You came in for your deposition?  
16 A. Okay. Yes.  
17 Q. Do you remember that?  
18 A. Yes.  
19 Q. It was August 10th and 11th, 2004?  
20 A. Okay.  
21 Q. Correct?  
22 A. If you say it was. I'm assuming this  
23 on the basis of when the deposition was.  
24 Q. And at that time you had discussions  
0120  
1 with Mr. Harrison about your deposition, correct?  
2 A. If he was still in town I may have. I  
3 don't remember.  
4 Q. Didn't you tell us that, that you had  
5 communicated with Mr. Harrison about your  
6 deposition?  
7 A. I don't remember.  
8 Q. You don't have any recollection?  
9 A. No.  
10 Q. When was the last time you had any  
11 communication with Mr. Harrison?  
12 A. Three or four days ago when the  
13 newspaper article came out in the paper about this.  
14 Q. Did Mr. Harrison call you?  
15 A. Yes.  
16 Q. Where was he calling from?  
17 A. I have no idea.  
18 Q. You didn't ask him?  
19 A. No.  
20 Q. Prior to when you talked to him three  
21 or four days ago, when was the immediately preceding  
22 time when you had talked to Mr. Harrison?  
23 A. I believe approximately a month ago.  
24 Q. When you talked to him a month ago,  
0121  
1 did you know where he was then?  
2 A. No, I did not.  
3 Q. And you didn't ask him?  
4 A. No.  
5 Q. So Mr. Harrison called you three or  
6 four days ago, you hadn't talked to him for a month  
7 and the issue never came up about where he was or  
8 what he was doing?  
9 A. No. When Bruce Harrison left here he  
10 said he was scared for his life from Waste  
11 Management and he left and he says I'm not telling  
12 you where I'm going, I don't want anybody to know.  
13 Q. And when did he tell you this?  
14 A. When he left my property or just -- it  
15 was probably around -- it's when he came and got his  
16 camper. I don't remember the date.  
17 Q. Some time in the summer of 2004?  
18 A. That sounds correct, yes.  
19 Q. Didn't he take his camper and just  
20 move it across the street on Mr. Watson's property?

21 A. When he came and got the camper from  
22 that point in time, whenever that was.  
23 Q. He just moved it across the street?  
24 A. No. When he got it -- when he got it

0122

1 from across the street is when he told me that.  
2 Q. I see. So just so we're all clear,  
3 you asked him to leave your property?  
4 A. Correct.  
5 Q. We think that was some time in maybe  
6 spring of 2004?  
7 A. I believe.  
8 Q. And then Mr. Harrison took his trailer  
9 and just moved it across the street onto property  
10 Mr. Watson owned, correct?  
11 A. I'm at that assumption now, yes.  
12 Q. And he was there for a number of  
13 months, correct?  
14 A. I don't remember how long.  
15 Q. The point at which you're saying  
16 Mr. Harrison told you that he was fearful for his  
17 life from Waste Management is when he left the  
18 Watson property?  
19 A. Yes.  
20 Q. Okay. And you're not sure when that  
21 was?  
22 A. No, I'm not.  
23 Q. But it was probably some time after  
24 August of 2004 when you appeared for your deposition

0123

1 in this proceeding?  
2 A. Yes.  
3 Q. And Mr. Harrison never told you where  
4 he was going?  
5 A. No.  
6 Q. And was the reason he told you that  
7 because he said he was fearful for his life?  
8 A. Yes.  
9 Q. So did you understand by that that he  
10 was concerned that you might disclose his location  
11 to Waste Management?  
12 A. I assumed that, yes.  
13 Q. What was your response to Mr. Harrison  
14 when he told you that he was fearful for his life  
15 from Waste Management? Did you agree with him?  
16 A. Yeah.  
17 Q. And what was the basis for your  
18 agreeing with him that somehow he had some  
19 legitimate fear about his life from Waste  
20 Management?  
21 A. Because I'm under the same problem,  
22 but I live here and I own property here so I stay  
23 here.  
24 Q. And what is the basis for your concern

0124

1 and fear for your life from Waste Management of  
2 Illinois?

3 A. The drive by my house daily when they  
4 have no business being by my house, always looking  
5 into my property, general nosiness of Waste  
6 Management employees or thereof.  
7 Q. And it's your conclusion that this is  
8 the basis that you fear for your physical safety and  
9 for your life?  
10 A. That, yes.  
11 Q. Now, this last occasion when you spoke  
12 with Mr. Harrison about the article that appeared in  
13 the paper, what did he say to you?  
14 A. He said did you read the paper and I  
15 said yes.  
16 Q. And what did the article say?  
17 A. It said --  
18 MR. PORTER: Objection, hearsay.  
19 HEARING OFFICER HALLORAN: Mr. Moran?  
20 MR. MORAN: I'm just trying to get a  
21 basis or a foundation for what the two  
22 individuals were talking about  
23 HEARING OFFICER HALLORAN: I will  
24 allow a little latitude. Mr. Keller?

0125

1 BY THE WITNESS:  
2 A. It said that somebody was -- something  
3 about Harrison was being looked for or couldn't be  
4 found or something about woes or something on the --  
5 I believe the title was something to the effect of  
6 landfill woes over not finding Harrison or something  
7 to this effect.  
8 BY MR. MORAN:  
9 Q. And what did you say to Mr. Harrison  
10 in this phone conversation?  
11 A. I said yes I've read it.  
12 Q. That's all you said to him?  
13 A. Yep.  
14 Q. What did he say to you other than have  
15 you seen the article?  
16 A. General friendship talk, what have you  
17 been doing, how is everything going, how is your  
18 wife, how is your kids.  
19 Q. Did you ask him what he's been doing?  
20 A. No.  
21 Q. Did you ask him where he was?  
22 A. No.  
23 Q. Did he simply tell you where he was  
24 and you're just refusing to tell us because he's

0126

1 fearful for his life?  
2 A. No. It comes over my caller ID, it  
3 comes over as a blocked call.  
4 Q. Did you tell him you had been  
5 subpoenaed to appear at this hearing?  
6 A. Yes, I did.  
7 Q. What else did you tell him about your  
8 appearance at the hearing?  
9 A. I hadn't appeared yet.

10 Q. Did he ask you why you had been  
11 subpoenaed?

12 A. No.

13 Q. Did he tell you how to testify at the  
14 hearing?

15 A. No.

16 Q. Did he suggest to you what you should  
17 say at the hearing?

18 A. No.

19 Q. Did you ask him if he had ever been  
20 served with a subpoena to appear?

21 A. No.

22 Q. How long did this conversation last?

23 A. A half an hour maybe.

24 Q. This was a half an hour conversation

0127

1 about you and about just general friendship things?

2 A. Yes.

3 Q. You had a half an hour to talk to him  
4 about what you've been doing, how your wife was, not  
5 addressing any other issues regarding the proposed  
6 expansion?

7 A. No.

8 Q. Did you talk about Mr. Watson at all?

9 A. Don't know. Don't recall.

10 Q. Don't recall. Did he ask you anything  
11 else about this proceeding or about your involvement  
12 in it?

13 A. Not that I recall, no.

14 Q. Do you have a phone number for  
15 Mr. Harrison?

16 A. No, I do not.

17 Q. You didn't ask him for his number?

18 A. No.

19 Q. So as you sit here now, you have no  
20 way of reaching him?

21 A. No.

22 Q. You don't know where he is?

23 A. No.

24 Q. But you do know that he somehow got a

0128

1 copy of a Daily Journal article that appeared a few  
2 days ago?

3 A. No. He said his daughter had seen it  
4 and called him or he called his daughter. I don't  
5 know which. His daughter had told him.

6 Q. And what's his daughter's name?

7 A. I don't know.

8 Q. How did you end the conversation?

9 A. Bye.

10 Q. Did you indicate to him that he should  
11 call you again or you'd like to call him?

12 A. No.

13 Q. You have no indication or no idea  
14 whether he's working now?

15 A. No.

16 Q. One way or the other?

17 A. Correct.  
18 Q. Did he say anything to you about the  
19 subpoena that had been served on Debbie Bates?  
20 A. No.  
21 Q. Was he aware of that subpoena?  
22 A. I don't know.  
23 Q. Did he at any time indicate that he  
24 had been talking with Mr. Watson?  
0129  
1 A. No.  
2 Q. Have you talked to Mr. Watson over the  
3 last few days?  
4 A. Yes.  
5 Q. You talked to him about your  
6 appearance here?  
7 A. Yes.  
8 Q. You talked to him about the subpoena  
9 you received?  
10 A. Yes.  
11 Q. Did you tell him that you had heard  
12 from Mr. Harrison?  
13 A. Yes.  
14 Q. You told him about your conversation  
15 with Mr. Harrison?  
16 A. I don't know.  
17 Q. Did he ask you where Mr. Harrison was?  
18 A. No.  
19 Q. Does he know where Mr. Harrison is?  
20 A. I don't know.  
21 Q. Did he ask you why Mr. Harrison would  
22 be interested in an article about this proceeding?  
23 A. No.  
24 Q. Did he talk to you at all about  
0130  
1 Mr. Harrison's interest in this proceeding?  
2 A. I don't know.  
3 Q. You said you had talked to  
4 Mr. Harrison about a month before this call?  
5 A. Yes.  
6 Q. Did he call you?  
7 A. Yes.  
8 Q. At your home?  
9 A. Yes.  
10 Q. And that's where he called you a  
11 couple of days ago, so he has your number?  
12 A. Yes.  
13 Q. What did he say to you during that  
14 conversation?  
15 A. I don't remember. General, what's  
16 going on, how are you doing, a typical conversation.  
17 Q. Any conversation related to the  
18 proposed expansion or to this proceeding?  
19 A. He may have asked what's going on with  
20 the landfill or something. I don't remember.  
21 Q. How long did that conversation last?  
22 A. I don't remember.  
23 Q. Half an hour?

24 A. Probably, I would assume.

0131

1 Q. Prior to that call, when was the  
2 immediately preceding time you heard from him?

3 A. I got a message on my machine at  
4 Christmastime, wanted to wish you a merry Christmas,  
5 have a happy new year.

6 Q. But you didn't actually talk to him,  
7 you just got the message?

8 A. Correct.

9 Q. The last time you've seen Mr. Harrison  
10 was when he left Mr. Watson's property?

11 A. Yes.

12 Q. Did you actually see him leave the  
13 property?

14 A. No.

15 Q. And since he left, you've spoken to  
16 him by phone half a dozen times?

17 A. Three times. I only spoke to him  
18 twice. He called -- Christmastime the third time --  
19 was the third time.

20 Q. And you received no written  
21 communications or letters or anything from him?

22 A. No.

23 Q. Did he send anything to him?

24 A. No.

0132

1 Q. You haven't placed any calls to him?

2 A. No.

3 Q. Do you have any information as to  
4 whether Mr. Watson has been in communication with  
5 Mr. Harrison?

6 A. No.

7 Q. Now, while Mr. Harrison was still in  
8 the area he gave you a phone number where he could  
9 be reached, didn't he?

10 A. I don't know if he gave me a phone  
11 number or if I got something off of my caller ID. I  
12 don't know.

13 Q. You had a number to reach him while he  
14 was here, correct?

15 A. Generally I could find him.

16 Q. When you generally could find him,  
17 where could you find him?

18 A. Either he'd stop by the house or I  
19 could call around and try to see if anybody else had  
20 heard from him or seen him.

21 Q. Now, you had a list of the different  
22 County Board members that you used during the course  
23 of the 2003 siting process, isn't that true?

24 A. Yes.

0133

1 Q. And you received that list from  
2 Mr. Harrison?

3 A. I don't know if I received it from him  
4 or Mike Watson or somewhere else. I don't know  
5 where I got it.

6 Q. So you may have gotten it from  
7 Mr. Watson, you may have gotten it from  
8 Mr. Harrison?  
9 A. Or somewhere else, yes.  
10 Q. Or somewhere else. You just don't  
11 recall?  
12 A. Right.  
13 Q. Did you give that list to anybody, a  
14 copy of it or did you make copies of it and  
15 distribute it?  
16 A. I don't remember.  
17 Q. Harrison had a copy of the list,  
18 didn't he?  
19 A. That would be an assumption. If I got  
20 it from him, yeah, I would imagine he did, but I  
21 don't remember.  
22 Q. Did you prepare a letter to send to  
23 each of the County Board members with regard to the  
24 proposed expansion?  
0134  
1 A. Yes, I did.  
2 Q. And your wife worked on that letter  
3 with you?  
4 A. Yes.  
5 Q. You both put it together?  
6 A. Yes.  
7 Q. And you had Mr. Watson look at it?  
8 A. Yes.  
9 Q. And you had Mr. Harrison look at it?  
10 A. I don't recall.  
11 Q. Okay. Mr. Watson looked at it and  
12 he approved it?  
13 A. Mr. Watson -- I asked Mr. Watson at  
14 times -- I asked Mr. Watson to proofread something  
15 because I'm not real good at spelling. That would  
16 have been the only reason he would have looked at  
17 it.  
18 Q. Did he approve -- did he say this was  
19 okay?  
20 A. He would have told me what was  
21 misspelled in it.  
22 Q. So if we find any misspellings in it  
23 it's his fault, not yours?  
24 A. Yep.  
0135  
1 Q. And what did you do with that letter?  
2 A. I sent it out to each of the County  
3 Board members.  
4 Q. Did you send it out to each of them at  
5 their homes?  
6 A. Yes.  
7 Q. You didn't send it to them here at the  
8 County Board --  
9 A. I did also send a copy to here, yes.  
10 Q. When you say here, you mean to the  
11 County Clerk?  
12 A. Yes. Actually, I don't remember if I

13 sent it here or if I brought it up here.  
14 Q. And your letter was your statements as  
15 to why you opposed the landfill?  
16 A. Yes.  
17 Q. And it was your statement about why  
18 those County Board members should vote against the  
19 2003 application?  
20 A. Yes.  
21 Q. Did you have any discussions with any  
22 County Board members prior to the vote on the 2003  
23 application which was March 17th, 2004?  
24 A. No.

0136

1 Q. Well, isn't it true you had  
2 discussions with Ann Bernard prior to March 17th,  
3 2004?  
4 A. About the County Board meetings or  
5 about the proposed landfill? I have asked her  
6 whether she was opposed to it or for the County  
7 Board -- or for the dump.  
8 Q. And you did that prior to March 17th,  
9 2004?  
10 A. When was her election or her -- when  
11 she was running for representative?  
12 Q. You talked to her before her  
13 primary --  
14 A. While she was running --  
15 Q. -- for state representative?  
16 A. While she was running for state  
17 representative I talked to her.  
18 Q. So it would have been some time prior  
19 to the primary election, which occurred in March of  
20 2004?  
21 A. I don't know if it was the primary or  
22 the -- whatever the other one is.  
23 Q. But there was an election in March  
24 of 2004, she was running for state representative,

0137

1 is that your understanding?  
2 A. That's my understanding, yes.  
3 Q. And some time prior to that date you  
4 talked to her about whether she supported or opposed  
5 the 2003 application?  
6 A. I asked her how she felt about it.  
7 Q. And where did this conversation take  
8 place?  
9 A. At her running office thing over on  
10 Kennedy.  
11 Q. Is that the local democratic party  
12 headquarters?  
13 A. I don't know it's local democrat or if  
14 it was just hers.  
15 Q. How did you happen to come to be  
16 there?  
17 A. I drove over there to ask her how she  
18 felt about it.  
19 Q. Because you were trying to make some

20 determination as to who you would support in that?  
21 A. In the state representative, yes.  
22 Q. And you had a chance to talk to her?  
23 A. Yes.  
24 Q. Was anyone else present when you had

0138

1 this discussion with her?  
2 A. I think there was a gentleman in the  
3 office. I don't know who he was.  
4 Q. And you asked her whether she  
5 supported or opposed the 2003 application?  
6 A. Yes -- well, supported or opposed the  
7 landfill, period.  
8 Q. By landfill you meant the proposed  
9 expansion of the Waste Management landfill?  
10 A. Any landfill.  
11 Q. And what did she say?  
12 MR. PORTER: Objection. That's to the  
13 heart of the very motion in limine I filed  
14 today concerning statements by Ms. Bernard  
15 during her campaign for the state  
16 legislature.

17 HEARING OFFICER HALLORAN: Mr. Moran?  
18 MR. MORAN: Well, based on your ruling  
19 that's correct. I obviously disagree with  
20 the ruling. I think this is directly  
21 relevant to the question of whether she  
22 prejudged this specific application and that  
23 it's directly relevant to that prejudgement.  
24 I understand your ruling on it and with your

0139

1 ruling I suspect you're going to sustain this  
2 objection and I think let me give an offer of  
3 proof.

4 HEARING OFFICER HALLORAN: If you so  
5 choose. Mr. Porter's objection is sustained  
6 and if you wish to continue your questioning  
7 as an offer of proof, you may do so.

8 MR. MORAN: Thank you.

9 HEARING OFFICER HALLORAN: Just let me  
10 know.

11 MR. MORAN: Here's our offer of proof.

12 BY MR. MORAN:

13 Q. Mr. Keller, what did Ms. Bernard say  
14 to you when you asked her whether she supported or  
15 opposed the proposed expansion?

16 MR. PORTER: I'm not going to  
17 reiterate objections in an offer of proof,  
18 okay, Mr. Halloran or do I need to?

19 HEARING OFFICER HALLORAN: I already  
20 sustained your objection and we're proceeding  
21 on an offer of proof.

22 MR. PORTER: I agree. I just wanted  
23 to be sure I didn't have to reiterate my  
24 objections.

0140

1 HEARING OFFICER HALLORAN: No, no.

2 Mr. Moran is going to let us know when he's  
3 off the subject, but anyway, you may answer,  
4 Mr. Keller, if you're able.

5 BY THE WITNESS:

6 A. That she's opposed to out of county  
7 garbage.

8 BY MR. MORAN:

9 Q. She said she was opposed to out of  
10 county garbage?

11 A. That's what I asked her, if she was  
12 opposed to out of county garbage and she said yes  
13 and landfills I asked.

14 Q. She said she was opposed to landfills?

15 A. Yes.

16 Q. On the basis of those statements, did  
17 you conclude that she was opposed to the proposed  
18 expansion of the Waste Management landfill?

19 MR. PORTER: Objection, irrelevant  
20 what he concluded.

21 MR. MORAN: This is still the offer of  
22 proof.

23 MR. PORTER: True.

24 MR. MORAN: Are you objecting now to

0141

1 questions in the offer of proof?

2 MR. PORTER: I agree.

3 HEARING OFFICER HALLORAN: Sustained.

4 Proceed under an offer of proof.

5 MR. MORAN: Could you repeat my  
6 question?

7 (Whereupon, the requested  
8 portion of the record  
9 was read accordingly.)

10 BY THE WITNESS:

11 A. I would assume, yes.

12 BY MR. MORAN:

13 Q. In addition to what you heard from  
14 Ms. Bernard when you met with her that day over on  
15 Kennedy Drive, did you at any other point hear any  
16 statement or read any statement that Ms. Bernard was  
17 opposed to the proposed expansion of the Waste  
18 Management landfill?

19 A. Yes.

20 Q. What did you read or see?

21 A. In the hearings here she denied -- she  
22 said she didn't want them.

23 Q. You say the hearings here?

24 A. When they denied the application here.

0142

1 Q. So what you're referring to is the  
2 vote on the 2003 application?

3 A. Correct.

4 Q. Which was on March 17th, 2004?

5 A. If you say that's when it was. I  
6 don't know a date.

7 Q. You appeared on that date?

8 A. Yes.

9 Q. You appeared and held a picket sign  
10 downstairs on that date?  
11 A. No.  
12 Q. Did you appear with picketers who were  
13 outside the building?  
14 A. No.  
15 Q. Was Mr. Harrison there that day with  
16 picketers?  
17 A. I'm going to assume he was.  
18 HEARING OFFICER HALLORAN: Are we  
19 still in the offer of proof?  
20 MR. MORAN: That's exactly my point.  
21 I think I am, but I started to go beyond it  
22 without -- I started to go beyond it without  
23 telling you. I apologize for that. Let me  
24 just try to stay on the offer of proof.

0143

1 BY MR. MORAN:  
2 Q. Other than the statements she made to  
3 you on Kennedy Drive and her actions here on March  
4 17th, 2004, did you see, read or hear about any  
5 statements she made indicating that she was opposed  
6 to the proposed expansion of the Waste Management  
7 landfill?  
8 A. After the vote I read in the newspaper  
9 who was opposed or against, that's the only thing.  
10 Q. Other than that --  
11 A. No.  
12 Q. -- was there anything more?  
13 A. No.  
14 Q. Did you hear at any point anything  
15 from Mr. Harrison in which he indicated that Ann  
16 Bernard was on our side?  
17 A. No.  
18 Q. Did you hear any statement or  
19 reference by Mr. Watson to the effect  
20 that Ms. Bernard was on our side, was an opponent of  
21 the proposed expansion?  
22 A. No.  
23 MR. MORAN: Offer of proof closed.  
24 HEARING OFFICER HALLORAN: Thank you,

0144

1 Mr. Moran.  
2 BY MR. MORAN:  
3 Q. Mr. Keller, did Mr. Watson appear on  
4 March 17th, 2004 for the vote?  
5 A. Yes.  
6 Q. Did your wife come to the vote on that  
7 day?  
8 A. I want to say yes, but I can't be  
9 certain. I believe she did.  
10 Q. Mr. Harrison we've established was  
11 also here?  
12 A. I believe he was, yes.  
13 Q. And Mr. Harrison was one of the  
14 picketers who was in front of the building that  
15 morning, is that correct?

16 A. Very possible.  
17 Q. Now, these signs that said no dump, no  
18 Chicago waste, white letters on a green background,  
19 did Mr. Harrison arrange for the preparation of  
20 those signs?  
21 A. No dump, no Chicago garbage.  
22 Q. I'm sorry. No dump, no Chicago  
23 garbage.  
24 A. We're talking about the same signs. I

0145

1 have no idea.  
2 Q. Did you have one of those signs on  
3 your property?  
4 A. Yes, I did.  
5 Q. How did you get one?  
6 A. I think I got it from Bruce, but I'm  
7 not positive.  
8 Q. Well, Mr. Harrison was distributing  
9 them?  
10 A. I could have got it from him, I could  
11 have got it from Mike, I could have got it from  
12 anybody else. I don't remember.  
13 Q. It could have been Mr. Watson, it  
14 could have been Mr. Harrison?  
15 A. It could have been, yes.  
16 Q. And you don't know who prepared the  
17 signs?  
18 A. No, I do not.  
19 Q. And the signs meant that the person  
20 agreeing with the signs didn't want any garbage  
21 coming from Chicago?  
22 A. Correct.  
23 MR. PORTER: Objection.  
24 HEARING OFFICER HALLORAN: He can

0146

1 answer if he's able.  
2 BY THE WITNESS:  
3 A. Correct.  
4 BY MR. MORAN:  
5 Q. And that was --  
6 A. That was my assumption of the sign.  
7 Q. Right. And was that your assumption  
8 as to the statement by Ann Bernard that she was  
9 opposed to out of county waste? Was it the same  
10 view?  
11 MR. PORTER: Again, I think we're  
12 conjecturing upon conjecture now.  
13 HEARING OFFICER HALLORAN: Could you  
14 read the question back, Terry? I'm sorry.  
15 (Whereupon, the requested  
16 portion of the record  
17 was read accordingly.)  
18 MR. PORTER: Before you rule, I have  
19 an additional objection, not only is it  
20 conjecture upon conjecture, it also relates  
21 back now to the offer of proof.  
22 HEARING OFFICER HALLORAN: I agree

23 with your second objection. I wasn't  
24 comfortable with your first. Sustained.

0147

1 MR. MORAN: May I make an offer of  
2 proof?

3 HEARING OFFICER HALLORAN: Yes, you  
4 may.

5 BY MR. MORAN:

6 Q. Mr. Keller, do you recall the  
7 question?

8 A. Yes.

9 Q. Can you answer it?

10 A. The way I understood the question, do  
11 I think Ann Bernard was against all dump and all  
12 county -- out of county garbage, is that what you're  
13 asking?

14 Q. Based on what she told you, yes.

15 A. Yes.

16 MR. MORAN: Okay. Offer of proof  
17 closed.

18 HEARING OFFICER HALLORAN: Thank you.

19 BY MR. MORAN:

20 Q. Mr. Keller, did you prepare any thank  
21 you letters going to County Board members who voted  
22 against the 2003 application?

23 A. Yes, I did.

24 Q. How many did you prepare?

0148

1 A. How many County Board members are  
2 there?

3 Q. In total?

4 A. Yes.

5 Q. Twenty-six, 27.

6 A. Probably 20, 25 then.

7 Q. Did you send thank you notes only to  
8 those who voted against any criteria or any part of  
9 the application?

10 A. I don't remember exactly which ones I  
11 sent it to, but it would have been based on that  
12 principle, yes.

13 Q. Based on the principle that somebody  
14 voted against the county application, correct?

15 A. Yes.

16 Q. Did anyone ask you to send out these  
17 thank you notes?

18 A. No.

19 Q. Do you know whether anyone else sent  
20 thank you notes to County Board members?

21 A. I believe so, yes.

22 Q. Who else sent such thank you notes?

23 A. I believe my mother did, my sister  
24 did.

0149

1 Q. Did Mr. Watson send thank you notes?

2 A. I don't know.

3 Q. Did Mr. Harrison send out any thank

4 you notes?

5 A. I don't know.  
6 Q. Did either of them suggest to anyone  
7 that those notes be sent?  
8 A. I don't know.  
9 Q. Were you aware that there was a motion  
10 to renew consideration of the March 17th, 2004 vote  
11 considered by the County Board?  
12 A. Was that here when they came back in  
13 and -- are you asking me -- I know they came back in  
14 to vote, to reconsider it.  
15 Q. That's what I'm asking.  
16 A. Yes.  
17 Q. And you appeared on that occasion as  
18 well?  
19 A. Yes.  
20 Q. And Mr. Harrison was here?  
21 A. I believe so.  
22 Q. And Mr. Watson was here?  
23 A. I believe so.  
24 Q. Did your wife appear as well?

0150

1 A. I don't know. It's a little harder  
2 for my wife to get off work than it is for me, so  
3 that's why I don't know if she took a day off or  
4 not.  
5 Q. Isn't it true that on the basis of  
6 Ms. Bernard's statements to you, you contributed  
7 monies to her campaign?  
8 A. Yes.  
9 Q. In fact, you individually contributed  
10 \$250 to her campaign?  
11 A. Yes.  
12 MR. PORTER: I'm again going to  
13 object. Now we're getting back into the  
14 campaign issues again.  
15 MR. MORAN: This doesn't have anything  
16 to do with what you've ruled upon and that is  
17 that her statements about opposing the  
18 landfill are not admissible. These questions  
19 simply relate to his support of Ann Bernard  
20 for state representative.  
21 HEARING OFFICER HALLORAN: I agree.  
22 Overruled.  
23 BY THE WITNESS:  
24 A. Yes.

0151

1 BY MR. MORAN:  
2 Q. Isn't it also true that your wife,  
3 Brenda, donated \$250 to Ms. Bernard's campaign?  
4 A. Yes.  
5 Q. Now, were those monies that you and  
6 Brenda gave to the Bernard campaign your funds or  
7 did Mr. Watson provide them?  
8 A. Mine.  
9 Q. Are you familiar with an individual by  
10 the name of Don St. Germane?  
11 A. No.

12 Q. Are you aware of whether Mr. Watson  
13 contributed any monies to Ms. Bernard's campaign?

14 A. No idea.

15 Q. And Mr. Harrison didn't?

16 A. No idea.

17 Q. You don't know?

18 A. No idea.

19 HEARING OFFICER HALLORAN: Off the  
20 record for minute.

21 (Whereupon, a discussion  
22 was had off the record.)

23 BY MR. MORAN:

24 Q. Mr. Keller, other than what you have

0152

1 identified for us already, do you have any facts or  
2 information that relate to Mr. Harrison's stated  
3 concern that he fears for his life from Waste  
4 Management?

5 A. No.

6 Q. Is it your understanding that the  
7 reason Mr. Harrison has refused or has not provided  
8 his address, has not provided a phone number, has  
9 not provided any location as to where he may be that  
10 he is fearful for his physical safety from Waste  
11 Management?

12 A. Is that my assumption, yes.

13 Q. Is that your belief based upon what he  
14 has told you?

15 A. Yes.

16 Q. And is it accurate to say, Mr. Keller,  
17 that Mr. Harrison has not told you about any  
18 specific acts or instances in which his life or his  
19 personal safety was threatened by any person or  
20 representative of Waste Management?

21 A. He is the one that told me and showed  
22 me the truck that drives by my house and now I have  
23 noticed it on my own daily from Waste Management.

24 Q. And when did he tell you about this

0153

1 truck?

2 A. When he lived there.

3 Q. When he was at the Watson property

4 or --

5 A. No, mine.

6 Q. And can you describe that truck for  
7 us?

8 A. It's a maroon, I believe it's a Chevy,  
9 I've followed it numerous times and they've pulled  
10 back into the dump.

11 Q. You followed the truck?

12 A. I have, yes.

13 Q. So you have observed this vehicle  
14 driving around the landfill, driving by your  
15 property?

16 A. Yes.

17 Q. And you then elected to follow this  
18 vehicle to see where it went?

19 A. Yes.  
20 Q. Did you ever have any discussion with  
21 anyone who was driving that vehicle?  
22 A. No.  
23 Q. Did you recognize the person in the  
24 truck?  
0154  
1 A. No.  
2 Q. Did that person ever make any threats  
3 to you?  
4 A. No.  
5 Q. But this was the vehicle that Mr.  
6 Harrison was referring to?  
7 A. Yes.  
8 Q. Are you aware of whether the  
9 individual that drove this truck made any threats to  
10 Mr. Harrison?  
11 A. No.  
12 Q. He didn't tell you he did?  
13 A. No.  
14 Q. And at what time of day did you  
15 observe this vehicle driving by your house?  
16 A. Generally in the morning.  
17 Q. When in the morning?  
18 A. Now I have noticed it mainly about the  
19 time I leave for work, around 7:00 a.m.  
20 Q. At the time Mr. Harrison was still  
21 living in the area, what time did you notice the  
22 vehicle?  
23 A. He told me that it was in the morning  
24 also.  
0155  
1 Q. Is that when you followed the vehicle?  
2 A. That's when I started watching it and  
3 I've followed it since. I don't remember a date,  
4 no.  
5 Q. Have you made any attempt to discuss  
6 your observations with anyone from Waste Management?  
7 A. No.  
8 Q. Did Mr. Harrison ever make such an  
9 attempt?  
10 A. Don't know.  
11 Q. He never told you that he did?  
12 A. No.  
13 Q. Are you aware that the operator of  
14 that existing landfill, Waste Management of  
15 Illinois, Inc., has certain obligations to monitor  
16 in and around the site and the site area for any  
17 litter or debris?  
18 A. I would assume that.  
19 Q. Mr. Keller, did you ever observe  
20 Mr. Harrison making any threat to any person?  
21 A. No.  
22 Q. Can you describe for us Mr. Harrison's  
23 physical characteristics; how tall is he, how much  
24 he weighs, his body type?

0156

1 A. I would say very close to my weight  
2 and height, beard and mustache.  
3 Q. How tall are you?  
4 A. 5'10", 5'9", somewhere in there.  
5 Q. And how much does he weigh  
6 approximately?  
7 A. Mr. Harrison in the time I've known  
8 him has gone all the way probably from 125 to  
9 probably in excess of 230.  
10 Q. And he has a beard?  
11 A. During the time I've known him he's  
12 had one and he hasn't had one. I've seen him with  
13 long hair in a pony tail and I've seen him with  
14 short hair.  
15 Q. Is it your testimony that at no point  
16 during the 2002 or 2003 siting applications that you  
17 have spoken with any representative or employee of  
18 Waste Management of Illinois, Inc. other than me?  
19 A. Or her maybe -- I mean, no, other than  
20 you two, no.  
21 Q. Okay. As far as you know,  
22 Mr. Harrison similarly hasn't spoken to any employee  
23 or representative of Waste Management during that  
24 period?

0157

1 A. Not that he's told me. That's the  
2 only thing I can...  
3 MR. MORAN: I have no further  
4 questions.  
5 HEARING OFFICER HALLORAN: Let's go  
6 off the record for a minute.  
7 (Whereupon, a discussion  
8 was had off the record.)  
9 HEARING OFFICER HALLORAN: We're back  
10 on the record, Mr. Porter's cross of  
11 Mr. Keller.  
12 C R O S S E X A M I N A T I O N  
13 by Mr. Porter  
14 Q. So that we all understand,  
15 Mr. Harrison is not a Kankakee County Board member,  
16 correct?  
17 A. Correct.  
18 Q. To your knowledge, no County Board  
19 member ever communicated with Mr. Harrison, is that  
20 correct?  
21 A. Other than him telling me they did.  
22 Q. Okay. To your personal knowledge --  
23 by the way, for the record, you were pointing to  
24 Mr. Moran, correct?

0158

1 A. Correct.  
2 Q. Waste Management's counsel?  
3 A. Correct.  
4 Q. Using your own personal knowledge, are  
5 you aware of any County Board member communicating  
6 with Mr. Harrison?  
7 A. No.

8 Q. Other than when you were talking to  
9 Ms. Bernard for her election, which we've discussed  
10 earlier, you've never spoken to a County Board  
11 member about the landfill applications, correct?

12 A. No, correct.

13 MR. PORTER: If I may approach the  
14 witness?

15 HEARING OFFICER HALLORAN: You may.

16 BY MR. PORTER:

17 Q. There was some discussion about some  
18 letters that you sent to County Board members and I  
19 would direct your attention to record No. C2743.  
20 What is that document?

21 A. The letter that I wrote.

22 Q. So the letter that's in the record at  
23 C2743 is the letter that you sent to all the County  
24 Board members, is that right?

0159

1 A. Yes.

2 Q. Let me direct your attention to  
3 another document, which is record No. C2739. What  
4 is that document?

5 A. That is my mother's.

6 Q. So that's the letter that your mother  
7 sent to all of the County Board members, is that  
8 correct?

9 A. Yes.

10 MR. PORTER: Mr. Hearing Officer, I  
11 have a follow-up question that would be  
12 within Mr. Moran's offer of proof. I'm not  
13 withdrawing any objection to that material,  
14 however, if we're going to be making offers  
15 of proof, I think in the interest of clarity  
16 and receiving an entire picture of the  
17 circumstances I should be allowed to ask some  
18 questions without waiving my objection.

19 HEARING OFFICER HALLORAN: I would  
20 have to agree in the event that the Board  
21 rules otherwise. Mr. Moran, do you have a  
22 big problem with that?

23 MR. MORAN: Well, it's highly unusual.  
24 Clearly offers of proof are intended to

0160

1 provide a record and not to provide the very  
2 testimony and cross-examination that would  
3 have been appropriate had the evidence been  
4 deemed admissible.

5 HEARING OFFICER HALLORAN: It's not  
6 unusual, at least not when you've been before  
7 me. I've allowed exploration such as what  
8 Mr. Porter's going to do in the event the  
9 Board overrules my decision, we don't have to  
10 come back here. I guess that's an objection.  
11 It's overruled. Mr. Porter, you may ask your  
12 question, but this is under an offer of  
13 proof.

14 MR. PORTER: Thank you, Mr. Hearing

15 Officer.

16 BY MR. PORTER:

17 Q. When you spoke with Ms. Bernard, she  
18 was speaking to you as a candidate for the  
19 legislature, is that correct?

20 A. Correct.

21 Q. And at that time she did not tell you  
22 how she was going to vote, did she?

23 A. No.

24 Q. And when I say how she was going to

0161

1 vote, you understood I meant how she was going to  
2 vote on the County's -- strike that.

3 When you spoke to her in her  
4 capacity as a candidate for the legislature, at that  
5 time she did not tell you how she was going to vote  
6 on Waste Management's application, did she?

7 A. Correct.

8 MR. MORAN: Objection, leading.

9 MR. PORTER: It's not my witness.

10 HEARING OFFICER HALLORAN: Overruled.

11 BY MR. PORTER:

12 Q. Are you aware that Ms. Bernard has  
13 actually advocated in favor of a county owned  
14 landfill accepting county waste?

15 A. No.

16 MR. PORTER: Nothing further.

17 HEARING OFFICER HALLORAN: Thank you.

18 That concludes your cross and the offer of  
19 proof?

20 MR. PORTER: That concludes my offer  
21 of proof and it concludes my cross.

22 HEARING OFFICER HALLORAN: Mr. Moran?

23 MR. MORAN: Do I get redirect in the  
24 offer of proof?

0162

1 HEARING OFFICER HALLORAN: Sure, sure,  
2 and I assume this is it.

3 R E D I R E C T E X A M I N A T I O N

4 by Mr. Moran

5 Q. Mr. Keller, when you had this  
6 conversation with Ms. Bernard, she didn't tell you  
7 that she was giving you this statement as a  
8 candidate for state representative, she didn't tell  
9 you that when she told you her position on  
10 landfills, did she?

11 A. My question to her was what was her  
12 outlook on out of county garbage and landfills and  
13 her outlook was opposed.

14 Q. Exactly. She didn't say to you I am  
15 giving you this statement as a candidate for state  
16 representative, I am not a County Board member when  
17 I give you this statement? She didn't say that to  
18 you, did she?

19 A. No.

20 MR. MORAN: End of my redirect on the  
21 offer of proof.

22 HEARING OFFICER HALLORAN: Thank you.  
23 Anything further on your redirect?  
24 MR. MORAN: Nothing further.

0163

1 HEARING OFFICER HALLORAN: Okay.  
2 Mr. Porter?  
3 MR. PORTER: Nothing further.  
4 HEARING OFFICER HALLORAN: Thank you.  
5 Mr. Keller, you may step down. Thank you  
6 very much. What we're going to do -- let's  
7 go off the record for a minute.

8 (Whereupon, a discussion  
9 was had off the record.)

10 HEARING OFFICER HALLORAN: We're on  
11 the record. We're going to take an hour off  
12 for lunch, so I would expect everyone to be  
13 back here by 1:15. Thank you very much.

14 (Whereupon, after a short  
15 break was had, the  
16 following proceedings  
17 were held accordingly.)

18 HEARING OFFICER HALLORAN: We're back  
19 on the record. It is approximately 1:30.  
20 Mr. Moran is still in his case in chief.  
21 Mr. Moran's next witness?

22 MR. MORAN: Yes. We'd like to call  
23 Mr. Keith Runyon.

24 HEARING OFFICER HALLORAN: Mr. Moran,

0164

1 I would remind you, we're still having a  
2 little trouble sometimes hearing because of  
3 that truck traffic. That mic doesn't go any  
4 closer unless you lay it on the table.

5 (Mr. Runyon was sworn in.)

6 D I R E C T E X A M I N A T I O N  
7 by Mr. Moran

8 Q. What is your name and could you spell  
9 your last name for the court reporter?

10 A. Keith L. Runyon, R-U-N-Y-O-N.

11 Q. What is your address, Mr. Runyon?

12 A. 1165 Plum Creek Drive, Unit D,  
13 Bourbonnais, Illinois.

14 Q. How long have you lived there?

15 A. Approximately 11 years.

16 Q. How far is your residence from the  
17 proposed expansion of the Kankakee landfill?

18 A. As close as my water faucet.

19 Q. In terms of feet, how far is that?

20 A. It depends upon how close I am to the  
21 water faucet.

22 HEARING OFFICER HALLORAN: Can you  
23 answer the question, Mr. Runyon, please?

24

0165

1 BY THE WITNESS:

2 A. Sure. Physically probably seven  
3 miles.

4 BY MR. MORAN:  
5 Q. What is your occupation?  
6 A. I'm at this point retired.  
7 Q. Where in relation to your residence is  
8 the proposed expansion located; south, north, west?  
9 A. South.  
10 Q. Do you have any understanding as to  
11 the direction of ground water flow from the proposed  
12 expansion?  
13 A. Yes, I sat through the hearings.  
14 Q. And isn't it true that based upon  
15 where you reside your location is, in fact, up  
16 gradient from the proposed expansion?  
17 A. That's true, but that's not what the  
18 problem is. The problem is that --  
19 Q. Mr. Runyon, all I'd like you to do is  
20 respond to the question and if there's something  
21 you'd like to follow-up later, perhaps you could do  
22 that in the public comment or otherwise.  
23 A. Okay.  
24 Q. When did you become aware of the 2002  
0166  
1 siting application?  
2 A. I became aware of it when the county  
3 was discussing an amendment to the solid waste plan  
4 and presented -- and a subcommittee presented a host  
5 fee agreement to the County Board.  
6 Q. When did that occur?  
7 A. I believe the amendment was, as I  
8 recall, something like October 2001, as I recall.  
9 I'm not sure of the date.  
10 Q. Did you participate in the process by  
11 which the solid waste plan was amended?  
12 A. No. I did not.  
13 Q. You would have liked to have  
14 participated?  
15 A. Yes.  
16 Q. You were told you could not  
17 participate?  
18 A. All of that was done secretly in  
19 closed door meetings between Waste Management and  
20 the subcommittee of the County Board in violation of  
21 the Open Meetings Act.  
22 Q. And did anyone tell you that you were  
23 prohibited from participating in that process by  
24 which the county solid waste plan was amended?  
0167  
1 A. By omission because they never  
2 announced the meetings.  
3 Q. So no one has ever told you that you  
4 could not participate, is that correct?  
5 A. The meetings were never announced as  
6 per the Open Meetings Act.  
7 Q. And once you learned about the  
8 meetings, did you complain to anyone at the county  
9 about your inability to participate in these  
10 meetings?

11 A. Through the hearings certainly.  
12 Q. When you say the hearings, you're  
13 talking about the hearings that took place on the  
14 2002 siting application in November of 2002, is that  
15 correct?  
16 A. That's correct.  
17 Q. So the first time you made a mention  
18 to anybody of having been excluded from these  
19 discussions or negotiations was about a year after  
20 you learned of the existence of these meetings, is  
21 that correct?  
22 A. That was probably the first time I  
23 made a public statement about it, yes, but I  
24 probably did make statements to other board members  
0168  
1 prior to that.  
2 Q. Can you recall any for us?  
3 A. No, I can't recall exactly who, but I  
4 know that at the time a number of us were alarmed  
5 about the amendment that allowed out of county  
6 garbage to come into the county.  
7 Q. There were County Board members who  
8 were alarmed by this?  
9 A. Yes.  
10 Q. Who were they?  
11 A. I don't recall exactly who they were.  
12 There were several who mentioned that they were  
13 opposed to it.  
14 Q. And Ann Bernard is one of those?  
15 A. Yes.  
16 Q. Shakey Martin?  
17 A. Yes.  
18 Q. Anyone else?  
19 A. I don't recall who else, but there  
20 were others. There was a lot of conversation among  
21 a lot of people and I don't recall who all made a  
22 note of it.  
23 Q. And these statements by the County  
24 Board members were made in your presence?  
0169  
1 A. Yes.  
2 Q. Where did these discussions or  
3 meetings take place?  
4 A. Well, most of the time right here in  
5 the board room.  
6 Q. Were there other venues for these  
7 discussions, restaurants, other places?  
8 A. No, not that I recall.  
9 Q. Mr. Runyon, how long have you known  
10 Ann Bernard?  
11 A. I'd say probably since about 1998.  
12 Q. Was that before she became a member of  
13 the Kankakee County Board?  
14 A. I don't think so. I'm not clear on  
15 what date she was elected to the board.  
16 Q. How long have you known Leonard Shakey  
17 Martin?

18 A. Since 1996.  
19 Q. That was well after he had been  
20 serving as a County Board member?

21 A. That's correct.  
22 Q. Are you familiar with a process known  
23 as closed loop gasification?

24 A. Yes, I am.  
0170 Q. What is that process?

1 A. That's a process which transforms any  
2 carbon based product into a gas by heating the  
3 carbon based products to about 800 degrees and  
4 evacuating 95 percent of the oxygen and over a  
5 period of ten hours approximately it changes the  
6 mass to a gas without combustion.

7 Q. Is it your position that closed loop  
8 gasification is and can be an alternative to  
9 landfilling?  
10

11 MR. PORTER: I'm going to object. The  
12 purpose of this proceeding is to supplement  
13 the record regarding the fundamental fairness  
14 of the County proceedings, not a rehash of  
15 waste alternatives.

16 HEARING OFFICER HALLORAN: Mr. Moran,  
17 where are you going on this?

18 MR. MORAN: Mr. Runyon has both  
19 adopted and espoused the closed loop  
20 gasification process both in the context of  
21 the siting process and outside that process.  
22 I'm laying the groundwork for an explanation  
23 as to what this process is and how he has  
24 promoted it in various respects in connection

0171 with this proposed siting application, this  
1 proposed expansion.  
2

3 HEARING OFFICER HALLORAN: I think I  
4 will allow it. Objection overruled. I'll  
5 keep a close ear.

6 BY THE WITNESS:  
7 A. I'm not just a proponent of that, but  
8 of the 19 or 20 other alternative technologies and,  
9 in fact, the first person to introduce these  
10 technologies into the hearings was Mr. Adelman when  
11 he invited Myron Brick from Cenrick (phonetic) in  
12 the 2002 hearings to read a letter that Mr. Adelman  
13 had written to him congratulating him on the process  
14 and their implementation in Morris, Illinois.

15 BY MR. MORAN:  
16 Q. Is it your position that closed loop  
17 gasification is an alternative to landfilling?

18 A. That and 19 others could be  
19 alternatives.

20 Q. Have you acquired literature, written  
21 information that describes this process?

22 A. Yes, that and about 18 other  
23 processes.

24 Q. And have you delivered any of this

0172

1 written information concerning closed loop  
2 gasification to any Kankakee County Board members  
3 over the last three years?

4 A. Not that I can recall. I've talked  
5 about it in public meetings, but I don't recall  
6 delivering any documents to them.

7 Q. Have you made any documents available  
8 for any of the County Board members that describe  
9 this process?

10 A. No, not that I can recall.

11 Q. Did you attend the public hearings on  
12 the 2002 siting application?

13 A. Yes, I did.

14 Q. Did you attend the public hearings on  
15 the proposed Town & County landfill located in the  
16 city of Kankakee in June of 2002?

17 A. Yes, I did.

18 Q. And did you appear at those  
19 proceedings to oppose that proposal?

20 A. Yes, I did.

21 Q. Did you appear at the public hearings  
22 on the 2002 application here to oppose that proposed  
23 expansion?

24 A. Yes, I did.

0173

1 Q. Did you also appear at the public  
2 hearings on the 2003 application here?

3 A. Yes, I did. Are you in reference to  
4 the Waste Management?

5 Q. Yes.

6 A. Yes, yes, I did.

7 Q. Did you appear at the public hearings  
8 on the second Town & Country siting application  
9 which occurred in June of 2003 for the city of  
10 Kankakee?

11 A. No, I did not.

12 Q. Prior to March 17th, 2004, outside of  
13 the public hearings on the 2003 application, did you  
14 have any communications with any Kankakee County  
15 Board member regarding either the proposed expansion  
16 or the closed loop gasification?

17 MR. PORTER: I'm going to object to  
18 the extent we have included closed loop  
19 gasification. The question needs to be  
20 geared toward communications concerning Waste  
21 Management's application, not communications  
22 concerning alternative waste means, which is  
23 something that a County Board member not only  
24 is allowed to look at, but has a

0174

1 responsibility to look at in their  
2 legislative function and so it's irrelevant  
3 to the present issue which is whether or not  
4 he had ex parte communications with County  
5 Board members concerning the application.

6 HEARING OFFICER HALLORAN: I'm going

7 to allow, as I did before, Mr. Moran a little  
8 latitude. Mr. Runyon, if you can answer the  
9 question.

10 BY THE WITNESS:

11 A. The answer is no to both.

12 BY MR. MORAN:

13 Q. Are you aware that Ann Bernard was  
14 running in a primary campaign for state  
15 representative in 2004?

16 A. Yes, I am.

17 Q. Did you support her campaign for state  
18 representative?

19 A. I put a little work in one day by  
20 putting some labels on an envelope -- on envelopes.

21 Q. So you supported her candidacy?

22 A. Well, other than just that little  
23 menial task, no. Did I campaign for her or  
24 anything, no.

0175

1 Q. Did you ever learn of any information  
2 or facts indicating that Ms. Bernard was opposed to  
3 the proposed expansion of the Waste Management  
4 landfill?

5 A. I knew that she was opposed to all  
6 landfills that were to be sited over the major  
7 aquifer that feeds the water supply.

8 Q. And when did you become aware of this?

9 A. I think that was after the 2002  
10 hearing.

11 Q. The 2002 hearing occurred in November  
12 of 2002?

13 A. Yes, that's correct.

14 Q. Was that some time prior to March 17th  
15 of 2004?

16 A. Yes.

17 Q. Was it some time in 2003?

18 A. No. It was in 2002 -- well, maybe --  
19 I can't recall when that county ordinance hearing  
20 was held and the vote was taken.

21 Q. Was it your understanding that  
22 Ms. Bernard was opposed to the receipt of any out of  
23 county waste?

24 A. No, I was not under that

0176

1 understanding.

2 Q. Your understanding was just that she  
3 was opposed to any landfills being located above an  
4 aquifer here in Kankakee County?

5 A. The major aquifer that feeds the water  
6 supply.

7 Q. And is it your understanding that that  
8 aquifer is the silurian dolomite aquifer that  
9 underlies basically all of Kankakee County?

10 A. Yes, but that's not the issue.

11 Q. Do you know an individual by the name  
12 of Bruce Harrison?

13 A. I know of Bruce Harrison. I don't

14 know him.

15 Q. And when did you first learn of Bruce  
16 Harrison or learn about him in any way?

17 A. At the 2003 siting hearings.

18 Q. And these were the hearings on the  
19 2003 application that took place in January of 2004?

20 A. That's correct.

21 Q. Mr. Harrison did not participate in  
22 any way with respect to the 2002 application, is  
23 that correct?

24 A. Not that I can recall.

0177

1 Q. So the first time you became aware of  
2 him was in connection with the hearings that took  
3 place in 2004?

4 A. That's correct.

5 Q. And Mr. Harrison was opposed to the  
6 2003 application?

7 A. He apparently was since he made  
8 numerous public comments apparently stating his  
9 opposition to it.

10 Q. Did you hear any information or did  
11 you learn of any facts that Mr. Harrison was  
12 contacting County Board members outside the context  
13 of the public hearing?

14 A. No.

15 Q. You didn't hear that from anyone?

16 A. No.

17 Q. You had no information to indicate  
18 that he was?

19 A. No.

20 Q. Is that correct?

21 A. I have no idea what Mr. Harrison was  
22 doing.

23 Q. But you did know or you were aware  
24 that Mr. Harrison was instrumental in putting up the

0178

1 signs in the area that said no dump, no Chicago  
2 garbage, is that correct?

3 A. I heard that he was someone who was  
4 doing it, but I have no direct proof. I saw no  
5 direct information or I didn't see him -- I didn't  
6 witness him putting any of the signs up. For all I  
7 know, he could have put them all up or none. I  
8 don't know.

9 Q. Isn't it true that you spoke with  
10 Mr. Harrison and learned from him that he was  
11 instrumental in putting up these signs all over  
12 town?

13 MR. PORTER: Objection, hearsay.  
14 Mr. Harrison is not an agent of the county  
15 and therefore not a part. It's not a hearsay  
16 exception.

17 HEARING OFFICER HALLORAN: Mr. Moran?

18 MR. MORAN: We're talking about what  
19 knowledge Mr. Runyon had about Mr. Harrison's  
20 efforts in terms of putting up these no dump,

21 no Chicago garbage signs all over town.  
22 HEARING OFFICER HALLORAN: I'm going  
23 to overrule the objection. You may proceed,  
24 Mr. Moran.

0179

1 BY THE WITNESS:

2 A. Well, I think I answered that. I said  
3 so far as I know, he may have put them all up or  
4 none. I don't know correctly.

5 BY MR. MORAN:

6 Q. Mr. Runyon, do you recall having  
7 appeared for your deposition in this case?

8 A. Yes, I do.

9 Q. And that occurred on October 15th,  
10 2004?

11 A. I believe that's correct.

12 Q. And at that time you took an oath to  
13 tell the truth?

14 A. Yes, I did.

15 Q. And you, in fact, told the truth on  
16 that occasion?

17 A. Yes.

18 Q. Do you recall having been asked the  
19 following question and giving the following answer,  
20 question: Have you ever had a communication or  
21 discussion with Mr. Harrison? Answer: I spoke with  
22 Mr. Harrison a couple of times out at the hearings.  
23 I spoke with him a couple of other times and found  
24 out that he was instrumental in putting the no dump

0180

1 signs and circulating some petitions. That's all I  
2 know about what Mr. Harrison has done.

3 Did you give that answer to that  
4 response?

5 A. If that's in the transcript I did,  
6 yes.

7 Q. Now, you also referred to the fact  
8 that you learned from him that he was circulating  
9 petitions, is that correct?

10 A. Yes. I learned it from him, but I  
11 also learned it from an article in the newspaper.

12 Q. And what did Mr. Harrison tell you  
13 about the petitions he had gathered?

14 MR. PORTER: Same objection, hearsay.

15 BY THE WITNESS:

16 A. He said he was --

17 HEARING OFFICER HALLORAN: Excuse me,  
18 Mr. Runyon. Mr. Moran?

19 MR. MORAN: Yes. With respect again  
20 to the actions Mr. Harrison took and  
21 explained to Mr. Runyon by way of the  
22 communications and conversations they had,  
23 this is clearly relevant to those matters by  
24 which Mr. Harrison himself acknowledged and

0181

1 admitted what he had done. It has nothing to  
2 do with the county and whether the county was

3 involved in it or not.  
4 HEARING OFFICER HALLORAN: I think I'm  
5 going to allow it in under Section 101.676, I  
6 believe, so you may proceed. Objection  
7 overruled.  
8 BY THE WITNESS:  
9 A. I think I already answered it.  
10 MR. MORAN: Can you read the question  
11 back, please?  
12 (Whereupon, the requested  
13 portion of the record  
14 was read accordingly.)  
15 BY THE WITNESS:  
16 A. He didn't tell me anything about  
17 petitions he had gathered. He told me he was  
18 circulating petitions.  
19 BY MR. MORAN:  
20 Q. And did he indicate what the nature of  
21 those petitions were?  
22 A. In opposition to the landfills.  
23 Q. To the landfills?  
24 A. That's my understanding, yes.  
0182  
1 Q. And what landfills was he referring  
2 to?  
3 A. I assumed the city and the county's  
4 landfills -- proposed landfills.  
5 Q. When you say the county's landfills,  
6 you're referring to the proposed expansion of the  
7 existing Waste Management, correct?  
8 A. That's correct.  
9 Q. And did Mr. Harrison tell you what he  
10 was going to do with these petitions once he had  
11 gotten them signed?  
12 A. No, he didn't.  
13 Q. Did you at any point learn what  
14 Mr. Harrison had done with these petitions?  
15 A. I have no idea of whatever happened to  
16 them.  
17 Q. Did he ask you to sign the petition?  
18 A. Yes.  
19 Q. Did you?  
20 A. Yes.  
21 Q. Did he ask any other persons in your  
22 presence to sign that petition?  
23 A. No.  
24 Q. Did you read the petition before you  
0183  
1 signed it?  
2 A. Yes.  
3 Q. What did it say?  
4 A. I can't recall.  
5 Q. Generally?  
6 A. Generally, it was opposed to any out  
7 of county garbage, any landfill. I just don't  
8 recall the specifics of the petition.  
9 Q. So you didn't ask Mr. Harrison what

10 he was going to do with this petition you were  
11 signing?

12 A. No.

13 Q. Did Mr. Harrison at any other point  
14 ever ask you to do anything with regard to the  
15 proposal for the expansion of the landfill?

16 A. Did he ask me to do --

17 Q. Was he asking you to either prepare  
18 any letters, prepare any documents, contact any  
19 people, talk to any people?

20 A. No.

21 Q. Do you know an individual named  
22 Michael Watson?

23 A. Yes, I do.

24 Q. Who is Mr. Watson?

0184

1 A. He's a person who lives out in Otto  
2 Township who has some farm land out there and also  
3 runs United Disposal.

4 Q. Do you have any information or  
5 knowledge to suggest that Mr. Watson knows  
6 Mr. Harrison?

7 A. I assume they know each other. They  
8 spoke at the landfill hearing.

9 Q. Do you know if Mr. Harrison performs  
10 work for one of Mr. Watson's company?

11 A. Not to my knowledge. I have no idea.

12 Q. Mr. Runyon, what's the basis for your  
13 statement that Mr. Watson lives in Otto Township?

14 A. Well, I believe that's where he lives.

15 Q. How do you know that?

16 A. Well --

17 Q. Did he tell you? Did you learn it  
18 from someone else? Did Mr. Harrison tell you?

19 A. I was driven by his home last week  
20 that was in Otto Township.

21 Q. You say you were driven by his home  
22 last week?

23 A. That's correct.

24 Q. By whom?

0185

1 A. By several people in a car.

2 Q. Can you identify any of these people  
3 who were driving you by Mr. Watson's place?

4 A. Andrea Taylor, Ron Thompson.

5 Q. Any others?

6 A. No, I don't think so.

7 Q. Now, Andrea Taylor was an individual  
8 who also appeared for the 2003 application, is that  
9 correct?

10 A. I think she was there making a public  
11 comment.

12 Q. And she lives in Saint Anne?

13 A. Yes.

14 Q. Which is ten or 15 miles away from the  
15 proposed site?

16 A. I guess, yes.

17 Q. She was also deposed as part of these  
18 proceedings?

19 A. That's what I understand.

20 Q. And I believe you had talked to her  
21 before she was deposed, correct?

22 A. Yes.

23 Q. You were giving her advice as to how  
24 to testify at her deposition?

0186

1 A. No, I did not.

2 Q. You were giving her some suggestion as  
3 to how she --

4 A. No, I did not.

5 Q. But you talked to her about her  
6 deposition before she appeared?

7 A. I told her there was only one thing  
8 she should do, it had nothing to do with her  
9 testimony. I told her that if they ask you to waive  
10 her review of the deposition that she not do that,  
11 that she'd be able to read it before she signed off.  
12 That's all I told her.

13 Q. Mr. Thompson is the Otto Township  
14 supervisor, is that correct?

15 A. That's correct.

16 Q. He also appeared at the hearings?

17 A. Yes.

18 Q. And he's also opposed to the proposed  
19 application?

20 A. Yes.

21 Q. Did you have any discussions with  
22 Mr. Thompson about his communications with County  
23 Board members outside the context of the public  
24 hearing?

0187

1 A. No.

2 Q. Why did you drive by Mr. Watson's  
3 house with Ms. Taylor and Mr. Thompson last week?

4 A. I wanted to see where he lived.

5 Q. You wanted to see Mr. Watson lived?

6 A. Yes.

7 Q. For what purpose?

8 A. Well, actually, it started off to be a  
9 tour of Waste Management's landfill and Mr. Thompson  
10 wanted to show me all the debris surrounding the  
11 landfill on several different directions and what a  
12 scattered mess it was and in so doing he said by the  
13 way, Mr. Watson lives right around the corner from  
14 there, so that was the purpose of the trip.

15 Q. Was the purpose of the trip in  
16 preparation for these hearings?

17 A. No.

18 Q. Did you contact anyone from Waste  
19 Management of Illinois to have a tour of that  
20 existing facility?

21 A. Of the existing facility?

22 Q. Yes.

23 A. No.

24 Q. Because you described the purpose of  
0188

1 your visit as a tour of the Waste Management  
2 landfill, that's why --

3 A. No, no. We toured the periphery of  
4 the landfill and the purpose was to look at all the  
5 debris scattered from the landfill in the adjacent  
6 properties.

7 Q. Which day was that last week?

8 A. I don't recall. I think it was  
9 Wednesday maybe.

10 Q. Is that the day that the thunderstorms  
11 went through?

12 A. No, it wasn't the day of the  
13 thunderstorms. I think it was the 30th, March the  
14 30th.

15 Q. Did you see Mr. Watson when you drove  
16 by where he lived?

17 A. No.

18 Q. Have you subsequently been able to  
19 confirm that he lived where you were told he lived?

20 A. No.

21 Q. Did you see any of the signs that said  
22 no dump, no Chicago garbage in or around the area?

23 A. I saw the one -- very large one across  
24 from the fairgrounds.

0189  
1 Q. That's further north of the existing  
2 landfill?

3 A. Right. I don't recall seeing any --

4 Q. It's probably closer to the Town &  
5 Country site than it is this site, is that correct?

6 A. I don't recall seeing any of the signs  
7 -- maybe one, just one, I think. I don't recall  
8 seeing others. I was busy conversing at the time.  
9 I really was not terribly interested in seeing the  
10 landscape other than to look at the debris that was  
11 scattered around the landfill.

12 Q. Did you attend the County Board  
13 meeting on March 17th, 2004?

14 A. Yes, I did.

15 Q. And that was the vote to deny the 2003  
16 siting application?

17 A. Yes.

18 Q. Were there picketers outside the  
19 building that day?

20 A. I believe there were.

21 Q. Did you see them?

22 A. I did see some, but I came in the back  
23 way so I just saw a couple of people out in the  
24 front door, I didn't go out.

0190  
1 Q. Did you see Mr. Harrison?

2 A. No, I didn't see him that day. I  
3 didn't see him then anyway.

4 Q. You didn't see him at all that day?

5 A. Oh, I saw him later after the vote was

6 taken.

7 Q. And the picketers that you saw, did  
8 they have the signs no dump, no Chicago garbage?

9 A. Well, as I recall they had a variety  
10 of signs.

11 Q. But one of them was no dump, no  
12 Chicago garbage?

13 A. I think that was one of them, but I  
14 think they had a variety of signs.

15 Q. Do you recall any of the other signs?

16 A. No, I don't recall, but there were a  
17 lot of -- it seemed to me that there was some  
18 homemade signs, totally different. I don't recall.

19 Q. Did the signs convey messages that the  
20 carriers of those signs were opposed to the proposed  
21 expansion?

22 A. I think that was the general  
23 implication that could be drawn.

24 Q. Was there a motion to renew  
0191  
1 consideration of the vote which occurred on  
2 March 17th?

3 A. Yes, there was.

4 Q. Did that vote occur on April 13th of  
5 2004?

6 A. Yes, as I recall, to the best of my  
7 recollection.

8 Q. And did you attend that meeting?

9 A. Yes, I did.

10 Q. Are you aware that the 2002  
11 application resulted in an approval on January 31st,  
12 2003?

13 A. Yes.

14 Q. Did you attend that meeting?

15 A. Yes, I did.

16 Q. Did you at any point send any letters  
17 or any written materials to any County Board member  
18 relating to either the 2002 or 2003 applications?

19 A. No.

20 Q. And at that January 31, 2003 meeting  
21 of the County Board, were there any picketers  
22 outside the building on that day?

23 A. Not that I can recall.

24 Q. Did Mr. Harrison attend the  
0192  
1 January 31st, 2003 meeting?

2 A. I don't know.

3 Q. You didn't see him?

4 A. No, I didn't see him, but I don't know  
5 whether he was there or not.

6 Q. Do you know Mr. Robert Keller?

7 A. I do.

8 Q. Did you learn about Mr. Keller through  
9 your participation in the hearings on the 2002  
10 siting application?

11 A. That's correct, that's when I first  
12 knew of him.

13 Q. And, in fact, Mr. Keller testified in  
14 this proceeding earlier today?

15 A. Yes, that's correct.

16 Q. Have you had any communications or  
17 conversations with Mr. Harrison since the date of  
18 your deposition in this case?

19 A. Yes. I had a phone call from him from  
20 somewhere maybe a couple of months ago.

21 Q. When you say you had a phone call from  
22 somewhere, what's the basis for your --

23 A. Well, he didn't tell me where he was.

24 Q. Did you ask him where he was?

0193

1 A. No.

2 Q. Did he indicate why he was calling  
3 you?

4 A. He just wanted to know what was  
5 happening and so I said well, things are just  
6 grinding slowing.

7 Q. When he asked you what things were  
8 happening, what was he referring to; things that  
9 were happening in the county, things were happening  
10 with regard to the proposed expansion?

11 A. He asked about the proceedings that  
12 were going on, what was happening with the different  
13 landfill applications, so I just gave him kind of a  
14 quick summary.

15 Q. So he called to ask you about the  
16 status of this proceeding?

17 A. Both of them.

18 Q. What did you tell him about this  
19 proceeding?

20 A. I gave him a quick summary, I said  
21 Volini one is in the Appellate Court, Volini two is  
22 in the Appellate Court, Volini two has been filed  
23 with the IEPA for permitting, but it's pending  
24 Appellate Court resolution, I told him about Waste

0194

1 Management one going to the Appellate court and I  
2 told him about the depositions that were going on  
3 at the PCB for review and that's what I told him.

4 Q. Do you have caller ID?

5 A. No.

6 Q. So you would have no way of knowing  
7 what number was calling you when Mr. Harrison called  
8 you?

9 A. No, I have no idea.

10 Q. Were you aware of the fact that the  
11 petitioner here has attempted to bring Mr. Harrison  
12 in and have him testify about all of his  
13 communications with County Board members?

14 MR. PORTER: I object, assumes facts  
15 not in evidence.

16 HEARING OFFICER HALLORAN: Mr. Moran,  
17 any response?

18 MR. MORAN: I'm asking him whether he  
19 was aware of this information, true, not

20 true, did he hear that, was he aware of that  
21 in these discussions with Mr. Harrison.  
22 HEARING OFFICER HALLORAN: Again, I'll  
23 allow a little latitude. Mr. Runyon, you can  
24 answer if able.

0195

1 BY THE WITNESS:

2 A. Well, I read the newspaper article a  
3 couple of days ago and the last time I physically  
4 saw Mr. Harrison was probably July or August of last  
5 year and at that time he told me that he was going  
6 to disappear because he feared for his life.

7 BY MR. MORAN:

8 Q. This is consistent with what  
9 Mr. Keller indicated this morning?

10 A. That's what he told me and I said why  
11 are you afraid and he said I'm afraid I could be --  
12 end up in a landfill.

13 Q. Did Mr. Harrison give you any other  
14 facts that supported his fear that his personal  
15 safety and life was basically in jeopardy because of  
16 Waste Management?

17 A. No. I pursued it a little bit, but he  
18 wouldn't be specific.

19 Q. It was your understanding based upon  
20 what he told you that he was in fear for his life  
21 because of what?

22 A. Because of his opposition to the  
23 landfill.

24 Q. So from what he told you, the basis

0196

1 for his fear was that because he opposed the  
2 proposed expansion his life was at risk?

3 A. He seemed to have other reasons, but  
4 he wouldn't be specific.

5 Q. But the only one he told you was what  
6 I just indicated?

7 A. Right, that's correct.

8 Q. Do you have any reason to believe  
9 that Mr. Harrison fears for his life?

10 A. I can only go by what he told me.

11 Q. So you accepted what he said?

12 A. I beg your pardon?

13 Q. You accepted what he said, the reason  
14 he has disappeared is that he fears for his life?

15 A. That's what he told me.

16 Q. And you said you had this in a meeting  
17 with Mr. Harrison the last time you saw him in  
18 person?

19 A. Yes, I saw him --

20 Q. Where did this take place?

21 A. I believe it was at the fairgrounds.

22 Q. Is that the Kankakee County

23 Fairgrounds?

24 A. That's correct.

0197

1 Q. Was anyone else present for this

2 discussion?  
3 A. No.  
4 Q. How long did the discussion last?  
5 A. About three minutes.  
6 Q. How did you conclude this discussion  
7 with Mr. Harrison?  
8 A. Well, I had some other things to do  
9 and I just said well, I've got to run.  
10 Q. Since that date you have had just the  
11 one conversation or communication with Mr. Harrison?  
12 A. That's correct.  
13 Q. When he called you?  
14 A. Yes.  
15 Q. To ask for a status on this  
16 proceeding?  
17 A. Right, on both proceedings.  
18 Q. And you gave him the status on those  
19 proceedings?  
20 A. That's correct.  
21 Q. Did you have any discussion with him  
22 about whether he was employed?  
23 A. No.  
24 Q. Whether he was working or intended to  
0198  
1 be working?  
2 A. No.  
3 Q. Whether he ever intended to come back  
4 to this area?  
5 A. No.  
6 Q. Do you have any reason to believe that  
7 he was not in this area when he called you?  
8 A. I couldn't conjecture where he might  
9 have been.  
10 Q. He could have been right next or he  
11 could have been in Hawaii for all you know, correct?  
12 A. That's correct.  
13 Q. When you were asked about  
14 Mr. Harrison's whereabouts during the deposition you  
15 didn't disclose this. Was there any reason you  
16 didn't tell us about this --  
17 A. Yes, because the call came after the  
18 deposition.  
19 Q. I'm talking about the meeting at the  
20 fairgrounds where Mr. Harrison told you he was going  
21 to disappear because he feared for his life.  
22 A. Right.  
23 Q. That occurred -- I think you said  
24 August of 2004?  
0199  
1 A. Yes, that's correct.  
2 Q. And your deposition, you may recall,  
3 was in October of 2004?  
4 A. That's right.  
5 Q. My question was, why didn't you  
6 indicate at your deposition when you were asked  
7 about communications with Mr. Harrison that he had  
8 told you that he feared for his life and was

9 therefore disappearing?  
10 A. Well, because I didn't think it was  
11 terribly relevant at the time, but the more I  
12 thought about it, the more I felt it was relevant.  
13 Q. So you've agreed now to tell us about  
14 this conversation because, in your opinion, that  
15 information is now relevant and it wasn't before?  
16 A. Yes.  
17 Q. Okay. What reasons led you to  
18 conclude that now that information is relevant?  
19 A. Because so much time has elapsed since  
20 he told me that and he's been out of sight since  
21 that time and that led me to believe that there was  
22 credibility to what he had to say to me.  
23 Q. Are those the only reasons?  
24 A. Yes.

0200

1 Q. Mr. Runyon, has Mr. Harrison at any  
2 point in any communications you had with him asked  
3 you not to disclose or tell something he had told  
4 you?  
5 A. No.  
6 Q. Did you have any discussion or  
7 communication with Mr. Harrison after your  
8 deposition on October 15th other than the one you  
9 have told us about?  
10 A. No.  
11 Q. Did you have any discussion or  
12 communication with Mr. Watson about your deposition  
13 after October 15th of --  
14 A. I mentioned that I had given a  
15 deposition.  
16 Q. You mentioned this to Mr. Watson?  
17 A. Yes.  
18 Q. In a phone call?  
19 A. Beg your pardon?  
20 Q. In a phone call with Mr. Watson or  
21 face-to-face?  
22 A. A phone call.  
23 Q. You called him?  
24 A. No. He called me about something

0201

1 else, but I don't recall what it was and I said oh,  
2 by the way, I got deposed and it was some other  
3 issue and I don't recall what it was at the time.  
4 Q. Did you tell him how your deposition  
5 went?  
6 A. I just told him it lasted about an  
7 hour and ten minutes or something like that.  
8 Q. Did he ask you any other questions  
9 about it?  
10 A. No.  
11 Q. Have you characterized your  
12 relationship with Ann Bernard as her being a close  
13 personal friend of yours?  
14 A. She's a friend. I wouldn't say that  
15 -- I don't know what your definition of close

16 personal friend is. You know, I've never attended  
17 any functions with her. You know, my communication  
18 has been about a plethora of County Board issues and  
19 things like that, but I wouldn't say that we were  
20 close personal friends, no. Good strong  
21 acquaintances.

22 Q. Are you a close personal friend of  
23 Leonard Shakey Martin?

24 A. Yes, I am.

0202

1 Q. Again, just calling your attention to  
2 your deposition back on October 15th, were you asked  
3 the following question and did you give these  
4 answers? Question: Who were those County Board  
5 members? Answer: Leonard Martin and Ann Bernard.  
6 Question: Would you say they're very close personal  
7 friends of yours? Answer: Yes. Question: Can you  
8 describe for us what the nature of the relationship  
9 is with both of them? Answer: We're very close  
10 personal friends, however you would define a close  
11 personal friend.

12 A. Well, I just differentiated from that  
13 because as you asked the question the second time, I  
14 realized that Shakey Martin and I are good close  
15 personal friends, that we do go to functions  
16 together, we attend basketball games and football  
17 games and Ann is more like a strong acquaintance.

18 Q. Did you give this answer to this  
19 question?

20 A. Yes, I did.

21 Q. Did you also say in response to that  
22 question, this is on page 38, Ms. Bernard has been a  
23 very good friend to me and most of the members of  
24 the community and so just close personal friends.

0203

1 A. By that what I meant was a good friend  
2 to the community because it appears that she is  
3 always looking out for the best welfare of the total  
4 residency and citizenship in the county. That's  
5 what I meant by total friend of the community and  
6 I'm included as one of those.

7 MR. MORAN: I have no further  
8 questions.

9 HEARING OFFICER HALLORAN: Thank you.  
10 Mr. Porter?

11 MR. PORTER: Just a couple quick  
12 follow-ups.

13 C R O S S E X A M I N A T I O N

14 by Mr. Porter

15 Q. There was some discussion about  
16 statements made by Mr. Martin and Ms. Bernard  
17 against out of county waste. Isn't it true those  
18 statements were made at the time the solid Waste  
19 Management plan was proposed to be amended?

20 A. That's correct.

21 Q. That was quite a time before even the  
22 first Waste Management application, is that right?

23 A. That's correct.  
24 Q. There was a mention of a tour of Waste

0204

1 Management's landfill. That was way after the  
2 County Board decision on March 17th, 2004, right?

3 A. So far as I can recollect, I heard  
4 about the tour but obviously --

5 Q. I'm talking about the tour that you  
6 took with Mr. Thompson of the perimeter?

7 A. Yes. That was March the 30th of this  
8 year.

9 Q. And Mr. Thompson isn't even a County  
10 Board member, is that right?

11 A. That's correct.

12 Q. You don't know if Mr. Harrison was  
13 ever successful in any of his attempted  
14 communications with County Board members, do you?

15 A. I have no idea, none whatsoever.

16 Q. And you never communicated with a  
17 County Board member outside of the hearing process  
18 about the siting applications, is that right?

19 A. No, I did not.

20 Q. You mentioned you're close personal  
21 friends with Mr. Martin and had lunched with him  
22 during those -- and gone to sporting events with  
23 him. During those events had you ever discussed  
24 siting applications while they were pending?

0205

1 A. No.

2 MR. MORAN: Nothing further.

3 HEARING OFFICER HALLORAN: Thank you.  
4 Mr. Moran?

5 R E D I R E C T E X A M I N A T I O N  
6 by Mr. Moran

7 Q. Mr. Runyon, the opposition of  
8 Ms. Bernard and Mr. Martin to out of county waste  
9 has continued to this day, isn't that true?

10 A. Yes.

11 MR. MORAN: That's it.

12 HEARING OFFICER HALLORAN: Mr. Porter?

13 MR. PORTER: Nothing further.

14 HEARING OFFICER HALLORAN: Thank you.  
15 Thank you, Mr. Runyon, you may step down.

16 Does anyone need a quick post  
17 lunch break? I see some nods. Okay. Five  
18 minutes. Thank you.

19 (Whereupon, after a short  
20 break was had, the  
21 following proceedings  
22 were held accordingly.)

23 HEARING OFFICER HALLORAN: We're back  
24 on the record. Before I forget, are there

0206

1 any members of the public that would like to  
2 stand up here and make a comment or  
3 statement? I see no hands. All right.  
4 We're going to continue with Mr. Moran's case

5 in chief. I believe it will be his fifth  
6 witness --  
7 MR. MORAN: Fourth. Fifth I guess.  
8 HEARING OFFICER HALLORAN: Thank you.  
9 In any event, you may proceed.  
10 MR. MORAN: Thank you. We would call  
11 Mr. Gibbs at this time.

12 (Mr. Gibbs was sworn in.)  
13 D I R E C T E X A M I N A T I O N  
14 by Mr. Moran

15 Q. What is your name and could you spell  
16 your last name for the court reporter?

17 A. Larry Gibbs, G-I-B-B-S.

18 Q. Mr. Gibbs, what is your address?

19 A. 13217 East 6000 South Road, Saint  
20 Anne, Illinois.

21 Q. And how long have you lived there?

22 A. At that particular address?

23 Q. Yes.

24 A. About 15 years.

0207

1 Q. What is your business or occupation?

2 A. I've worked with the state and I'm  
3 currently now -- as a result of the election, I'm  
4 the township supervisor of Pembroke.

5 Q. Are you a Kankakee County Board  
6 member?

7 A. And I'm a Kankakee County Board  
8 member, yes.

9 Q. When were you first elected to the  
10 County Board?

11 A. I think it was in 2002, November  
12 of 2002.

13 Q. So you would have been sworn in in  
14 December of --

15 A. December the 4th I think it was, in  
16 December.

17 Q. Are you aware that a siting  
18 application to expand the existing Waste Management  
19 landfill was filed in August of 2002?

20 A. I learned that as I came on board,  
21 yes.

22 Q. Are you aware that the hearings on  
23 that 2002 application were conducted in November and  
24 December of 2004 -- I'm sorry, November and

0208

1 December 2002?

2 A. Could you say that again?

3 Q. Yes. Are you aware that the public  
4 hearings on the 2002 application were conducted in  
5 November and December of 2002?

6 A. Yes.

7 Q. Are you aware that the County Board  
8 voted on the 2002 application on January 31st, 2003?

9 A. Yes.

10 Q. And you did not vote on January 31st,  
11 2003, is that correct?

12 A. No. I was ill at that time.  
13 Q. Are you aware that a second siting  
14 application was filed on September 26th, 2003?  
15 A. Yes.  
16 Q. And that second application or the one  
17 we've referred to as the 2003 application had public  
18 hearings that took place in January of 2004, is that  
19 correct?  
20 A. Could be, yes. That were hearings at  
21 that time, yes.  
22 Q. Did you attend any of those hearings?  
23 A. Yes, I did.  
24 Q. Did you have any understanding as to

0209

1 whether the 2002 application was the same as the  
2 2003 application?  
3 MR. PORTER: Objection, couple of  
4 grounds. One, it gets into mental  
5 impressions of a decision-maker; two, the  
6 applications speaks for themselves and that  
7 is part and parcel of the underlying record  
8 and is not relevant to fundamental fairness  
9 of the proceeding.  
10 HEARING OFFICER HALLORAN: Mr. Moran?  
11 MR. MORAN: Well, clearly the question  
12 of the similarity of these two applications  
13 is something that the County Board members  
14 can indicate without in any way disclosing or  
15 revealing their mental processes in  
16 evaluating and deciding the application which  
17 is, as I understand it, the reason for the  
18 ruling on the motion to compel. I think  
19 certainly this witness and any kind of group  
20 member can address the question of whether in  
21 their understanding the two applications were  
22 essentially the same.  
23 HEARING OFFICER HALLORAN: I'd have to  
24 agree with you, Mr. Moran. It's pretty

0210

1 close, but I think Ms. Hertzberger also was  
2 asked that question and I allowed it  
3 to be answered. So with that said, your  
4 objection is overruled. Mr. Moran?  
5 BY THE WITNESS:  
6 A. Could you repeat it again.  
7 MR. MORAN: Could you repeat my  
8 question?  
9 (Whereupon, the requested  
10 portion of the record  
11 was read accordingly.)

12 BY THE WITNESS:  
13 A. I assumed that it would be, yes.  
14 BY MR. MORAN:  
15 Q. Did you vote on the 2003 application?  
16 A. Yes.  
17 Q. And you voted on March 17th, 2004?  
18 A. Yes.

19 Q. And did you vote to approve or deny  
20 the 2003 application?

21 A. If I can recall, there was specific  
22 criteria, but just an overall disapproval. I'm not  
23 sure of whether we made a decision on the overall  
24 disapproval.

0211

1 Q. Did you vote on each of those  
2 criteria?

3 A. Yes.

4 Q. And did you vote to approve each of  
5 those criteria or did you vote to approve some and  
6 and deny others?

7 A. That could have been the case, yes,  
8 some approve and deny some.

9 Q. As you sit here today, do you recall  
10 which --

11 A. No.

12 MR. PORTER: Mr. Gibbs, if I may, with  
13 Mr. Halloran's allowance, please wait until  
14 Mr. Moran is done.

15 HEARING OFFICER HALLORAN: Thank you,  
16 Mr. Porter.

17 BY MR. MORAN:

18 Q. Mr. Gibbs, was there a motion to renew  
19 consideration of the March 17th, 2004 vote?

20 A. Yes.

21 Q. And that took place on April 13th,  
22 2004?

23 A. The specific date, I'm not sure, but  
24 it did occur.

0212

1 Q. And did you vote on the motion to  
2 renew consideration?

3 A. Yes.

4 Q. Prior to March 17th, 2004, which was  
5 the date on which you first voted on the 2003  
6 application, did you receive any phone calls from  
7 anyone regarding the 2003 application?

8 A. As to the dates I'm not going to say,  
9 but I did receive some phone calls -- a phone call.

10 Q. Who did you receive that phone call  
11 from?

12 A. From a Mr. Harrison -- I learned that  
13 it was from Mr. Harrison.

14 Q. Is that Mr. Bruce Harrison?

15 A. Yes.

16 Q. Did he call you at your home or place  
17 of business?

18 A. At my home.

19 Q. What did he say to you?

20 A. Specifically what he said I'm not  
21 sure, but he generally talked and when I learned  
22 that he was talking about the landfill, the  
23 conversation ended.

24 Q. How long did he talk to you before you

0213

1 realized he was talking about the proposed expansion  
2 and his opposition to it?

3 A. I would say less than, but no more  
4 than 45 seconds or so.

5 Q. And did you tell Mr. Harrison why you  
6 couldn't continue the conversation?

7 A. All I said was I can't talk about that  
8 and just hung up.

9 Q. And that call came in some time prior  
10 to March 17th of 2004, correct?

11 A. The specific date I'm not -- I would  
12 say it came --

13 Q. It came in some time before you voted  
14 on the 2003 application?

15 A. Yes.

16 Q. And I know you said that you were ill  
17 on January 31st of 2003 to vote on the first  
18 application?

19 A. Yes.

20 Q. Did you receive any phone calls from  
21 anyone regarding the 2002 application prior to  
22 January 31st of 2003?

23 A. No.

24 Q. Did you receive any letters or any

0214

1 written materials prior to your vote on the 2003  
2 application which occurred on March 17th?

3 A. Yes.

4 Q. How many such letters or written  
5 materials did you receive?

6 A. It was numerous, but I'd say it was  
7 less than 50.

8 Q. Something less than 50?

9 A. Something less than 50.

10 Q. And did you receive these at your  
11 home?

12 A. At my home, yes.

13 Q. Were these letters or written  
14 materials opposed to the proposed expansion?

15 A. I never read any of them but one.

16 When I first received them, I opened it up, looked  
17 at it, scanned through a little bit, when I saw it  
18 was for the landfill, I closed it up, sealed it back  
19 and took it to the clerk and all the rest of them.

20 Q. The one that you opened, did you read  
21 enough of it to determine that it was opposed to the  
22 proposed expansion?

23 A. Whether it was opposed or not, I knew  
24 that it was for the landfill, that's all I

0215

1 determined and I knew that it was time to close it  
2 up and send it in.

3 Q. Prior to the vote on the 2002 siting  
4 application, which occurred on January 31st, 2003,  
5 did you receive any letters or written materials  
6 regarding the proposed expansion?

7 A. Could you give me those dates again?

8 Q. Yes. Just going back to the first  
9 vote on the 2002 siting application, which was  
10 January 31st, 2003, the date you were ill.

11 A. Okay. Prior to that, no.

12 Q. Prior to that you didn't receive any  
13 letters or written materials regarding the 2002  
14 application?

15 A. No.

16 Q. Again, prior to March 17th, 2004, did  
17 you have any discussion with any residents who were  
18 opposed to the proposed expansion?

19 A. I had a few come up and talk with me  
20 about it.

21 Q. And where did these communications  
22 occur?

23 A. Just in passing, in general, they'd  
24 see me out.

0216

1 Q. Out at your place of work or near your  
2 home or county building, someplace else?

3 A. Just anywhere that I may be at that  
4 time.

5 Q. And this was prior to March 17th,  
6 2004?

7 A. Yes.

8 Q. And were these on three separate  
9 occasions that you met up with three different  
10 people who talked to you about the expansion?

11 A. Right, separate times, yes.

12 Q. Do you know the names of any of the  
13 people?

14 A. No. By that time they had learned  
15 that I was a County Board member.

16 Q. And for each of these three residents  
17 on these three occasions, you can go through each  
18 one one-by-one, what did they say to you?

19 A. That, I couldn't -- I don't recall  
20 exactly what they said.

21 Q. Generally?

22 A. Generally it was about the landfill.

23 Q. Was it that they were opposed to the  
24 proposed expansion because they did not wish to

0217

1 receive any waste or garbage from Chicago?

2 A. That and among -- more or less, yes.

3 Q. Any other reasons they gave you?

4 A. No.

5 Q. Did you have any other conversations  
6 or communications with any persons regarding the  
7 2003 application?

8 A. No.

9 MR. MORAN: I have no further  
10 questions.

11 HEARING OFFICER HALLORAN: Thank you,  
12 Mr. Moran. Mr. Porter?

13 MR. PORTER: Thank you, Mr. Halloran.

14 C R O S S E X A M I N A T I O N

15 by Mr. Porter  
16 Q. Did you ever do a line-by-line  
17 analysis of Waste Management's first application  
18 with its second application to determine if they  
19 were the same?  
20 A. No.  
21 Q. You are aware that the two  
22 applications had two separate hearings, are you not?  
23 A. Yes.  
24 Q. And there were different witnesses at  
0218  
1 those hearings, correct?  
2 A. Yes.  
3 Q. Did you consider -- strike that.  
4 You mention Mr. Harrison  
5 telephoned you, is that right?  
6 A. Yes.  
7 Q. Did you consider that to be evidence?  
8 MR. MORAN: Objection. Based upon  
9 your rulings I don't know how we can now ask  
10 what this board member considered without  
11 there being a waiver of the objection that we  
12 can't ask what he considered and didn't  
13 consider.  
14 HEARING OFFICER HALLORAN: Mr. Porter?  
15 MR. PORTER: If I may, the ruling, as  
16 I understand it, is you cannot ask a board  
17 member what he based his overall decision  
18 upon, however, I have never objected to nor  
19 do I believe I would have a basis to object  
20 to Mr. Moran asking if a board member based  
21 his decision upon an ex parte communication  
22 or if his decision was prejudiced by an ex  
23 parte communication, therein lies the  
24 distinction. We know that we're allowed to  
0219  
1 conduct discovery and ask a question as to  
2 whether or not an ex parte communication  
3 occurred. We also know that the only time  
4 that that would be -- that that would result  
5 in some type of remand or reversal is if  
6 there's evidence of prejudice from that  
7 communication, therefore, I do not have a  
8 problem with Mr. Moran asking nor me asking  
9 whether or not an ex parte communication as  
10 defined by the Pollution Control Board  
11 prejudiced a decision. It's completely  
12 inappropriate to ask what you based your  
13 decision upon whereby we have to require a  
14 Board member to look into the record and  
15 remember what it was in the record that he  
16 based his decision upon, however, when it  
17 comes to whether or not he based it on ex  
18 parte communication, I am willing to concede  
19 that and I believe -- and that's why I did  
20 not object to the one question  
21 Mr. Moran asked earlier in his line of 20

22 questions that the objection was sustained.  
23 HEARING OFFICER HALLORAN: But isn't  
24 it -- the question was did you base -- did

0220

1 you --

2 MR. PORTER: This particular question  
3 actually is even narrower. All I asked him  
4 is whether or not he believed Harrison's  
5 telephone call was evidence. I didn't  
6 actually ask him whether or not he prejudiced  
7 him or considered it. I've even narrowed it  
8 more than that, but I guess I just wanted to  
9 address the issue with you, Mr. Halloran, so  
10 that we don't have to keep going down this  
11 every time.

12 HEARING OFFICER HALLORAN: This was  
13 kind of addressed in Rochelle. Mr. Moran?

14 MR. MORAN: Well, if he's allowed to  
15 ask did you consider this as a basis for your  
16 decision, a very limited ex parte  
17 communication, it seems to me if he's allowed  
18 to ask that question, I ought to be given --  
19 to go back, if I can identify specific areas,  
20 specific issues, did you consider this factor  
21 or fact, whatever it is, there may be a whole  
22 list of them, and to ask these witnesses on  
23 each of those if I could possibly be  
24 exhaustive about it a very limited area did

0221

1 you consider it, it ought to be permitted  
2 because you then open the door to what have  
3 you considered in this whole exercise it  
4 seems to me has been based on the fact that  
5 we cannot ask these Board members what did  
6 you consider, what did you consider in your  
7 decision.

8 HEARING OFFICER HALLORAN: I agree and  
9 there might be certain situations you can ask  
10 that question, Mr. Porter. I don't think  
11 this is a situation that allows it. So I  
12 would sustain Mr. Moran's objection.

13 MR. PORTER: Now if I may confer with  
14 Mr. Helsten. All right. Understood.

15 HEARING OFFICER HALLORAN: Thank you.

16 BY MR. PORTER:

17 Q. You never solicited Mr. Harrison to  
18 talk to you about the siting application, did you?

19 A. No.

20 Q. And as soon as you found out he wanted  
21 to talk about the application, you stopped his  
22 attempted communication, is that right?

23 A. Yes.

24 Q. Now, there was some mention of a few

0222

1 people that apparently stopped you on the street and  
2 mentioned the landfill. Did you tell those people  
3 that you could not discuss it?

4 A. Yes.  
5 MR. PORTER: Nothing further.  
6 HEARING OFFICER HALLORAN: Thank you.  
7 Mr. Moran?

8 R E D I R E C T E X A M I N A T I O N  
9 by Mr. Moran

10 Q. Mr. Gibbs, you told each of those  
11 three people that you couldn't talk to them after  
12 they told you why they were opposed to the proposed  
13 expansion, isn't that correct?

14 A. Yes.

15 Q. Mr. Gibbs, do you know whether the  
16 applicant presented any different witnesses on the  
17 2003 application as compared to the 2002  
18 application?

19 A. No, not to my knowledge, no.

20 Q. The applicant didn't present any  
21 different witnesses, did it?

22 A. Not to my knowledge.

23 Q. What witnesses were presented at the  
24 hearing who were different in the 2003 application

0223  
1 from the 2002 application?

2 A. None to my knowledge.

3 MR. MORAN: Nothing further.

4 HEARING OFFICER HALLORAN: Mr. Porter?

5 MR. PORTER: I'm going to let the  
6 record speak for itself on the latter point  
7 and ask no further questions.

8 HEARING OFFICER HALLORAN: Thank you.  
9 Mr. Gibbs, you may step down. Thank you so  
10 much.

11 (Whereupon, a discussion  
12 was had off the record.)

13 HEARING OFFICER HALLORAN: We're back  
14 on the record. Mr. Moran may proceed with  
15 his next witness.

16 MR. MORAN: Mr. Romein would be our  
17 next witness.

18 (Mr. Romein was sworn in.)

19 D I R E C T E X A M I N A T I O N  
20 by Mr. Moran

21 Q. Good afternoon.

22 A. Good afternoon.

23 Q. Would you tell us your name and spell  
24 your last name for the court reporter?

0224  
1 A. It's Jamie Romein, that's R-O-M-E-I-N.

2 Q. Mr. Romein, what is your address?

3 A. 3954 South 8500 East Road in Saint  
4 Anne, Illinois.

5 Q. How long have you been there?

6 A. Five-and-a-half years.

7 Q. What is your business or occupation?

8 A. I do some truck farming as well as I  
9 work with my father doing plumbing, heating and I'm  
10 also a Kankakee County Board member.

11 Q. For how long have you been a Kankakee  
12 County Board member?

13 A. Almost two-and-a half years.

14 Q. Were you elected or appointed?

15 A. I was elected.

16 Q. You would have been elected in  
17 November of 2002?

18 A. Yes, sir.

19 Q. Were you aware that an application to  
20 expand the existing Waste Management landfill was  
21 filed on August 16th of 2002?

22 A. Yes, I learned of that.

23 Q. That would have been shortly before  
24 your election to the County Board, correct?

0225

1 A. Yes, it was.

2 Q. Were you aware that the hearings on  
3 that 2002 application occurred in November and  
4 December of 2002?

5 A. Yes, I was.

6 Q. Did you attend any of those hearings?

7 A. No, I did not.

8 Q. Did the vote on the 2002 application  
9 occur on January 31st of 2003?

10 A. Yes.

11 Q. Did you vote on the 2002 application?

12 A. Yes.

13 Q. Prior to January 31st of 2003, did you  
14 receive any phone calls from any persons regarding  
15 the 2002 application?

16 A. No.

17 Q. Prior to January 31 of 2003, did you  
18 receive any letters or any written materials from  
19 any persons regarding the 2002 application?

20 A. No.

21 Q. How did you vote on January 31st,  
22 2003? Did you vote to approve the 2002 application  
23 or to reject it?

24 A. Approve.

0226

1 Q. And did you consider each of the nine  
2 statutory criterion at that time?

3 A. Yes.

4 Q. You voted to approve all nine of the  
5 the statutory criteria on that date, correct?

6 A. Yes.

7 Q. Did you become aware that subsequently  
8 there was an application for expansion of the  
9 existing Waste Management landfill that was filed on  
10 September 26th, 2003?

11 A. Yes.

12 Q. I'll refer to that as the 2003  
13 application.

14 Were hearings conducted on that  
15 2003 application in January of 2004?

16 A. Yes.

17 Q. Did you attend any of those hearings?

18 A. No, I did not.  
19 Q. Did you vote on the 2003 application  
20 on March 17th, 2004?  
21 A. Yes.  
22 Q. Did you vote again on each of the  
23 criteria for the 2003 application?  
24 A. Yes.

0227  
1 Q. Did you vote to approve or disapprove  
2 that application?  
3 A. There were certain ones that I  
4 disapproved of.  
5 Q. Do you recall which ones those were as  
6 you sit here now?  
7 A. No, I don't.  
8 Q. I can go through them. Is it true  
9 that you voted against criterion one, which is the  
10 criterion that talks about the need for the  
11 facility?  
12 A. Yes.  
13 Q. Did you vote against criterion three,  
14 which was the criterion that related to the location  
15 of the facility as minimizing any incompatibility  
16 with the character of the surrounding area and  
17 minimize any effect on the value of the surrounding  
18 property?  
19 A. Yes.  
20 Q. Did you also vote to deny criterion  
21 six, which was traffic criteria?  
22 A. Yes.  
23 Q. Were your votes on criteria one, three  
24 and six to deny different from your votes on  
0228  
1 criteria one, three and six for the 2002  
2 application?  
3 A. I believe the criteria was different.  
4 Q. That wasn't quite my question.  
5 My question was, were your votes  
6 on criteria one, three and six different from your  
7 votes on criteria one, three and six for the 2002  
8 application?  
9 A. Yes.

10 MR. MORAN: At this time, Mr. Hearing  
11 Officer, I just want to clarify that with  
12 regard to those questions I asked, to make my  
13 record, I would limit those questions to  
14 criterion one, three and six. For  
15 Hertzberger we had one, two, three, five and  
16 six. For Mr. Romein they would only be one,  
17 three and six.

18 HEARING OFFICER HALLORAN: Okay. And  
19 this is based on what we stipulated -- the  
20 parties stipulated to regarding the questions  
21 asked of Ms. Hertzberger. I think you stated  
22 there was 12.  
23 MR. MORAN: I believe there were 12 or  
24 13, yes.

0229

1 HEARING OFFICER HALLORAN: I just want  
2 to make the record clear so the Board can  
3 take a look. If this is a great way to go  
4 about it, that's fine. Were you going to  
5 state those again or just acknowledge on the  
6 record that those are the same questions that  
7 you would be asking Mr. Romein?

8 MR. MORAN: I just wanted to indicate  
9 that those would be the same questions I  
10 would ask him, but I would limit them to  
11 these three criteria which he had changed.

12 HEARING OFFICER HALLORAN: Okay. And  
13 those are the questions that Mr. Porter  
14 objected to and I sustained based on my  
15 motion to compel ruling?

16 MR. MORAN: That is correct.

17 HEARING OFFICER HALLORAN: Very well.  
18 Thank you. The record will so note.

19 BY MR. MORAN:

20 Q. Mr. Romein, prior to March 17th, 2004,  
21 did you receive any letters or written materials  
22 regarding the proposed expansion?

23 A. Yes.

24 Q. And how many such letters or written

0230

1 materials did you receive?

2 A. Between 20 and 25.

3 Q. And did you receive these at home?

4 A. Yes.

5 Q. And you read the letters?

6 A. Yes, I did.

7 Q. Were all the letters opposed to the  
8 proposed expansion?

9 A. Yes.

10 Q. And then I believe you said you took  
11 those letters and conveyed them to the county clerk?

12 A. Yes.

13 Q. Do you recall any of the names of the  
14 people who had written those letters to you?

15 A. No, I do not.

16 Q. Did any of those letters contain  
17 statements that were to the effect that if you  
18 didn't vote to deny this proposal, that the author  
19 or others would work to defeat you if you were to  
20 run for re-election of the County Board?

21 A. Not any of those letters, no.

22 Q. There wasn't anything that stated such  
23 or anything to that effect in any of those letters?

24 A. No, sir.

0231

1 Q. Was there any postcard sent to you  
2 prior to March 17th, 2004 regarding the proposed  
3 expansion?

4 A. A postcard?

5 Q. Yeah. I asked before about letters or  
6 written materials and I believe you said 20, 25

7 letters, now I want to know if there were any  
8 postcards ever sent to you?  
9 A. Not that I recall.  
10 Q. Do you remember any statement being  
11 made in any of these written materials you received  
12 that said dump the dump or we will dump you?  
13 A. Not to my recollection.  
14 Q. After the March 17th, 2004 vote, did  
15 you receive any thank you letters?  
16 A. Yes, I did.  
17 Q. How many such letters did you receive?  
18 MR. PORTER: Objection, irrelevant.  
19 HEARING OFFICER HALLORAN: I'm sorry,  
20 Terry --  
21 (Whereupon, the requested  
22 portion of the record  
23 was read accordingly.)  
24 MR. PORTER: My objection is relevancy  
0232  
1 because it's after the March 17th vote.  
2 HEARING OFFICER HALLORAN: Well, you  
3 know, I think that question has been asked  
4 before without objection regarding thank you  
5 notes or did you object and I allowed it in?  
6 MR. PORTER: Well, as I recall the way  
7 it went down he asked it regarding the 2002  
8 application, whether there were any thank you  
9 notes, I objected, it turns out there  
10 actually weren't any anyway regarding that.  
11 I don't think it's come up again. I don't  
12 remember it being asked of Mr. Gibbs. This  
13 is the first time I think it's come up  
14 regarding the 2003 application and that's why  
15 I'm objecting.  
16 HEARING OFFICER HALLORAN: Mr. Moran?  
17 MR. MORAN: Well, the question was  
18 asked with regard to the 2003 application, it  
19 was asked in connection with the motion to  
20 renew consideration which was up on  
21 April 13th and the point was that these thank  
22 you notes were sent in that interim period  
23 and reflected written communications prior to  
24 the final vote on the motion to renew  
0233  
1 consideration on April 13th.  
2 HEARING OFFICER HALLORAN: I'm going  
3 to allow it. I'm going to overrule  
4 Mr. Porter's objection. You may answer,  
5 Mr. Romein.  
6 BY THE WITNESS:  
7 A. Repeat the question again?  
8 MR. MORAN: Can you repeat it, please?  
9 (Whereupon, the requested  
10 portion of the record  
11 was read accordingly.)  
12 BY MR. MORAN:  
13 Q. These are the thank you notes.

14 A. I don't recall.  
15 Q. More than ten?  
16 A. Possibly.  
17 Q. Less than 30?  
18 A. I don't recall.  
19 Q. Okay. Did you receive any letters at  
20 any time from Karen Mallaney?  
21 A. Not that I recall.  
22 Q. Mr. Romein, would it be fair to say  
23 that with regard to those letters that were sent to  
24 you, as you sit here now, you don't recall any

0234

1 statements in those letters to the effect that if  
2 you voted in favor of this landfill the author or  
3 others would work to oppose your re-election to the  
4 board? Would that be a fair statement to say there  
5 were no such statements in any of the letters?  
6 A. Sir, there was nothing in writing that  
7 was down -- that was in writing that said anyone  
8 that was going to get me out of office or possibly  
9 try to interrupt me from being re-elected. I  
10 believe you're looking farther down the line for  
11 that answer.

12 MR. MORAN: We haven't yet identified  
13 any exhibits, I don't believe.

14 HEARING OFFICER HALLORAN: Except for  
15 my Hearing Officer Exhibit 1?

16 MR. MORAN: Correct. But my  
17 understanding is we would identify our  
18 exhibits as WMII exhibit --

19 HEARING OFFICER HALLORAN: If you so  
20 choose. It would be Exhibit 1, I guess.

21 MR. PORTER: If I might approach the  
22 witness?

23 HEARING OFFICER HALLORAN: You may.

24 BY MR. MORAN:

0235

1 Q. Let me show you what we have marked as  
2 WMII Exhibit No. 1. This purports to be a letter  
3 dated February 19th, 2004 addressed to the Kankakee  
4 County Board, Dear Board members, and the author is  
5 an individual named Tammy Focken, F-O-C-K-E-N. I'll  
6 ask you to just take a look at that and tell us if  
7 you have ever seen that before?

8 (Mr. Romein is reading the document.)

9 BY MR. MORAN:

10 Q. Mr. Romein, do you recognize that  
11 document?

12 A. I do.

13 Q. That was sent to you at some point on  
14 or about the date that it bears, which is  
15 February of 2004?

16 A. That's the date.

17 Q. Did you have a chance to read the  
18 letter?

19 A. I did.

20 Q. Does that refresh your recollection as

21 to whether the letters you received contained  
22 statements in them indicating that if you did not  
23 vote against the 2003 application that the author  
24 would work to oppose your re-election?

0236

1 MR. PORTER: I'm going to object to  
2 the extent that the issue is whether or not  
3 the County Board member received an ex parte  
4 communication that prejudiced his decision.  
5 Mr. Moran has already pointed out this is  
6 part of the record.

7 MR. MORAN: Well, irrespective of  
8 whether a document is part of the record or  
9 not, a communication made to a County Board  
10 member, which was initially sent directly to  
11 a County Board member, which contained in it  
12 a threat directed to the County Board member  
13 that if they didn't vote a certain way that  
14 the author would work to defeat that  
15 candidate is a matter that is relevant and  
16 important to the question of fundamental  
17 fairness.

18 HEARING OFFICER HALLORAN: For what  
19 it's worth, it's in the record. Mr. Moran,  
20 you may continue.

21 BY MR. MORAN:

22 Q. Mr. Romein, does that refresh your  
23 recollection?

24 A. It does, but I still didn't feel

0237

1 threatened.

2 Q. So would it be fair to say then that  
3 you did receive letters prior to March 17th, 2004  
4 which contained statements indicating that if you  
5 did not vote to deny the 2003 application that the  
6 author intended to take steps to work to defeat your  
7 candidacy for the County Board when you were up for  
8 re-election if you decided to run?

9 A. If that's what the letter states.

10 Q. So would your answer be yes?

11 A. I still don't think this letter is  
12 threatening, so I don't feel threatened by it.

13 Q. That wasn't my question. My question  
14 was, does this letter refresh your recollection that  
15 you received letters containing statements in which  
16 the author indicated if you didn't vote to oppose  
17 the 2003 application the author would work to oppose  
18 your re-election?

19 MR. PORTER: Objection, asked and  
20 answered.

21 HEARING OFFICER HALLORAN: I didn't  
22 hear Mr. Romein answer yet. You may proceed.

23 BY THE WITNESS:

24 A. I said I didn't feel this letter was

0238

1 -- still not threatening. It says that God will be  
2 the wrath.

3 BY MR. MORAN:

4 Q. Did you read the latter part of the  
5 letter and this is in the last paragraph of the  
6 letter, maybe you can just read that for us  
7 beginning with as an elected official? Could you  
8 read that out loud for us, please?

9 A. As an elected official, if you do not  
10 speak out against this landfill expansion then I  
11 will have no choice but to work as hard as I can to  
12 make sure you do not get re-elected. The citizens  
13 of this county will replace every one of you who  
14 vote for this landfill expansion. We pray of you to  
15 listen and vote no dump expansion.

16 Q. Does that refresh your recollection  
17 that in the letters that you received there were  
18 statements contained that indicated if you did not  
19 vote against the 2003 application the author would  
20 work to oppose your re-election?

21 A. Yeah -- yes.

22 HEARING OFFICER HALLORAN: Okay.

23 Now it's been asked and answered, Mr. Porter.

24 MR. MORAN: I agree.

0239

1 BY MR. MORAN:

2 Q. Do you know an individual by the name  
3 of Bruce Harrison?

4 A. I know of Bruce Harrison.

5 Q. Did you have any communications with  
6 Mr. Harrison prior to March 17th, 2004?

7 A. I believe he called my residence.

8 Q. And when did he call your residence?

9 A. Before March 17th, 2004.

10 Q. Did you receive any other phone calls  
11 from other persons regarding the proposed expansion  
12 prior to March 17th, 2004?

13 A. No.

14 Q. How many calls did you receive from  
15 Mr. Harrison prior to March 17th, 2004?

16 A. One.

17 Q. What did Mr. Harrison say to you in  
18 the conversation?

19 A. He talked about the no dump, no  
20 Chicago garbage and I told him that that would be ex  
21 parte communications, that I could not talk to him  
22 and I told him he would have to see how I voted.

23 Q. How long did this conversation last?

24 A. Less than -- no more than two minutes,

0240

1 but less than -- no more than two minutes.

2 Q. You said Mr. Harrison talked to you  
3 about the no dump, no Chicago garbage statement?

4 A. Yes.

5 Q. Was he referring to the signs that  
6 appeared all over the area during that period that  
7 said no dump, no Chicago garbage?

8 A. He was using that slogan or that  
9 phrase so...

10 Q. And did he explain to you what he  
11 meant by that phrase?  
12 A. No.  
13 Q. Did you have any understanding as to  
14 what he meant by that phrase?  
15 A. No.  
16 Q. Did he indicate to you that he had  
17 appeared at the hearings to oppose the 2003  
18 application?  
19 A. No.  
20 Q. Did you simply assume by his statement  
21 to you no dump, no Chicago garbage that he was  
22 opposed to the expansion?  
23 A. Yes.  
24 Q. Did you discuss this conversation with  
0241  
1 Mr. Harrison with anyone?  
2 A. Not that I recall, no.  
3 Q. Did you have any further  
4 communications with Mr. Harrison?  
5 A. As far as when?  
6 Q. Any time.  
7 A. After the March 17th vote?  
8 Q. Yes.  
9 A. Yes, I did.  
10 Q. When was the next occasion you had a  
11 communication with Mr. Harrison?  
12 A. It was at a construction site where  
13 he was -- where I was actually taking a lunch break  
14 and he was in the United Disposal garbage truck with  
15 Mr. Watson.  
16 Q. Where was this construction site?  
17 A. It was over in Bourbonnais.  
18 Q. What were you doing there?  
19 A. Plumbing.  
20 Q. You were doing plumbing work?  
21 A. Yes, sir.  
22 Q. And at that time Mr. Harrison was with  
23 Mr. Watson at this job site?  
24 A. Yes, sir.  
0242  
1 Q. And Mr. Harrison was driving a United  
2 Disposal vehicle?  
3 A. Mr. Watson was driving a United  
4 Disposal garbage truck and Mr. Harrison was the  
5 passenger with him.  
6 Q. And was Mr. Watson driving this United  
7 Disposal vehicle to this job site to perform some  
8 service?  
9 A. No, he was not. There was apartment  
10 complexes and he was going over to, I believe, dump  
11 one of the dumpsters that is used by some of the  
12 tenants. So it was not at the complex I was at, no.  
13 Q. So you were on the ground at this  
14 construction site or were you in a vehicle?  
15 A. I was sitting in my truck eating  
16 lunch.

17 Q. And your truck was parked near the  
18 construction site?

19 A. In the parking lot.

20 Q. And Mr. Harrison saw you sitting in  
21 your vehicle parked at the construction site?

22 A. Yes.

23 Q. And what did Mr. Harrison do?

24 A. He got out of the passenger side of

0243

1 the garbage truck and came over and was talking to  
2 my -- talking to myself while Mr. Watson went ahead  
3 and performed the services.

4 Q. And what did Mr. Harrison say to you?

5 A. He was talking about the -- general  
6 conversation about the reconsideration of the  
7 landfill.

8 Q. And what did he say to you about that?

9 A. I don't recall.

10 Q. What did you say to him?

11 A. That I was going to vote the way that  
12 I wanted to vote and there was no one that was going  
13 to sway my decision.

14 Q. And what was his response to your  
15 comment?

16 A. Mr. Watson came back over and they  
17 left.

18 Q. So Mr. Harrison had nothing to say in  
19 response to your statement to him?

20 A. Not at that time, no.

21 Q. How long did this conversation last?

22 A. Maybe five minutes.

23 Q. And was the principal subject of  
24 discussion the proposed expansion or the motion to

0244

1 renew consideration?

2 A. I believe it was, yes.

3 Q. Did you have any subsequent  
4 communications or discussions with Mr. Harrison?

5 A. Afterwards?

6 Q. Yes.

7 A. Yes, I did.

8 Q. When did that occur?

9 A. That was before the April 13  
10 reconsideration vote and I was stopped at a  
11 stoplight on Route 50 and Grennel Road and I was  
12 turning left onto Grennel Road off of Route 50 and  
13 he came up next to me, walked up to next to the  
14 passenger side of the truck and asked if he could  
15 get in.

16 Q. Who is he, Mr. Harrison?

17 A. Mr. Harrison.

18 Q. Where did Mr. Harrison come from?

19 A. From behind. He was in a vehicle that  
20 was driven by Mr. Watson. I believe it was a Yukon,  
21 GMC Yukon that was driven by Mr. Watson.

22 Q. So the two of them were not in the  
23 United Disposal vehicle the second time, they were

24 in what appeared to be a privately owned vehicle?

0245

1 A. I would assume it was Mr. Watson's  
2 vehicle.

3 Q. And, again, Mr. Watson was driving,  
4 correct?

5 A. Yes.

6 Q. Mr. Harrison was riding as a  
7 passenger?

8 A. Yes.

9 Q. When you came to a stoplight -- were  
10 you waiting at a stop sign or stoplight?

11 A. The stoplight was red. I was waiting  
12 to turn left.

13 Q. And as you were waiting to turn left,  
14 Mr. Harrison came up on your passenger side and got  
15 into your vehicle?

16 A. He asked to get in the vehicle.

17 Q. And you allowed him to come in the  
18 vehicle?

19 A. At that time the stoplight had turned  
20 green and from being a volunteer auxiliary police  
21 officer for Kankakee City Police Department I knew  
22 that it was behoove of me to let him get in the  
23 vehicle to get him out of the intersection so he  
24 would not be hurt or cause an accident, so I let him

0246

1 in the vehicle.

2 Q. And then you made your left turn after  
3 he got in the vehicle?

4 A. Yes.

5 Q. What did he say to you?

6 A. At that time he talked about the  
7 reconsideration of the landfill and then he told me  
8 that he has the power to run someone against me in  
9 the election.

10 Q. Would that be the next time you were  
11 up for election, is that what he was talking about?

12 A. That's what I would assume, yes.

13 Q. Did he identify who he had who could  
14 run against you if you didn't vote the way he wanted  
15 you to vote?

16 A. He never gave no name.

17 Q. You didn't ask him?

18 A. No.

19 Q. What was your response?

20 A. I told him that I was going to -- that  
21 I was going to vote how I wanted to vote and there  
22 was no one person that was going to sway my decision  
23 and I got to my destination and I told him it was  
24 time for him to get out and he got in the vehicle

0247

1 with Mr. Watson and left.

2 Q. So Mr. Watson followed your vehicle  
3 once Mr. Harrison entered your vehicle?

4 A. Yes, it was for about three-quarters  
5 of a mile.

6 Q. You said you reached your destination?  
7 A. Yes.  
8 Q. What was your destination?  
9 A. To a plumbing and heating supply  
10 house.  
11 Q. So how long did this conversation with  
12 Mr. Harrison last?  
13 A. Roughly two to three minutes.  
14 Q. How did you conclude the conversation  
15 with him?  
16 A. I told him that I had stuff I had to  
17 do and it was time for him to go our separate ways.  
18 Q. What did he say to you?  
19 A. He didn't say anything. He went and  
20 got in the vehicle with Mr. Watson.  
21 Q. Before you approached the stoplight  
22 where you were waiting to make your left turn, had  
23 you noticed Mr. Watson's vehicle behind you?  
24 A. I didn't know what Mr. Watson drove so  
0248  
1 I didn't notice that he was behind me until I looked  
2 in my rearview mirror and seen that it was his  
3 vehicle back there.  
4 Q. So after Mr. Harrison told you that he  
5 would have someone run against you, you reached your  
6 destination, Mr. Harrison then said good bye to you  
7 or did he not say anything and just leave?  
8 A. He left the cab, he didn't say -- he  
9 might have said good bye or I don't remember, but it  
10 was nothing negative.  
11 Q. He left the cab and he went into  
12 Mr. Watson's vehicle?  
13 A. Yes.  
14 Q. And what did they do?  
15 A. They left.  
16 Q. They just drove away?  
17 A. Yes.  
18 Q. And you stayed at that location to  
19 perform your job?  
20 A. Yes, to get -- to retrieve supplies  
21 there, yes.  
22 Q. Did you receive or have any subsequent  
23 communications with either Mr. Harrison or  
24 Mr. Watson?  
0249  
1 A. I believe some time in -- I don't  
2 recall if it was June, I was dropping a gentleman  
3 off that works with us at his house and I was  
4 getting ready to make another left-hand turn and  
5 Mr. Harrison was out at the democratic headquarters  
6 cooking and asked if I wanted something to eat and I  
7 said no.  
8 Q. Did you receive any letters of  
9 congratulation from any persons after the vote on  
10 the 2003 application?  
11 A. Yes.  
12 Q. How many such letters did you receive?

13 A. I don't recall.  
14 Q. More than ten?  
15 A. Possibly, yes.  
16 Q. Did you receive one from Mr. Runyon?  
17 A. Yes.  
18 Q. Did you receive one from Mr. Harrison?  
19 A. No.  
20 Q. Did you receive one from Mr. Watson?  
21 A. I don't recall.  
22 Q. From Mr. Keller?  
23 A. I don't recall the names, sir.  
24 Q. Did you receive any letters of

0250

1 congratulation after you voted in January of 2003  
2 for the 2002 application?  
3 A. No.  
4 Q. Prior to January 31 of 2003, did any  
5 person approach you at your work or place of  
6 business to talk about the proposed expansion?  
7 A. No.  
8 MR. MORAN: No further questions.  
9 HEARING OFFICER HALLORAN: Thank you.  
10 Mr. Porter?

11 MR. PORTER: Thank you. If I may  
12 approach the witness?  
13 HEARING OFFICER HALLORAN: You may.

14 C R O S S E X A M I N A T I O N  
15 by Mr. Porter

16 Q. Let me show you what's been marked in  
17 the County record as C2720 and 2721. Is that the  
18 letter that you received from Ms. Focken?  
19 A. I believe it is.  
20 Q. And you'll notice -- and you know that  
21 because you reviewed it at 2720 and it's the same  
22 document that Mr. Moran had referred to earlier, is  
23 that right?  
24 A. Yes.

0251

1 Q. Though it appears in the record on  
2 numerous occasions, do you think?  
3 A. No, I don't know.  
4 Q. You know it appeared at least on one  
5 other occasion because he had a different number, is  
6 that right?  
7 A. Yes.  
8 Q. Now, let me show you page 2721 and  
9 it's a little difficult to read, but you see it's an  
10 envelope or a photocopy of an envelope?  
11 A. Yes.  
12 Q. And it's from Ms. Tammy Focken, do you  
13 see the return address?  
14 A. Yes.  
15 Q. And who is it addressed to?  
16 A. Bruce Clark.  
17 Q. And you'll notice at page 2720, is  
18 there a file stamp on the letter from Ms. Focken?  
19 A. Yes.

20 Q. And who stamped it filed?  
21 A. Bruce Clark.  
22 Q. And who is Bruce Clark?  
23 A. The county clerk.  
24 Q. So as far as you know, Ms. Focken sent

0252

1 that same letter to the county clerk and was put in  
2 the record, is that right?  
3 A. Yes.  
4 Q. Now, there's a statement at the bottom  
5 of the letter that Mr. Moran directed your attention  
6 to of -- that Ms. Focken would have no choice but to  
7 work as hard as she can to make sure you do not get  
8 re-elected. Did that statement threaten or  
9 intimidate you?

10 MR. MORAN: Objection. We're again  
11 asking what he considered and how he  
12 considered it.

13 MR. PORTER: No, I'm not. I'm asking  
14 if he was threatened or intimidated by a  
15 statement made in the letter.

16 HEARING OFFICER HALLORAN: You know,  
17 regardless, I think Mr. Romein has already  
18 answered that question when he wasn't  
19 answering in a yes or no question earlier.  
20 He kept saying he was not threatened by the  
21 letters so it's already in the record.  
22 Objection sustained.

23 BY MR. PORTER:

24 Q. Now, every letter you received you

0253

1 gave to the county clerk to put in the record, is  
2 that right?

3 A. Yes.

4 Q. Did every letter you receive have that  
5 same statement in there about working against you to  
6 get re-elected?

7 A. No.

8 Q. Now, there was some discussions about  
9 Mr. Harrison's attempts to communicate with you and  
10 I think, if I heard correctly, only once did  
11 Mr. Harrison try to call you before March 17th,  
12 2004, is that right?

13 A. Yes.

14 Q. And you refused to talk to him at that  
15 time, is that right?

16 A. That's correct.

17 Q. So you would agree, would you not, you  
18 did not communicate with him before the vote?

19 A. Correct.

20 Q. And the other two times that you saw  
21 him when you were out in traffic, did you ever ask  
22 him to come over and talk to you?

23 A. No.

24 Q. At any time did you feel threatened by

0254

1 the conduct of Mr. Harrison?

2 MR. MORAN: Same objection.  
3 HEARING OFFICER HALLORAN: Mr. Porter?  
4 MR. PORTER: Again, I'm not asking  
5 what he based his decision on. I'm merely  
6 asking if he felt threatened.  
7 MR. MORAN: He's asking what he didn't  
8 consider.  
9 MR. PORTER: No. I'm merely asking  
10 whether or not he felt threatened.  
11 HEARING OFFICER HALLORAN: I think I'm  
12 going to let him respond. I'm going to  
13 overrule your objection, Mr. Moran.

14 BY THE WITNESS:

15 A. Absolutely not, no.  
16 MR. PORTER: Nothing further. Thank  
17 you.

18 HEARING OFFICER HALLORAN: Mr. Moran?  
19 R E D I R E C T E X A M I N A T I O N  
20 by Mr. Moran

21 Q. Mr. Romein, I'm going to show you a  
22 letter I referred to earlier that came from Karen  
23 Mallaney dated February 18th, 2004, we've identified  
24 it as Waste Management of Illinois Exhibit No. 2.

0255

1 Let me show you this and take a look at it and when  
2 you're finished, let us know.

3 (Mr. Romein is reading the document.)

4 BY THE WITNESS:

5 A. Okay.

6 BY MR. MORAN:

7 Q. Does this refresh your recollection  
8 that there were indeed a number of other letters in  
9 which there were statements made to the effect that  
10 if you didn't vote against this, the author would  
11 work against your re-election?

12 A. I think I already answered that.

13 Q. And what was your answer?

14 A. I didn't feel threatened by the  
15 letters.

16 Q. That wasn't my question.

17 My question was, does WMII  
18 Exhibit 2 refresh your recollection that the letters  
19 you received contained statements indicating that if  
20 you did not vote to reject the 2003 application the  
21 author would work to oppose your re-election?

22 A. This letter, as far as my knowledge,  
23 unless I'm reading it wrong, does not contain  
24 anything about --

0256

1 Q. Well, let me direct your attention to  
2 the last paragraph of this letter and if you could  
3 read out loud for us beginning with I was lied to.

4 A. I was lied to and I feel betrayed by  
5 the people who we elected to look out for our  
6 health, safety and welfare of our community and I  
7 swear I will effortlessly try to oust any Board  
8 member who thinks they can shove this down our

9 throats. Pay attention to the people and hear what  
10 we are saying. No dump and no Chicago garbage. I  
11 was reading that wrong, I apologize.

12 Q. Okay. So does this refresh your  
13 recollection that there were letters sent to you,  
14 other letters that contained statements saying that  
15 if you didn't vote against this application, that  
16 the author would work to oppose your re-election?

17 A. Yes.

18 Q. Okay. Without trying to belabor the  
19 point, I'm just going to show you one more, Waste  
20 Management Exhibit No. 3, a letter from Linda Olson  
21 of Saint Anne, if you could take a look at that for  
22 us, please.

23 (Mr. Romein is reading the document.)

24 BY THE WITNESS:

0257

1 A. Okay.

2 BY MR. MORAN:

3 Q. Does your review of Waste Management  
4 Exhibit No. 3 refresh your recollection that the  
5 letters sent to you contained statements that if you  
6 didn't oppose the 2003 application, the author would  
7 work to oppose your re-election?

8 A. Yes.

9 MR. MORAN: Nothing further.

10 HEARING OFFICER HALLORAN: Thank you.

11 Mr. Porter?

12 R E C R O S S E X A M I N A T I O N

13 by Mr. Porter

14 Q. Before Mr. Moran showed that to you,  
15 did you remember either of those letters?

16 A. No.

17 Q. Do you recall ever being threatened by  
18 those letters?

19 A. No.

20 MR. MORAN: Same objection.

21 HEARING OFFICER HALLORAN: Overruled.

22 MR. PORTER: That's all. Nothing

23 further.

24 MR. MORAN: Nothing further.

0258

1 HEARING OFFICER HALLORAN: Thank you,  
2 Mr. Romein. You may step down.

3 (Whereupon, after a short  
4 break was had, the  
5 following proceedings  
6 were held accordingly.)

7 HEARING OFFICER HALLORAN: You may  
8 proceed, Mr. Moran. I think this will be  
9 your seventh witness.

10 (Mr. Wilson was sworn in.)

11 D I R E C T E X A M I N A T I O N

12 by Mr. Moran

13 Q. Good afternoon, Reverend Wilson.

14 A. Good afternoon.

15 Q. Could you tell us your name and spell

16 your last name, please?  
17 A. Elmer E. Wilson, W-I-L-S-O-N.  
18 Q. Reverend Wilson, what's your address?  
19 A. 384 North Dearborn, Kankakee,  
20 Illinois.  
21 Q. And how long have you lived there?  
22 A. Thirteen years.  
23 Q. And you're a member of the Kankakee  
24 County Board?  
0259  
1 A. Yes, I am.  
2 Q. For how long have you so served?  
3 A. '95.  
4 Q. Were you elected or appointed?  
5 A. Appointed first time, after that  
6 elected.  
7 Q. When does your current term expire?  
8 A. 2/7.  
9 Q. Were you aware that an application to  
10 expand the existing Waste Management landfill was  
11 filed on August 16th, 2002?  
12 A. Yes.  
13 Q. And that hearings on that 2002  
14 application occurred in November and December  
15 of 2002?  
16 A. Yes.  
17 Q. And that you voted on the 2002  
18 application in January of 2003?  
19 A. Yes.  
20 Q. And you voted to approve the 2002  
21 application?  
22 A. Yes.  
23 Q. Are you aware that a second  
24 application was filed on September 26th of 2003?  
0260  
1 A. Yes.  
2 Q. That the hearings were conducted in  
3 January of 2004?  
4 A. Yes.  
5 Q. And the County Board voted on the 2003  
6 application on March 17th, 2004?  
7 A. Yes.  
8 Q. And you voted to approve the 2003  
9 application?  
10 A. Yes.  
11 Q. Were the 2002 and 2003 applications  
12 the same?  
13 MR. PORTER: Same objection as before.  
14 HEARING OFFICER HALLORAN: Overruled.  
15 BY THE WITNESS:  
16 A. To my laymen's knowledge, I would say  
17 yes.  
18 BY MR. MORAN:  
19 Q. Prior to the vote on the 2003  
20 application on March 17th, 2004, did you receive any  
21 phone calls from any persons regarding the proposed  
22 expansion?

23 A. Yes.  
24 Q. How many such communications did you

0261

1 receive?

2 A. I cannot recall specifically at this  
3 point.

4 Q. Approximately?

5 A. Maybe half a dozen.

6 Q. Did any of the people who called you  
7 identify themselves by name?

8 A. Yes.

9 Q. And who contacted you by phone?

10 A. I do not remember.

11 Q. What names were you given?

12 A. They gave their name, identified  
13 themselves, purpose, I made my statement, end of  
14 conversation.

15 Q. Was Mr. Bruce Harrison someone who  
16 called you?

17 A. Not specifically at this particular  
18 time.

19 Q. Did you have any communications with  
20 Mr. Harrison regarding the proposed expansion?

21 MR. PORTER: Regarding which proposed  
22 expansion?

23 BY MR. MORAN:

24 Q. Regarding the 2003 application.

0262

1 A. That was later on, the sequence of  
2 events.

3 Q. I'm sorry, what was later on?

4 A. About the landfill.

5 Q. Let me go at it this way: When did  
6 you first meet or have any communication with  
7 Mr. Harrison?

8 A. The specific time of that is vague,  
9 but the first time that I met Mr. Harrison was at  
10 Uncle Johnny's, I was having a meeting there with  
11 labor, the bus drivers, he came in, came over and  
12 said he'd like to speak to me.

13 Q. What is Uncle Johnny's?

14 A. It is a restaurant, East Court,  
15 Kankakee, Illinois.

16 Q. And was this during the week?

17 A. During the week.

18 Q. The day, the evening?

19 A. In the a.m. -- I would say a.m., after  
20 9:30 I would say.

21 Q. Was it before the 2002 application to  
22 expand the landfill?

23 A. The first meeting was.

24 Q. And you were at Uncle Johnny's with a

0263

1 few other people to discuss a labor issue?

2 A. Yes.

3 Q. And Mr. Harrison approached you?

4 A. Yes.

5 Q. What did he say to you?  
6 A. I'd like to talk to you on a personal  
7 matter.  
8 Q. Did you agree to talk with him?  
9 A. Yes, I did.  
10 Q. At Uncle Johnny's?  
11 A. At Uncle Johnny's.  
12 Q. And the matter that you discussed with  
13 him on this occasion, did it have anything to do  
14 with the proposed expansion of the landfill?  
15 A. No.  
16 Q. It was a spiritual matter?  
17 A. Yes.  
18 Q. Subsequently, did you have any  
19 communications or discussions with Mr. Harrison  
20 about the proposed expansion?  
21 A. I didn't. He tried to.  
22 Q. When did he try to communicate with  
23 you?  
24 A. The second time he called to meet with  
0264  
1 me, same place. My reference to that meeting was  
2 parallel with something of the same nature I  
3 thought, but when I got there started talking about  
4 spiritual matters, then he drifted.  
5 Q. So initially your understanding is  
6 that Mr. Harrison wanted to meet with you to discuss  
7 those spiritual matters that he had previously  
8 talked to you about?  
9 A. That's right.  
10 Q. But when you got to Uncle Johnny's and  
11 he started talking to you, once he finished up with  
12 the spiritual matters, he then started talking about  
13 the proposed expansion?  
14 A. Yes.  
15 Q. And what did he say about it?  
16 A. He wanted to know my position. When  
17 he mentioned that I told him you know I can't talk  
18 about that.  
19 Q. What was his response to your telling  
20 him you couldn't talk about it?  
21 A. He continued to talk and I continued  
22 to give him the same statement.  
23 Q. And what did he continue to say?  
24 A. That he had talked to people about  
0265  
1 support and my reference always was are we talking  
2 about the same matter and he'd say yes, and I'd say  
3 you know I can't talk about it. Thank you for the  
4 meal.  
5 Q. Now, when he said that he was talking  
6 to you about people who supported whatever it was he  
7 was referring to, what did you understand him to  
8 mean? Did you understand him to mean that he had  
9 obtained other people who were opposed to the  
10 proposed expansion as he was?  
11 A. I would assume that at that time.

12 Q. And is that how you came to conclude  
13 that he was opposed to the proposed expansion?

14 A. Not really. I was listening to what  
15 he said.

16 Q. And what did he say that led you to  
17 conclude he was against the proposed expansion?

18 A. All he was talking about was trying to  
19 get my support on that particular issue and that was  
20 a dead issue and he knew that within a certain  
21 period of time.

22 Q. He was trying to get your support to  
23 oppose the proposed expansion?

24 A. Yes.

0266

1 Q. And this was another meal at Uncle  
2 Johnny's?

3 A. Yes.

4 Q. That he paid for?

5 A. Yes, he paid for it.

6 Q. How long did the lunch last?

7 A. How long does a bowl of oatmeal and a  
8 piece of toast last to eat it? Maybe about 15, 20  
9 minutes.

10 Q. Did you have any communications or  
11 discussions of any kind with Mr. Harrison after that  
12 meeting with him?

13 A. Same approach, same subject matter.

14 Q. And when did that occur?

15 A. Well, if you're talking about the  
16 specifics of the time, date and place, I'm just --  
17 the reference of when it occurred is more clear. I  
18 did meet with him again. It was after a meeting  
19 here in the hallway he wanted to talk to me and  
20 he chatted and I told him then, you know, I couldn't  
21 talk about it and he just followed me around and  
22 thank God I was a minister. After that the big  
23 meeting came up, I was coming to the Board meeting,  
24 he met me outside, approached me with a group of

0267

1 people and said this is Reverend Wilson, he's a fair  
2 man, et cetera, et cetera, handed me a whole bunch  
3 of stuff, petitions, and I took them and he followed  
4 me up to the door and went back with the people that  
5 were carrying all those signs or whatever.

6 Q. Was this on March 17th, 2004, the day  
7 that the County Board voted on the 2003 application?

8 A. Yes.

9 Q. What did you do with those documents  
10 that he gave you?

11 A. File them, file cabinet -- what do  
12 they call that, 13 or something?

13 Q. You pitched them?

14 A. I pitched them.

15 Q. And these were petitions allegedly  
16 containing signatures of people who were opposed to  
17 the application?

18 A. Yes.

19 Q. How many documents did he give you?  
20 A. It was a bunch, about a half inch. It  
21 was quite a few.

22 Q. When you said he was following you  
23 around, did you mean by that he was simply being  
24 persistent in trying to communicate with you about

0268  
1 why you should vote against the application?

2 A. Yes.

3 Q. And that occurred prior to March 17th?

4 A. Yes.

5 Q. Did he bring any other individuals or  
6 people to you to try to get them to talk to you  
7 about the proposed expansion?

8 A. No.

9 Q. It was just him?

10 A. It was just him.

11 Q. Going back just for a moment to the  
12 January 31, 2003 vote on the 2002 application.

13 A. Okay.

14 Q. Was there any picketing that was going  
15 on at the County building on the day of that vote?

16 A. Not at that time.

17 Q. And you didn't have any communications  
18 or discussions with Mr. Harrison about the 2002  
19 application on or prior to January 31st?

20 A. I didn't, no.

21 Q. As far as you knew, Mr. Harrison  
22 wasn't really part of that 2002 application, he  
23 didn't participate in that process, did he?

24 A. I can't answer that. He wasn't

0269  
1 following me around just to be following me around.

2 Q. Had you had any discussions or  
3 communications with Mr. Harrison since March 17th,  
4 2004?

5 A. No. It's like he dropped off the  
6 earth.

7 MR. MORAN: Thank you.

8 HEARING OFFICER HALLORAN: Thank you.

9 Mr. Porter? Mr. Helsten?

10 MR. HELSTEN: Thank you, Mr. Halloran.

11 C R O S S E X A M I N A T I O N

12 by Mr. Helsten

13 Q. Reverend Wilson, you never approached  
14 Mr. Harrison, he always approached you, correct?

15 A. Correct.

16 Q. And each time he attempted to talk to  
17 you, you told him you couldn't talk to him about the  
18 landfill expansion?

19 A. Correct.

20 Q. Did you attempt or did you end the  
21 conversation in each instance as soon as you could,  
22 as soon as it was polite and courteous to do so?

23 A. Correct.

24 Q. Did you feel threatened or intimidated

0270

1 by anything he said to you?  
2 A. No.  
3 Q. Okay. Reverend Wilson, had you  
4 previously been instructed not to talk to members of  
5 the public about the proposed expansion?  
6 A. Yes.  
7 Q. And not to engage in any communication  
8 with them over the telephone either?  
9 A. Yes.  
10 Q. By the way, were you threatened by any  
11 of the petitions that Mr. Watson handed you?  
12 A. No.  
13 Q. Did you even look at them?  
14 A. No.  
15 Q. Did you immediately throw them into a  
16 waste paper basket?  
17 A. Yes, I did.  
18 MR. HELSTEN: Thank you. That's all.  
19 HEARING OFFICER HALLORAN: Mr. Moran?  
20

21 R E D I R E C T E X A M I N A T I O N  
22 by Mr. Moran

23 Q. Reverend Wilson, despite your best  
24 efforts to tell Mr. Harrison that you couldn't talk  
0271

1 to him, he ignored that statement, didn't he?  
2 A. Yes, he did.  
3 Q. He kept talking?  
4 A. Yes, he did.  
5 Q. He kept trying to persuade you?  
6 A. Yes, he did.  
7 MR. MORAN: Thank you.  
8 HEARING OFFICER HALLORAN:  
9 Mr. Helsten?

10 R E C R O S S E X A M I N A T I O N  
11 by Mr. Helsten

12 Q. And, Reverend, you referred to what  
13 you called a dead issue, every time he tried to talk  
14 to you, you said that's a dead issue. What did you  
15 mean by that?  
16 A. He needed to shut up.  
17 Q. It means it's dead on arrival and you  
18 weren't going there?  
19 A. Correct.  
20 MR. HELSTEN: Okay. Nothing further.  
21 HEARING OFFICER HALLORAN: Thank you,  
22 Reverend Wilson, you may step down. Does  
23 anybody need to take a five-minute break?  
24 Okay. I hear yes.

0272  
1 (Whereupon, after a short  
2 break was had, the  
3 following proceedings  
4 were held accordingly.)  
5 HEARING OFFICER HALLORAN: It's 4:00  
6 o'clock. Mr. Moran is to about call his  
7 eighth witness. You may proceed.

8 MR. MORAN: Thank you. At this time  
9 we call Mr. Scholl.

10 (Mr. Scholl was sworn in.)

11 D I R E C T E X A M I N A T I O N

12 by Mr. Moran

13 Q. Please state your name and if you  
14 could spell your last name for the court reporter.

15 A. Bob Scholl, S-C-H-O-L-L

16 Q. What is your address, Mr. Scholl?

17 A. 9301 West 1000 North, Bonfield,

18 Illinois.

19 Q. How long have you lived there?

20 A. Approximately 30 years.

21 Q. What is your business or occupation?

22 A. I'm a retired high school teacher.

23 Q. You're currently serving on the

24 Kankakee County Board?

0273

1 A. Yes.

2 Q. How long have you served?

3 A. I was appointed to fill George

4 Hoffman's term. I took the position October

5 of 2003.

6 Q. So this would have been shortly after

7 the siting application that was filed on

8 September 26th, 2003, is that correct?

9 A. I believe that is correct.

10 Q. Did you attend any of the hearings on

11 the 2003 siting application?

12 A. Yes.

13 Q. And did you vote on the 2003 siting

14 application?

15 A. The 2003 -- the vote came in 2004?

16 Q. Yes.

17 A. That is correct.

18 Q. The vote was on March 17th, 2004?

19 A. That is correct, yes.

20 Q. And did you vote on each of the

21 statutory criteria?

22 A. Yes.

23 Q. And how did you vote on those

24 statutory criteria?

0274

1 A. I voted negative on three and positive  
2 on the remaining.

3 Q. And when you say three, you're talking  
4 about three separate criteria?

5 A. That is correct.

6 Q. And were those criteria criteria one,  
7 a need; criteria three, property value and criteria  
8 six, traffic?

9 A. I believe so.

10 MR. PORTER: I would suggest that the  
11 roll call vote speaks for itself, but in  
12 reality it was one, two and three.

13 MR. MORAN: And we will submit that  
14 roll call vote. I apologize for not doing

15 that.  
16 HEARING OFFICER HALLORAN: Thank you,  
17 Mr. Moran.

18 BY MR. MORAN:

19 Q. Mr. Scholl, prior to the vote on  
20 March 17th, 2004, did you receive any phone calls  
21 regarding the proposed expansion?

22 A. Prior to the vote?

23 Q. Yes.

24 A. Yes.

0275

1 Q. How many phone calls did you receive?

2 A. I received one phone call.

3 Q. From whom?

4 A. It was from a trucking business that  
5 was in support of the landfill.

6 Q. And was that call received at your  
7 home?

8 A. Yes, it was.

9 Q. Do you know an individual by the name  
10 of Bruce Harrison?

11 A. Yes, I do.

12 Q. Who is Mr. Harrison?

13 A. Bruce was a former student of mine in  
14 Hersher High School.

15 Q. Did you have any discussions with  
16 Mr. Harrison about the proposed expansion?

17 A. I wouldn't label it as a discussion,  
18 but at the Quality Inn he came up and introduced  
19 himself and made comments expressing his opposition  
20 to the siting.

21 Q. And he expressed those statements to  
22 you during a break in the hearings?

23 A. Before the hearings actually started.

24 Q. Before the hearings began?

0276

1 A. Yeah.

2 Q. And you recognized Mr. Harrison as  
3 your former student?

4 A. I recognized -- physically I  
5 recognized him, but I couldn't put a name with him  
6 and he came up and introduced himself.

7 Q. Did he provide any reasons as to why  
8 he was opposed to the proposed expansion?

9 A. The one thing that was mentioned was  
10 the clutter at the present site.

11 Q. Was there any discussion about receipt  
12 of out of county waste?

13 A. No.

14 Q. Had you seen the signs that appeared  
15 throughout the community and in and around the area  
16 of the existing landfill that said no dump, no  
17 Chicago garbage?

18 A. Driving anywhere in the Kankakee area  
19 you would see the signs, yes.

20 Q. So during that period from January  
21 through March 17th and maybe afterwards -- shortly

22 afterwards in 2004, you saw those signs all over the  
23 Kankakee area?

24 A. They are still there, yes. Some of  
0277

1 them are still there.

2 Q. Could you estimate for us how many  
3 different signs you saw during that period?

4 A. I wouldn't have any idea.

5 Q. More than 50?

6 A. I wouldn't say that many, no.

7 Q. Somewhere between 20 and 40?

8 A. I really would not have any idea.  
9 There's small signs stuck in different yards.

10 Q. And all of them said no dump, no  
11 Chicago garbage?

12 A. I would not say all of them said that.  
13 The ones -- the green ones which were obvious, that  
14 was a slogan on those signs, yes.

15 Q. What did that message mean to you?

16 A. What did it mean to me?

17 MR. PORTER: Objection, irrelevant.

18 It also delves into mental impressions of a  
19 Board member. We're not going to allow  
20 questioning as to whether or not an ex parte  
21 communication affected their decision or  
22 prejudiced their decision --

23 HEARING OFFICER HALLORAN: I don't  
24 know if Mr. Moran could rephrase that

0278  
1 question or you meant to, otherwise I sustain  
2 Mr. Porter's objection.

3 BY MR. MORAN:

4 Q. Did you have any understanding as to  
5 what the sign no dump, no Chicago garbage meant?

6 MR. PORTER: Same objection. What his  
7 understanding was is his mental impression.  
8 Again, I'm reluctant to make the objection,  
9 however, because I believe that -- you know  
10 what, I'm going to withdraw the objection.  
11 Withdrawn.

12 HEARING OFFICER HALLORAN: Go ahead,  
13 Mr. Scholl.

14 BY THE WITNESS:

15 A. I would basically, as it says, didn't  
16 -- did they have any affect on me, no.

17 MR. MORAN: I'm going to move to  
18 strike that answer. It wasn't my question.

19 BY MR. MORAN:

20 Q. All I asked was, do you have any  
21 understanding as to what the sign no dump, no  
22 Chicago garbage meant?

23 A. I assume it means precisely what it  
24 said, no out of county garbage.

0279  
1 Q. Did you receive any letters or written  
2 materials regarding the proposed expansion prior to  
3 March 17th, 2004?

4 A. Yes, I did.  
5 Q. How many such letters did you receive?  
6 A. I could not put a numerical number or  
7 count on it. There were quite a few of them. I put  
8 the letters in a manilla envelope and that was it.  
9 Q. Did you read any of the letters?  
10 A. I glanced to see what they pertained  
11 to and put them in the folder.  
12 Q. And what did you do with them?  
13 A. It is my recollection I brought them  
14 into the county clerk's office.  
15 Q. The letter that you did open and read,  
16 did you --  
17 A. Excuse me. I did not read it. I  
18 glanced at the letters.  
19 Q. In your glancing at a letter, were you  
20 able to determine whether the author was in support  
21 of or opposed to the proposed expansion?  
22 A. Those which I noticed would be opposed  
23 to it.  
24 Q. And you can't identify for us an  
0280  
1 approximate number of letters you received?  
2 A. No.  
3 Q. Did you receive any thank you notes  
4 after you voted to deny the application on  
5 March 17th?  
6 A. Yes.  
7 Q. How many?  
8 A. That, again, I would not put a number  
9 on them.  
10 Q. Was it about the same number as the  
11 letters you got prior to the vote?  
12 A. There were quite a few, but other than  
13 that, I could not put a number on it.  
14 Q. Do you know the names of any of the  
15 individuals who sent you thank you notes?  
16 A. No.  
17 Q. Did you say you turned those thank you  
18 notes into the clerk as well?  
19 A. No, I did not.  
20 Q. You just threw those away?  
21 A. Yes.  
22 Q. And you received those thank you notes  
23 some time between March 17th, 2004 and April 13th,  
24 2004?  
0281  
1 A. That is possible.  
2 Q. Did you observe any picketing that  
3 occurred on March 17th of 2004?  
4 A. Yes.  
5 Q. How many picketers did you observe?  
6 A. There were people in front of the  
7 building and in the alleyway. A number, I could not  
8 give you a number.  
9 Q. Were they carrying signs?  
10 A. Yes, they were.

11 Q. What did the signs say?  
12 A. There were a variety of different  
13 signs is all that I noticed.  
14 Q. Were all the signs opposed to the  
15 proposed expansion?  
16 A. I believe so.  
17 Q. Did you talk to any of the people who  
18 were picketing?  
19 A. Yes.  
20 Q. How many of the people did you talk  
21 to?  
22 A. Coming up the alley I said good  
23 evening to a couple that was there, I spoke -- Bruce  
24 waved at me and I waved at him and that was about  
0282  
1 the extent of it.  
2 Q. You said good evening to them, but  
3 wasn't the vote in the morning on March 17th?  
4 A. Good morning. It is evening now.  
5 Yes, you're correct.  
6 Q. After the March 17th, 2004 vote, have  
7 you talked to any persons, other than your lawyers  
8 and other than me about your vote on that day?  
9 A. About the vote, no.  
10 Q. Did any persons stop by your house to  
11 talk about the proposed expansion?  
12 A. Yes.  
13 Q. When did that occur?  
14 A. It was prior to the vote. I couldn't  
15 give you a date when it occurred, but I informed the  
16 individual that I could not speak to them about this  
17 topic.  
18 Q. Who was the person?  
19 A. I just got his name tonight. It was  
20 Mark.  
21 Q. I'm sorry?  
22 A. Mark. I don't know his last name.  
23 Q. Mark Benoitt?  
24 A. I don't know the last name.  
0283  
1 Q. He came to your house some time prior  
2 to March 17th, 2004. Do you know how far in advance  
3 of March 17th; a couple of weeks, couple of days?  
4 A. A couple of days I would imagine. I  
5 really couldn't give you the date.  
6 Q. Did he come during the week or on the  
7 weekend?  
8 A. Evening.  
9 Q. During the week or weekend?  
10 A. I think it was during the week.  
11 Q. He came unannounced?  
12 A. Yeah.  
13 Q. You didn't invite him?  
14 A. No.  
15 Q. What did he say to you?  
16 A. He introduced himself and asked if he  
17 could speak to me about the dump and I informed him

18 that we are ex parte or under court order and we  
19 couldn't discuss it.

20 Q. What else did he say to you?

21 A. He was concerned or didn't understand  
22 why that was the case, but that was the case and was  
23 respectful of it and shortly thereafter left.

24 Q. Did he make any statements to you

0284

1 indicating why he was opposed to the proposed  
2 expansion?

3 MR. PORTER: Objection, assumes facts  
4 not in evidence.

5 HEARING OFFICER HALLORAN: Terry, can  
6 you read that back, please?

7 (Whereupon, the requested  
8 portion of the record  
9 was read accordingly.)

10 MR. PORTER: I didn't hear the witness  
11 testify that that individual ever said he was  
12 opposed.

13 HEARING OFFICER HALLORAN: I'll allow  
14 you to answer. Overruled. If you're able.

15 BY THE WITNESS:

16 A. Can you rephrase that or is the  
17 question was he -- did he speak in opposition to?

18 BY MR. MORAN:

19 Q. My question was, did he state any  
20 reason to you as to why he was opposed to the  
21 proposed expansion?

22 MR. PORTER: Same objection.

23 HEARING OFFICER HALLORAN: Overruled.

24 BY THE WITNESS:

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1 A. At that time, no.

2 BY MR. MORAN:

3 Q. Did he at some subsequent time tell  
4 you the reasons why he was opposed to the proposed  
5 expansion?

6 MR. PORTER: Same objection. We're  
7 assuming that this individual is opposed. I  
8 still haven't heard that testimony yet.

9 HEARING OFFICER HALLORAN: Mr. Moran?

10 MR. MORAN: He indicated not at that  
11 time. We had somebody coming over and  
12 wanting to talk about the landfill who is  
13 Mark Benoitt apparently. Mark Benoitt is  
14 someone who is opposed to the landfill.

15 HEARING OFFICER HALLORAN: You know,  
16 I'll let you continue if you wrap it up in a  
17 hurry.

18 MR. MORAN: That's what we're looking  
19 to do.

20 HEARING OFFICER HALLORAN: Okay.  
21 Terrific. Mr. Scholl?

22 BY THE WITNESS:

23 A. At a subsequent time he brought some  
24 literature over that was off the internet pertaining

0286

1 to landfills and a problem with capping of  
2 landfills.

3 BY MR. MORAN:

4 Q. And was this material supportive of  
5 the proposed expansion?

6 A. It had nothing do with the proposed  
7 expansion. It was just waste landfills per se.

8 Q. Was it information or literature which  
9 supported the development of a landfill or opposed  
10 the development of a landfill?

11 MR. PORTER: I'm going to object to  
12 relevancy if this was brought in after  
13 March 17, 2004.

14 HEARING OFFICER HALLORAN: Mr. Moran?

15 MR. MORAN: We don't know when it was  
16 brought in.

17 MR. PORTER: Well, I think he needs to  
18 lay that foundation.

19 HEARING OFFICER HALLORAN: Sustained.

20 BY MR. MORAN:

21 Q. Mr. Scholl, when Mr. Benoitt first  
22 came to your home unannounced, did you have any  
23 reason to believe that he was opposed to the  
24 proposed expansion?

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1 A. No.

2 Q. Did you know whether he was in support  
3 of the proposed expansion or opposed when he came to  
4 your house the first time?

5 A. I did not -- I didn't know the man and  
6 I didn't know his position.

7 Q. And you still didn't make any  
8 determination as to his position after he left your  
9 house that day, is that correct?

10 A. I reached an assumption, but I don't  
11 recollect that he said specifically he was opposed  
12 to it, but it was my assumption he was opposed to  
13 the landfill.

14 Q. What was the basis for your  
15 assumption?

16 A. The only people who requested to speak  
17 pertaining to the landfill were opposed to it.

18 Q. The only people who requested to speak  
19 to you?

20 A. That's correct.

21 Q. When did Mr. Benoitt then provide this  
22 information to you in written form regarding  
23 landfill capping?

24 A. It was a week or two later.

0288

1 Q. Was it prior to March 17th, 2004?

2 A. No, it was after.

3 Q. Was it prior to April 13th, 2004?

4 A. That is very possible.

5 Q. What did you do with the written

6 material that he gave you?

7 A. The written material was in my den and  
8 I looked it over after -- after it was presented to  
9 me.

10 Q. And you said the material was critical  
11 of a means for capping landfills?

12 A. Material that was -- pointed out flaws  
13 in the current landfill theory concept.

14 Q. So basically it was critical of the  
15 very concept of landfill design?

16 A. Yes.

17 Q. How many pages of material did he give  
18 to you?

19 MR. PORTER: Again, I'm going to  
20 object to relevancy. The decision was  
21 March 17th, 2004. On April 13th, 2004 all  
22 that was up was a motion to renew  
23 reconsideration which did not pass, so they  
24 never even got to the issue of whether or not

0289

1 they -- they never voted again. All they  
2 voted on is whether or not they were going to  
3 renew consideration and that never passed.

4 MR. MORAN: The decision was not  
5 final. It was a determination made on the  
6 13th of April which rendered finality to that  
7 decision that it was made on March 17th.

8 HEARING OFFICER HALLORAN: The  
9 decision was made on March 17th, but there  
10 was only a motion up on, was it April 13th, a  
11 motion to renew --

12 MR. MORAN: Consideration of vote,  
13 yes.

14 HEARING OFFICER HALLORAN: Which the  
15 vote -- there was a motion -- the vote went  
16 against the motion to reconsider, so they  
17 didn't even reconsider.

18 MR. MORAN: The vote was a tie.

19 HEARING OFFICER HALLORAN: But,  
20 again, they didn't reconsider so...

21 MR. MORAN: That's correct.

22 MR. PORTER: And the motion was  
23 brought by Waste Management itself, so you  
24 can't extend no ex parte rule as an applicant --

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1 HEARING OFFICER HALLORAN: I agree.  
2 I would sustain Mr. Porter's objection.

3 BY MR. MORAN:

4 Q. Do you still have the material Mr.  
5 Benoitt gave you?

6 A. I made copies of it before I returned  
7 it to him. Where the copies are in my files -- my  
8 files right now, my file cabinet is a nightmare. I  
9 could not pinpoint it, no.

10 Q. Did you have any further discussions  
11 with Mr. Benoitt about the 2003 application other  
12 than what you've told us thus far?

13 MR. PORTER: If it's post March 17th,

14 2000, I have to make the same objection.  
15 HEARING OFFICER HALLORAN: Mr. Moran?  
16 MR. MORAN: We don't know.  
17 HEARING OFFICER HALLORAN: Could you  
18 be more specific saying have you had any  
19 other questions with the witness prior to  
20 March 17th, 2004 or earlier than that. I  
21 agree with Mr. Porter. Pretty much anything  
22 that happens after March 17th is irrelevant.

23 BY MR. MORAN:

24 Q. Were there any other discussions with  
0291

1 Mr. Benoitt prior to March 17th, 2004 other than  
2 what you've testified to?

3 A. No.

4 MR. MORAN: I'd like to make an offer  
5 of proof with respect to communications that  
6 occurred after March 17th, but before  
7 April 13th, 2004 with Mr. Benoitt.

8 HEARING OFFICER HALLORAN: Mr. Porter?

9 MR. PORTER: I don't know how I could  
10 possibly object to an offer of proof.

11 HEARING OFFICER HALLORAN: In this  
12 instance I accept your offer of proof. You  
13 may proceed.

14 MR. HELSTEN: Mr. Halloran, my only  
15 problem with that is we've had rulings which  
16 were told to me by Mr. Porter by you which I  
17 think are proper with respect to offers of  
18 proof for before March 17th. Now, I'm not  
19 sure what the relevancy of anything that  
20 transpired after March 17th, 2003 is because  
21 I can't physically in any way conjure up or  
22 discern how something that happened three  
23 weeks later after the vote which is the  
24 issue, the seminal issue in this case, would

0292

1 be critical to that vote which took place  
2 three weeks earlier. Put a different way,  
3 unless Mr. Scholl was clairvoyant and knew on  
4 March 17th, 2003 that three weeks later he  
5 was going to get another contact from  
6 Mr. Benoitt, what's the possible relevancy of  
7 something that happened three weeks after the  
8 fact?

9 HEARING OFFICER HALLORAN: Well, I  
10 think if you would have been here,  
11 Mr. Helsten, earlier I did base my decision  
12 regarding the privilege issue that there was  
13 no reasonable probability of its  
14 admissibility. Now, there could be a  
15 reasonable probability of its admissibility.  
16 Secondly, I don't think relevance is as -- I  
17 think the privilege issue is weightier than  
18 the relevance issue and I'm not going down  
19 this avenue every time regarding, you know,  
20 what we're arguing about now. These briefs

21 were handed to me earlier with the motion to  
22 compel. I did research on it. Again,  
23 privilege is a lot weightier than the  
24 relevancy issue. I would fully respect deny,

0293

1 overrule and allow Mr. Moran to go forward  
2 with his offer of proof.

3 MR. MORAN: Thank you.

4 HEARING OFFICER HALLORAN: Thank you.

5 BY MR. MORAN:

6 Q. Mr. Scholl, you indicated that you  
7 have kept the materials that Mr. Benoitt brought you  
8 with respect to the capping of landfills, is that  
9 correct?

10 A. To the best of my knowledge.

11 Q. Did you have any discussion with him  
12 regarding those materials on or after the date that  
13 he presented them to you?

14 A. After the second time he came, we sat  
15 around and had a general discussion, yes.

16 Q. About the materials he had given you?

17 A. To some extent about the materials.  
18 Correction, again, I would not say it was about  
19 materials. I don't know if I had read them at that  
20 point, but he did come and we had a general  
21 conversation.

22 Q. Did he say anything to you in  
23 explaining these materials or describing the  
24 materials he was handing to you at that time?

0294

1 A. Not to my recollection.

2 Q. He didn't tell you this is material  
3 that will show that landfills can't properly be  
4 built because you can't cap it properly and there's  
5 some issues that are raised in this material, he  
6 didn't say that to you or something like that?

7 A. He could have said something like  
8 that. Verbatim, I would not -- I really don't know  
9 the extent of his remarks.

10 Q. Did you have any reason to know what  
11 his purpose was in giving you those materials?

12 A. I assumed, not knowing the individual  
13 at the time, that he was interested in conservation  
14 and I'm interested in conservation.

15 Q. Well, it would be fair to say that he  
16 was also interested in opposing this expansion and  
17 persuading you to continue to do the same?

18 A. That would be a fair assessment, yes.

19 Q. Did you send a copy of the these  
20 written materials to anyone at the county?

21 A. No.

22 Q. Did you advise anyone at the county  
23 that you received these materials?

24 A. No.

0295

1 MR. MORAN: That would include my  
2 offer of proof.

3 HEARING OFFICER HALLORAN: Thank you.  
4 MR. MORAN: With that, I have no  
5 further questions of this witness.

6 HEARING OFFICER HALLORAN: Who witness  
7 is it?

8 MR. PORTER: I'll go.  
9 C R O S S E X A M I N A T I O N  
10 by Mr. Porter

11 Q. If I understood your direct testimony,  
12 you had one communication with Mr. Harrison in the  
13 breaks during the hearings, is that right?

14 A. That is correct.

15 Q. Was anything that Mr. Harrison said to  
16 you different than what he said to the public during  
17 the hearings?

18 A. Not to my recollection, no.

19 Q. Did you ever approach Mr. Harrison or  
20 any member of the public and ask them for their  
21 opinion concerning the application while it was  
22 pending?

23 A. No.

24 Q. Did you feel threatened or intimidated

0296

1 by anything Mr. Harrison said?

2 A. No.

3 Q. There was reference to some letters  
4 that you received and I'm sorry, refresh my  
5 recollection, did you read those letters?

6 A. No.

7 Q. Did you feel threatened or intimidated  
8 by receipt of those letters?

9 MR. MORAN: Objection. Here again  
10 we're getting into an area where he's asking  
11 to what extent somebody considered certain  
12 factors in deciding this application. We're  
13 being selective in what we allow to be  
14 answered and not answered.

15 HEARING OFFICER HALLORAN: I thought  
16 I've already ruled on that and I like to be  
17 somewhat consistent in my rulings. So I  
18 would overrule your objection. You may  
19 answer. The witness may answer if he so  
20 chooses.

21 BY MR. PORTER:

22 Q. Did you feel threatened or intimidated  
23 by the receipt of those letters?

24 A. No.

0297

1 Q. I believe there was some mention of  
2 yard signs in your direct. Did you see the yard  
3 signs?

4 A. Yes.

5 Q. Did you feel threatened or intimidated  
6 by yard signs?

7 MR. MORAN: Same objection. Now he's  
8 asking did you consider these yard signs, but  
9 he's phrasing it in terms of were you

10 intimidated or threatened by a yard sign,  
11 which is just a non-sensical question. It's  
12 really intended, I think, to ask did you  
13 consider them? Where are we going?

14 HEARING OFFICER HALLORAN: Mr. Porter?

15 MR. PORTER: Again, I'm not asking  
16 whether or not this individual considered  
17 them in coming to his decision on Waste  
18 Management's application. I'm merely asking  
19 whether or not he was threatened by them. If  
20 they're completely irrelevant, then so be it.  
21 If there is some relevancy to them, I at  
22 least get to ask if he was threatened by the  
23 fact that he saw these yard signs.

24 HEARING OFFICER HALLORAN: Objection

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1 overruled. You may answer, Mr. Scholl.

2 BY THE WITNESS:

3 A. Not at all.

4 BY MR. PORTER:

5 Q. And finally, were you threatened or  
6 intimidated by seeing picketers?

7 A. No.

8 MR. MORAN: Objection.

9 HEARING OFFICER HALLORAN: Overruled.

10 MR. PORTER: Nothing further.

11 R E D I R E C T E X A M I N A T I O N

12 by Mr. Moran

13 Q. When Mr. Porter asked you if you were  
14 threatened or intimidated by some signs that you had  
15 read, did you understand that to mean that you were  
16 being asked whether you were physically threatened  
17 by the existence of those signs or did you  
18 understand that to mean something else?

19 A. Physically threatened is -- it's an  
20 inanimate object. Was I threatened by the sign  
21 content, no.

22 Q. I'm just trying to see what you  
23 understood his question to be when he said were you  
24 threatened or intimidated by a sign. Did you view

0299

1 that as a question asking you if you were physically  
2 at risk as a result of this sign being put in  
3 someplace where you could read it?

4 A. No, I did not interpret it in that  
5 manner.

6 Q. In what way did you interpret it?

7 A. Did it jeopardize my opinion or did it  
8 sway my opinion.

9 MR. MORAN: Thank you, Mr. Scholl.

10 I'm going to renew my objection to those  
11 questions because clearly the intent of that  
12 question, the way this witness understood it,  
13 was not am I physically threatened or  
14 intimidated by a sign, but did I take that  
15 sign into account, did I consider it, did  
16 that somehow jeopardize my decision in this

17 case and that's entirely improper based upon  
18 what you've ruled and now he's been able to  
19 ask all those questions and get all the  
20 answers from all these individuals on a  
21 question that used language that was not as  
22 it appeared.

23 HEARING OFFICER HALLORAN: If I can  
24 interrupt, Mr. Moran. I think -- was

0300

1 Mr. Keller on the stand a while ago? I think  
2 it was Mr. Keller when you were asking him  
3 whether he felt threatened by the language in  
4 there, whether he can be replaced -- was it  
5 Mr. Keller? No. He was a stone cutter. Who  
6 was the other gentleman up here? Mr. Romein.

7 MR. MORAN: The only people I've asked  
8 about being intimidated with respect to  
9 statements made about whether -- and whether  
10 they were threats about individuals working  
11 against his re-election if he voted against  
12 the landfill.

13 HEARING OFFICER HALLORAN: I think  
14 it's all inclusive. I think it's a --  
15 however you case it -- well, you can make all  
16 the faces you want, Mr. Moran, but in any  
17 event, your objection is overruled.

18 MR. MORAN: I have nothing further.

19 HEARING OFFICER HALLORAN: Thank you.

20 MR. PORTER: I have no follow-up.  
21 Thank you very much.

22 HEARING OFFICER HALLORAN: You may  
23 step down, sir. Mr. Moran, your ninth  
24 witness, I believe.

0301

1 (Mr. Meents was sworn in.)

2 D I R E C T E X A M I N A T I O N

3 by Mr. Moran

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. Could you tell us your name and spell  
7 your last name for the court reporter?

8 A. My first name is Edwin, my middle  
9 initial is W, last name is Meents, M-E-E-N-T-S.

10 Q. What is your address, Mr. Meents?

11 A. 1905 North Spring View Lane, Kankakee.

12 Q. How long have you lived there?

13 A. Forty-two plus years.

14 Q. Are you a member of the Kankakee  
15 County Board?

16 A. I have been.

17 Q. For what period did you serve on the  
18 Kankakee County Board?

19 A. From 2003 I believe it is through --  
20 12 years ending December 1st of this year -- 2002 --  
21 I came on December of 2002.

22 Q. So you were a board member when the  
23 County Board voted on the 2002 siting application to

24 expand the existing Waste Management landfill, is  
0302

1 that correct?

2 A. Yes, sir.

3 Q. Did you attend any of the public  
4 hearings on that 2002 application?

5 A. Yes.

6 Q. And did you vote on the 2002  
7 application?

8 A. Yes.

9 Q. And you voted on January 31st, 2003?

10 A. Yes.

11 Q. Prior to January 31st, 2003, did you  
12 receive any phone calls regarding the proposed  
13 expansion?

14 A. One.

15 Q. From whom did you receive it?

16 A. Mr. Harrison.

17 Q. This was prior to the 2002  
18 application?

19 A. No, no, you said 2003.

20 Q. I'm sorry. Let me make it clear.

21 I'm talking now about the vote

22 which took place on January 31st, 2003. Prior to

23 January 31st, 2003, did you receive any phone calls

24 regarding the proposed expansion?

0303

1 A. No.

2 Q. Prior to January 31st, 2003, did you  
3 receive any letters or any other written materials  
4 regarding the proposed expansion?

5 A. Yes.

6 Q. What materials or letters did you  
7 receive prior to January 31st, 2003 with regard to  
8 the proposed expansion?

9 MR. PORTER: I object. I believe  
10 you've already ruled on that.

11 HEARING OFFICER HALLORAN: Would you  
12 read that question back, please, Terry?

13 (Whereupon, the requested  
14 portion of the record  
15 was read accordingly.)

16 MR. PORTER: That, again, was the  
17 previous application. I believe you  
18 overruled my objection to that. I do object.

19 HEARING OFFICER HALLORAN: Overruled.

20 MR. PORTER: I've got to make a  
21 record.

22 HEARING OFFICER HALLORAN: You may  
23 answer, sir.

24 BY THE WITNESS:

0304

1 A. This is the second landfill, if I'm  
2 understanding it?

3 BY MR. MORAN:

4 Q. No. We're taking now about the  
5 January 31st, 2003 vote which would have been the

6 first vote on the first application.  
7 A. Yes, I did receive letters.  
8 Q. You received letters prior to  
9 January 31st, 2003?  
10 A. Yes.  
11 Q. My question was, how many letters or  
12 written materials did you receive?  
13 A. I didn't count them. I had a number  
14 of them.  
15 Q. Less than ten?  
16 A. Possibly. I didn't read them, didn't  
17 count them, brought them into the county.  
18 Q. And you appeared in this building on  
19 January 31st, 2003 to vote on the 2002 application,  
20 correct?  
21 A. Correct.  
22 Q. On that day, were there any picketers  
23 outside the County Board building that were here  
24 because of the vote on the proposed expansion?  
0305  
1 A. Yes.  
2 Q. Again, this is January 31st, 2003, not  
3 the second application?  
4 MR. HELSTEN: Mr. Hearing Officer,  
5 could I make a suggestion?  
6 HEARING OFFICER HALLORAN: Yes, sir.  
7 MR. HELSTEN: Don, rather than  
8 referring to the date of the vote, it might  
9 be clearer if you say the vote on the first  
10 application versus the vote on the second  
11 application, which is the subject of today's  
12 hearing because I think as I'm seeing the  
13 back and forth, the confusion is the 2002  
14 date because there was both a vote on the  
15 first application that took place in 2002 and  
16 your filing of the second application -- I  
17 mean in 2003 and your filing of the  
18 application was in 2003 and therein lies the  
19 confusion.  
20 MR. MORAN: Well, that's fine. I've  
21 just been trying for this whole hearing to be  
22 consistent in calling it the 2002  
23 application, 2003 application. I can call it  
24 the first application and the second  
0306  
1 application.  
2 HEARING OFFICER HALLORAN: I've been  
3 following it. I think some of the witnesses  
4 have had trouble. Whatever you choose,  
5 Mr. Moran.  
6 BY MR. MORAN:  
7 Q. Let's go back, Mr. Meents. We're  
8 talking about the first application. The date of  
9 that vote was January 31st, 2003. On that date, did  
10 any picketers appear?  
11 A. I did not see any.  
12 Q. When you thought there were picketers

13 who appeared with regard to the proposed expansion,  
14 you were talking about the vote on the second  
15 application which occurred on March 17th, 2004?

16 A. Yes.

17 Q. And how many picketers did you see on  
18 that date?

19 A. Probably 45, 50.

20 Q. And where were they located?

21 A. In the front of the building, side of  
22 the building.

23 Q. Were they carrying signs?

24 A. Yes.

0307

1 Q. What did the signs say?

2 A. I really didn't look at them, sir.

3 Q. Was it your understanding that the  
4 picketers were here to oppose the proposed  
5 expansion?

6 A. Yes.

7 Q. And what was the basis for your  
8 conclusion that they were opposed?

9 A. Because of their chants, their  
10 comments.

11 Q. The comments they made to you?

12 A. Yes.

13 Q. What were those comments?

14 A. No vote for the dump.

15 Q. Did you talk to any of the picketers  
16 beyond the comments they made to you?

17 A. As I walked in, I was one of the first  
18 ones in the building that day and I said good  
19 morning ladies and gentlemen and that was my only  
20 comment and came up to this floor.

21 Q. If we can just go back for a moment to  
22 my question about the letters you received. Again,  
23 going back to the first application, did you receive  
24 any letters or written materials prior to

0308

1 January 31st of 2003 regarding the first  
2 application?

3 A. No.

4 Q. So when you said you received letters  
5 and written materials, you were talking about having  
6 received letters and materials prior to March 17th,  
7 2004 that related to the second application?

8 A. Correct.

9 Q. Is that correct?

10 A. Yes.

11 Q. Now, was it your understanding that  
12 the first application in 2002 and the second  
13 application in 2003 were essentially the same?

14 MR. PORTER: Same objection as before,  
15 it calls not only for deliberative process,  
16 it's really a legal conclusion that the  
17 Pollution Control Board will have to make.

18 HEARING OFFICER HALLORAN:

19 Overruled.

20 BY THE WITNESS:  
21 A. The question please?  
22 MR. MORAN: Could you repeat it back?  
23 MR. PORTER: Same objections so I  
24 don't have to interrupt.

0309

1 (Whereupon, the requested  
2 portion of the record  
3 was read accordingly.)

4 BY THE WITNESS:

5 A. Yes, they were essentially the same,  
6 but there was some variances in them.

7 BY MR. MORAN:

8 Q. There was some additional data that  
9 was submitted in support of the criteria, correct?

10 A. There was additional data, yes.

11 Q. Mr. Meents, how did you vote on the  
12 first siting application in January of 2003?

13 A. I voted in favor of it.

14 Q. And how did you vote on the second  
15 application in March of 2004?

16 A. I voted no on three criteria.

17 Q. Were those criteria criterion one,  
18 three and five?

19 A. Yes.

20 MR. MORAN: Mr. Halloran, at this  
21 point I would simply request that the  
22 questions I had asked of Ms. Hertzberger be  
23 asked of this witness with the modification  
24 that instead of the five criteria I asked her

0310

1 about, just restrict it to the three criteria  
2 I just identified here on which Mr. Meents  
3 has indicated he changed his vote from a yes  
4 to a no.

5 HEARING OFFICER HALLORAN: And I think  
6 Mr. Porter agreed with that?

7 MR. PORTER: Correct.

8 HEARING OFFICER HALLORAN: Okay. The  
9 record will so note. Thank you.

10 BY MR. MORAN:

11 Q. Mr. Meents, prior to March 17th, 2004  
12 I think you indicated you received a number of  
13 letters or other written materials, correct?

14 A. Correct.

15 Q. And that those letters or written  
16 materials you concluded to be in opposition to the  
17 proposed expansion, is that correct?

18 A. I can't conclude that because I did  
19 not open the envelopes.

20 Q. You didn't open any of them?

21 A. No, sir.

22 Q. You simply took those and did what  
23 with them?

24 A. Brought them into the county clerk.

0311

1 Q. How did you know those letters even

2 related to the proposed expansion?

3 A. Sir, I have received a number of  
4 letters in my lifetime. I know my district. I know  
5 the county. I know people who give me or send me  
6 letters. These letters were not in the vein of my  
7 normal receipt of letters.

8 Q. When you say they weren't in your  
9 normal vein of receipt of letters, could you tell us  
10 what you mean by that?

11 A. Yes. Because I get letters from  
12 various other organizations, people that I have done  
13 business with in the past and I could tell from the  
14 return addresses where they were coming from.

15 Q. So based on the return addresses of  
16 these letters you determined that the letters  
17 related to the proposed expansion?

18 A. True.

19 Q. In your time on the County Board have  
20 you ever received the number of letters on an issue  
21 that you received with respect to this proposed  
22 expansion?

23 A. In my 12 years of being on the Board I  
24 had received approximately five letters outside of

0312

1 the landfill hearings.

2 Q. And in this one proceeding you  
3 received more than five letters?

4 A. Far more, yes.

5 Q. Far more, although you weren't sure  
6 how many more?

7 A. No.

8 Q. I believe you said in response to an  
9 earlier question that prior to March 17th, 2004 you  
10 received a phone call?

11 A. True.

12 Q. Regarding the proposed expansion, is  
13 that right?

14 A. There was a phone call from  
15 Mr. Harrison asking me to go to breakfast.

16 Q. This is Mr. Bruce Harrison?

17 A. Yes, sir.

18 Q. And did you receive this phone call at  
19 home?

20 A. Yes.

21 Q. And what did Mr. Harrison say to you  
22 in this phone conversation?

23 A. He asked if we could go to breakfast.

24 Q. Did he say what he wanted to go to

0313

1 breakfast about?

2 A. I attended the hearings, I had an idea  
3 what he wanted and I said we are not going to talk  
4 about the landfill.

5 Q. Did you agree to go to breakfast with  
6 him?

7 A. Yes.

8 Q. Did he indicate to you any other

9 subjects of discussion at this breakfast other than  
10 the landfills that you agreed to go to with him?

11 A. Our children had common schooling and  
12 friendships, he had been a neighbor of ours and was  
13 inquiring about the kids.

14 Q. So you agreed to go to breakfast with  
15 him?

16 A. Yes.

17 Q. And, again, this was some time prior  
18 to March 17th?

19 A. Yes.

20 Q. Was it after the public hearings  
21 concluded in January of 2004?

22 A. Yes.

23 Q. And did you go meet Mr. Harrison at a  
24 restaurant?

0314

1 A. Yes.

2 Q. What restaurant?

3 A. Uncle Bill's over on North Fifth  
4 Avenue.

5 Q. Do you remember what day of the week  
6 you met him?

7 A. No, sir.

8 Q. Was it during the week or weekend?

9 A. During the week.

10 Q. What time did you meet with him?

11 A. 7:00 o'clock in the morning.

12 Q. What did Mr. Harrison say to you  
13 during your breakfast meeting?

14 A. Well, I asked Mr. Duane Bertram, a  
15 County Board member to go with me so that I wouldn't  
16 be trapped into talking about the landfill and have  
17 questions and Mr. Harrison started to address the  
18 question and I told him we're not going to talk  
19 about the landfill, we can talk about the family and  
20 that, but we're not talking about the landfill.

21 Q. Having told him that, did he continue  
22 to talk about the proposed expansion?

23 A. He tried, but each time he was cut  
24 off.

0315

1 Q. Did he have any documents or books or  
2 materials with him?

3 A. No.

4 Q. How long did this breakfast meeting  
5 last?

6 A. It lasted a little bit longer than  
7 Reverend Wilson's. Approximately 45 minutes.

8 Q. And each of you had breakfast?

9 A. Yes.

10 Q. How did the meeting end?

11 A. Cordial.

12 Q. And who paid for the breakfast?

13 A. I did.

14 Q. Did you have any subsequent  
15 discussions with Mr. Harrison?

16 A. No, sir.  
17 Q. You haven't talked to him since that  
18 breakfast meeting, is that correct?  
19 A. A conversation, no.  
20 Q. Did you receive any phone calls from  
21 Mr. Harrison after your meeting with him?  
22 A. No.  
23 Q. Did you receive any letters or other  
24 communications from Mr. Harrison after your meeting?  
0316  
1 A. No.  
2 Q. During the course of your conversation  
3 with him at Bill's Diner, did he make any statement  
4 about having talked to any other County Board  
5 members?  
6 A. No.  
7 Q. Did he make any statement about having  
8 talked with Ed Smith?  
9 A. No.  
10 Q. Did he make any statements or comments  
11 about the rules that you were given on ex parte  
12 communications?  
13 A. Rephrase the question, please.  
14 Q. Did Mr. Harrison say anything to you  
15 about the rules on ex parte communications and  
16 whether they applied to him or to you in  
17 discussions about the proposed expansion?  
18 A. The same answers as before, I told him  
19 we were not going to discuss the Waste Management  
20 proposal.  
21 Q. I understand that's what you said to  
22 him, but I'm saying in terms of what he said to you,  
23 even though you told him that, did he say to you you  
24 don't need to worry about these ex parte rules, I  
0317  
1 can still talk to you, anything like that?  
2 A. No.  
3 Q. Did he state to you in any way why he  
4 opposed the proposed expansion?  
5 A. We didn't get there.  
6 Q. So at no point did he say anything  
7 about why he opposed the expansion? Even though you  
8 told him you couldn't hear it, did he say it to you  
9 and then you told him I can't consider it?  
10 A. He expressed an opinion, yes, that it  
11 was unsafe.  
12 Q. Did he explain why he believed the  
13 proposed expansion was unsafe?  
14 A. Not really because we didn't get into  
15 the subject.  
16 Q. Did he say anything else about the  
17 proposed expansion other than it was unsafe?  
18 A. No.  
19 Q. How many times did you have to tell  
20 him that you couldn't hear or listen to what he was  
21 saying, half a dozen times?  
22 A. Maybe seven or eight times.

23 Q. And did you say that each time in  
24 response to his statement about why he was opposed?

0318

1 A. I presumed he wanted an answer to his  
2 statement and I said I wasn't going to discuss it.

3 Q. What I'm asking you about are his  
4 statements, the statements that you may have cut him  
5 off on, the statements he made to you, in addition  
6 to the one that the expansion was unsafe, what did  
7 he say to you before you were able to tell him --  
8 and after you told him and after he just didn't  
9 listen about what was wrong with the proposed  
10 expansion?

11 A. I don't recall what those were.

12 Q. But he did say other things to you?

13 A. Yes.

14 Q. You just don't remember what they  
15 were, is that accurate?

16 A. Correct.

17 Q. Did you have any discussions with  
18 Mr. Ron Thompson?

19 A. Define discussion.

20 Q. Well, any communication or  
21 conversation with Mr. Thompson prior to March 17th,  
22 2004?

23 MR. PORTER: I object unless it has  
24 something to do with the landfill

0319

1 application.

2 HEARING OFFICER HALLORAN: Mr. Moran?

3 MR. MORAN: Well, we can certainly  
4 limit it to any discussion about the proposed  
5 expansion prior to March 17th, 2004.

6 BY THE WITNESS:

7 A. Yes.

8 BY MR. MORAN:

9 Q. How many such discussions did you have  
10 with Mr. Thompson?

11 A. Two that I recall.

12 Q. And did these discussions occur  
13 between the end of the public hearings and the  
14 March 17th vote?

15 A. They were not discussions. They were  
16 comments.

17 Q. Well, were they situations where he  
18 made statement to you or you made statements to him?

19 A. Single sentence statements, yes.

20 Q. Let's focus on the first of these  
21 statements. Who made the statement?

22 A. It was at the second hearing, I  
23 believe it was possibly the last day, one of the  
24 last days of the hearing when Mr. Thompson spoke --

0320

1 not as a sworn witness, but as a witness -- what do  
2 I want to say, from the audience, and afterwards he  
3 made the comment what did I think of the statement  
4 and I said it was a fair statement, if that's what

5 he believed.

6 Q. So after one of the hearing sessions

7 Mr. Thompson asked you what you thought of his

8 statement and you told him what you just said?

9 A. Yes.

10 Q. Did he say anything in response to

11 your comment?

12 A. Not really.

13 Q. You don't recall what he said?

14 A. Excuse me?

15 Q. You don't recall what he said?

16 A. No.

17 Q. And when was the second time when the

18 statement was made?

19 A. We go to the same church together and

20 after service one morning he asked when the date was

21 going to be for the vote here and I gave him the

22 date.

23 Q. Did he say anything else about the

24 proposed expansion?

0321

1 A. No.

2 Q. Were you aware that Mr. Thompson was

3 opposed to the proposed expansion?

4 A. I could tell that from his comments at

5 the public meeting.

6 MR. MORAN: I have no further

7 questions.

8 HEARING OFFICER HALLORAN: Thank you.

9 Mr. Porter?

10 MR. PORTER: Just a few quick

11 follow-ups.

12 C R O S S E X A M I N A T I O N

13 by Mr. Porter

14 Q. Why did you go to breakfast with

15 Mr. Harrison?

16 A. As I stated, his parents had gone to

17 school with me at Gilman, with my brother and I at

18 Gilman High School and the family lived about a

19 block away from us.

20 Q. And before you went to breakfast with

21 him you informed him you would not be discussing the

22 landfill?

23 A. True.

24 Q. Mr. Moran mentioned the rules that you

0322

1 were under concerning ex parte communications. Did

2 you understand you were not to have any telephone

3 contact with anyone concerning the application?

4 A. Yes.

5 Q. You had been counseled to that effect?

6 A. Yes.

7 Q. You followed that direction?

8 A. Other than this one phone call, if you

9 consider that a violation, I would admit to that.

10 Q. Well, did you talk to Mr. Harrison

11 about the substance of the application when he

12 called?

13 A. No.

14 Q. As a matter of fact, he called to  
15 invite you to breakfast and you told him at that  
16 time you would not discuss the application, right?

17 A. That's true.

18 Q. Likewise in regard to the letters, you  
19 turned those into the county clerk?

20 A. Yes.

21 Q. In regard to Mr. Thompson, did you  
22 ever discuss with him the substance of the  
23 application?

24 A. No, sir.

0323

1 Q. When you spoke to him on a break at  
2 the Section 39.2 hearing, did you merely comment  
3 that his testimony went fine?

4 A. His comment was what did I think of  
5 his comment and I said -- as I related before.

6 Q. So you never talked about the  
7 substance of his comments, did you?

8 A. No.

9 Q. Likewise in church, was Mr. Thompson  
10 merely asking you procedurally when the vote was  
11 coming up?

12 A. That's correct.

13 Q. And you never received any direction  
14 you couldn't tell members of the public what the  
15 procedures were, did you?

16 A. Not to my knowledge.

17 Q. Was anything that Mr. Harrison said,  
18 against your direction not to, different than what  
19 he said at the hearings?

20 A. No.

21 MR. PORTER: Nothing further.

22 HEARING OFFICER HALLORAN: Thank you.

23 Mr. Moran?

24 R E D I R E C T E X A M I N A T I O N

0324

1 by Mr. Moran

2 Q. Mr. Meents, did you attend all the  
3 public hearings?

4 A. No.

5 Q. Have you attempted to determine  
6 whether what Mr. Harrison told you in your breakfast  
7 meeting were comments that he at some point made  
8 during the hearing?

9 A. I was there when he testified, yes.

10 Q. My question was, the statements he  
11 made to you at the breakfast meeting, did you go  
12 through all those statements and see --

13 A. No, because they were more general.

14 HEARING OFFICER HALLORAN: Let

15 Mr. Moran finish the question, please. Thank  
16 you.

17 BY MR. MORAN:

18 Q. Did you take all those statements he

19 made to you at the breakfast and look to find those  
20 same statements or comments in the public record as  
21 statements made by Mr. Harrison? Did you do that?  
22 A. No.  
23 MR. MORAN: Nothing further.  
24 HEARING OFFICER HALLORAN: Mr. Porter?

0325

1 R E C R O S S E X A M I N A T I O N  
2 by Mr. Porter  
3 Q. I believe we were cut off, I think  
4 it's in the record, you were there when Mr. Harrison  
5 gave a statement during the hearings, correct?  
6 A. Yes.  
7 MR. PORTER: Nothing further.  
8 HEARING OFFICER HALLORAN: You may  
9 step down, Mr. Meents. Thank you so much.  
10 Do any members of the public in  
11 the back room wish to make a comment or a  
12 statement? I know Mr. Bruck already has.  
13 I see no hands. Mr. Bruck?  
14 MR. BRUCK: I just want to make a  
15 comment.  
16 HEARING OFFICER HALLORAN: Wait. I  
17 thought you had to go at 9:30 that's why I  
18 called you up then and you're still sitting  
19 here, so if you don't mind, you can make a  
20 comment after this witness.  
21 MR. BRUCK: Sure.  
22 HEARING OFFICER HALLORAN: Thanks,  
23 Mr. Bruck. Proceed, Mr. Moran. Thank you.  
24 MR. MORAN: Thank you.

0326

1 HEARING OFFICER HALLORAN: I just want  
2 to note for the record that there was a  
3 motion in limine filed by Waste Management.  
4 I made a ruling on --  
5 MR. PORTER: I'm sorry for  
6 interrupting, by the county.  
7 HEARING OFFICER HALLORAN: I'm sorry.  
8 Anyway, I granted the county's motion in  
9 limine. Basically it's any public statements  
10 made by Ms. Bernard regarding her position on  
11 proposed landfills in Kankakee County.  
12 However, I have left the door open for  
13 Mr. Moran and Waste Management to bring it in  
14 as an offer of proof. You may proceed,  
15 Mr. Moran.  
16 MR. MORAN: Thank you.  
17 (Ms. Bernard was sworn in.)

18 D I R E C T E X A M I N A T I O N  
19 by Mr. Moran  
20 Q. Please state your name and spell your  
21 last name for the court reporter.  
22 A. Ann Bernard, B-E-R-N-A-R-D.  
23 Q. What is your address?  
24 A. 54 West Dresna Drive.

0327

1 Q. Where is that located?  
2 A. Kankakee. It's a Kankakee mailing  
3 address.

4 Q. How long have you lived there?

5 A. Since 1990.

6 Q. Are you a member of the Kankakee  
7 County Board?

8 A. Yes.

9 Q. For how long have you served as a  
10 Kankakee County Board member?

11 A. Since 1996.

12 Q. Now, you voted on the 2002 application  
13 for expansion of the existing Waste Management  
14 landfill and that vote occurred on January 31st of  
15 2003, is that correct?

16 A. Yes.

17 Q. And you voted on each of the criteria,  
18 is that correct?

19 A. Yes.

20 Q. And you voted to deny certain of the  
21 criteria, is that correct?

22 A. Yes.

23 Q. So your overall vote on the 2002  
24 application was to deny it?

0328

1 A. Well, I believe it was, but I cannot  
2 attest to that because when you presented the roll  
3 call sheet in the deposition, when you had that and  
4 read that to me, I thought it was strange that you  
5 had said I voted yes on the criteria regarding real  
6 estate values and when I went to look for the roll  
7 call sheet twice it was missing from the County  
8 Board records. I don't know where the original is.  
9 I went to Bruce Clark's office twice.

10 Q. Would it be accurate to say that you  
11 voted against certain criteria in the first  
12 application?

13 A. Yes. I want the record to reflect  
14 when I went to look for the roll call sheet it was  
15 missing.

16 Q. Did you also vote on the 2003  
17 application or the one that was decided on  
18 March 17th, 2004?

19 A. Yes.

20 Q. And you also voted against certain  
21 criteria for that 2003 application, is that correct?

22 A. Yes.

23 Q. So in both instances you voted against  
24 the application, is that correct?

0329

1 A. Yes.

2 Q. Was it your understanding that the  
3 2002 application and the 2003 application were the  
4 same?

5 A. Well, Mr. Moran, I believe you  
6 explained to us that it was essentially the same,  
7 but with updates, but the thing that was essentially

8 the same was that the expansion was to be situated  
9 over a major regional aquifer. That's a source of  
10 drinking water. That was criteria two.

11 Q. And your objection to this proposed  
12 expansion was that it was located over the aquifer?

13 MR. PORTER: I'm sorry, Mr. Halloran,  
14 can I have the last question read back. I  
15 don't need the response and then I have an  
16 objection to this one.

17 HEARING OFFICER HALLORAN: You may.  
18 (Whereupon, the requested  
19 portion of the record  
20 was read accordingly.)

21 MR. PORTER: I object, that clearly  
22 gets into the deliberative process and the  
23 reason she voted at least as to criteria two.

24 HEARING OFFICER HALLORAN: Mr. Moran?

0330

1 MR. MORAN: She just explained that in  
2 response to my earlier question. I'm asking  
3 a follow-up to clarify what I believe she  
4 just stated.

5 MR. PORTER: Deliberative process is  
6 not a waiver of privilege.

7 HEARING OFFICER HALLORAN: I would  
8 sustain Mr. Porter's objection.

9 BY MR. MORAN:

10 Q. Ms. Bernard, were you here during  
11 Mr. Runyon's testimony?

12 A. Today?

13 Q. Yes.

14 A. No.

15 Q. Do you know Mr. Runyon?

16 A. Yes.

17 Q. Who is he?

18 A. He's a friend of mine.

19 Q. How long has he been a friend of  
20 yours?

21 A. Maybe eight years, nine years.

22 Q. And has Mr. Runyon talked to you  
23 about the process known as closed loop gasification?

24 A. Yes, he has.

0331

1 MR. PORTER: I object unless the  
2 communication was in the realm of Waste  
3 management's application. Ms. Bernard is  
4 also a member of the County Board and I have  
5 reason to believe that those communications  
6 had to do with a completely different  
7 proposal that was not a landfill proposal.

8 HEARING OFFICER HALLORAN: Mr. Moran?

9 MR. MORAN: Well, I'll establish the  
10 connection here with this application to  
11 request an expansion.

12 HEARING OFFICER HALLORAN: Please do.

13 BY MR. MORAN:

14 Q. Ms. Bernard, you heard about this

15 closed loop gasification process from Mr. Runyon  
16 during the hearings on the 2002 application, is that  
17 right?

18 A. I believe that's correct.

19 Q. And that was the first time you had  
20 ever heard about this process, is that correct?

21 A. Yes.

22 Q. Has Mr. Runyon provided to you  
23 information that indicates that these facilities  
24 have been established and are utilizing the closed

0332

1 loop gasification process?

2 MR. PORTER: Again, I have to object  
3 because if he did it had to do with a  
4 completely different facility, there was not  
5 even a landfill. It's irrelevant.

6 MR. MORAN: Well, of course, it's not  
7 a landfill, that's the whole point. What  
8 we're talking about is Mr. Runyon attempting  
9 to persuaded Ms. Bernard as to the efficacy  
10 and propriety of an alternative to  
11 landfilling, closed loop gasification in the  
12 context of a proposal to site a landfill --  
13 an expansion of a landfill.

14 HEARING OFFICER HALLORAN: I think I'm  
15 going to overrule Mr. Porter's objection.  
16 You may proceed, Mr. Moran.

17 BY MR. MORAN:

18 Q. Do you recall my question?

19 A. Could you repeat it, please?

20 (Whereupon, the requested  
21 portion of the record  
22 was read accordingly.)

23 BY THE WITNESS:

24 A. I believe there might have been a

0333

1 mention of one in Barrow, Alaska.

2 BY MR. MORAN:

3 Q. And this was information Mr. Runyon  
4 provided to you?

5 A. Either he provided it to me or it came  
6 out in the testimony.

7 Q. Has Mr. Runyon stated to you that  
8 closed loop gasification is an alternative to  
9 landfilling?

10 A. I believe that was mentioned, but I  
11 was looking at closed loop gasification for Pembroke  
12 when Team Illinois came out in 2003 and the journal  
13 wrote a story about it.

14 Q. In terms of what Mr. Runyon told you,  
15 putting aside the issue as it related to Pembroke,  
16 his statements to you were that this process was an  
17 alternative to landfilling is that correct?

18 A. It may have come up.

19 MR. PORTER: Again, I have to object.

20 It's irrelevant if Mr. Runyon is speaking to  
21 a County Board member concerning an entirely

22 different proposed facility in Pembroke,  
23 Illinois concerning waste tires and whether  
24 or not closed loop gasification can be used

0334

1 in regard to that facility.

2 HEARING OFFICER HALLORAN: I have been  
3 giving you a little latitude, Mr. Moran. I  
4 don't know where you're going or how far  
5 you're going on this, but I would appreciate  
6 if you would wrap it up because it's kind of  
7 going nowhere at this point in my mind, I'm  
8 sure not in yours.

9 MR. MORAN: You're right.

10 BY MR. MORAN:

11 Q. Ms. Bernard, did you have any  
12 communications with Mr. Runyon prior to March 17th  
13 of 2004?

14 MR. PORTER: And, and I hate to keep  
15 belaboring the point, but if it's regarding  
16 Waste Management's application, that's  
17 relevant and I have no objection, but asking  
18 if they've had any communications before that  
19 date is way overbroad.

20 HEARING OFFICER HALLORAN: Overruled.

21 BY THE WITNESS:

22 A. Any communications at all?

23 BY MR. MORAN:

24 Q. Yes.

0335

1 A. Yes.

2 Q. And with respect to those  
3 communications, have any of them in any way related  
4 to the proposed expansion of the Waste Management  
5 landfill?

6 A. No.

7 Q. Prior to March 17th, 2004, did you  
8 have any communication or discussions with Bruce  
9 Harrison?

10 A. I believe he did try to contact me and  
11 talk to me, but I made it very clear I am basing my  
12 decision on the evidence that was presented at the  
13 hearings.

14 Q. Did you have any conversations with  
15 him prior to March 17th?

16 A. I might have because I was right in  
17 the middle of very, very tough campaign.

18 Q. Are you saying you don't recall  
19 whether you did?

20 A. I'm pretty sure I talked to him, but  
21 the thing is, as far as the nature of the  
22 conversation, the exact words, I can't recall the  
23 exact details on that.

24 Q. So you can't recall anything about

0336

1 what he said to you or you said to him regarding the  
2 proposed expansion, is that correct?

3 A. Well, I would say generally he made it

4 clear he's an opponent of the landfill and the one  
5 thing that's sticks in my craw is that I based -- I  
6 was going to base my decision on the evidence  
7 presented, the testimony, and people can talk to me  
8 until they're blue in the face. You know, to me it  
9 was criteria two and that aquifer.

10 Q. Which aquifer?

11 A. The aquifer that the landfill would be  
12 sited over.

13 Q. This is the silurian dolomite aquifer?

14 A. Uh-huh.

15 Q. The aquifer that underlies the entire  
16 county of Kankakee?

17 A. Most of the county.

18 Q. And that was the evidence that you're  
19 referring to that you considered in ruling on  
20 criterion two?

21 MR. PORTER: I allowed some leeway  
22 because she obviously brought up the issue,  
23 but now we're asking direct questions about  
24 mental impressions.

0337

1 MR. MORAN: Well, we have on the one  
2 hand Board members being able to selectively  
3 decide what they talk about in terms of what  
4 they considered, I can't ask them, I can't  
5 follow-up. It's seems to me that there's --

6 HEARING OFFICER HALLORAN: I'm sorry.  
7 I'm having troubling understanding you.  
8 Could you qualify or clarify what you're  
9 talking about?

10 MR. MORAN: Yes. I'm talking about  
11 the fact that questions can be asked of these  
12 witnesses about what they considered or what  
13 they believed in terms of rendering their  
14 decision --

15 HEARING OFFICER HALLORAN: Well, I  
16 don't think that was as far as -- I think the  
17 questions at that time, and I'm sorry to  
18 interrupt, Mr. Moran, was did you feel  
19 threatened and I'm ruling it was state of  
20 mind at that time. I don't think there was  
21 any discussion whether that figured into  
22 their -- basing their decision on the record.  
23 That's my recollection of what transpired and  
24 also I do recall again that you had asked a

0338

1 few times of Mr. Romein regarding his state  
2 of mind regarding the letter from, I'm not  
3 sure whom, about whether he was threatened or  
4 felt intimidated and that came in as I  
5 recall, but regardless, I sustained  
6 Mr. Porter's objection and you may proceed.

7 MR MORAN: I'd like to present an  
8 offer of proof on the very question that  
9 Ms. Bernard addressed in her explanation of a  
10 discussion she had with Harrison regarding

11 criteria two.

12 MR. PORTER: Again, we've already had  
13 a ruling that we're not going to do offers of  
14 proof on questions concerning deliberative  
15 process of a Board member.

16 HEARING OFFICER HALLORAN: That's  
17 true. You can't waive the privilege and I  
18 believe that was my ruling as well.

19 BY MR. MORAN:

20 Q. Ms Bernard, am I correct in saying  
21 that your recollection of your discussion with  
22 Mr. Harrison is not such as to allow you to recall  
23 any specifics of what you said to him?

24 A. I would say that's the case except I

0339

1 know that I made my decision based on the evidence.

2 MR. MORAN: I'll move to strike that  
3 response and also the earlier responses that  
4 included that volunteered answer. That in no  
5 way was responsive to the question that I  
6 asked.

7 HEARING OFFICER HALLORAN: Could you  
8 read that back, Terry? Thank you.

9 (Whereupon, the requested  
10 portion of the record  
11 was read accordingly.)

12 HEARING OFFICER HALLORAN: Mr. Porter,  
13 any response?

14 MR. PORTER: No, none.

15 HEARING OFFICER HALLORAN: I'm going  
16 to allow it in.

17 BY MR. MORAN:

18 Q. Ms. Bernard, are you telling us that  
19 you made the statement to Mr. Harrison that your  
20 decision such as it was was based on the evidence  
21 presented in the record?

22 A. Well, I don't recall the exact words,  
23 but my response was something to the effect that I  
24 was going to make my decision based on the evidence

0340

1 that was presented at the testimony and I told you  
2 here now what that basis was.

3 Q. That basis was the silurian dolomite  
4 aquifer?

5 MR. PORTER: Again, objection.  
6 Without stepping on Mr. Halloran's toes,  
7 Ms. Bernard, I would ask that you simply  
8 answer the questions asked.

9 MS. BERNARD: Okay. All right.

10 MR. PORTER: I, again, object to the  
11 last question.

12 MR. MORAN: She keeps saying it. She  
13 keeps repeating it. We keep allowing it. I  
14 can't follow-up. I don't know how else to  
15 proceed. You've sustained it and you allowed  
16 the testimony to continue when she just  
17 agrees to continue to repeat.

18 HEARING OFFICER HALLORAN: What  
19 testimony is that, sir?  
20 MR. MORAN: The testimony that she  
21 only considered the evidence and that wasn't  
22 the question asked and that goes specifically  
23 to her state of mind specifically as it  
24 relates --

0341

1 HEARING OFFICER HALLORAN: Okay.  
2 Mr. Moran, I'll give you this: I'll go back  
3 and I'll grant your motion to strike that one  
4 answer. Very well. It was a rather  
5 convoluted question in my mind to begin with.  
6 I couldn't follow it. So where are we now?  
7 I sustained Mr. Porter's objection. Are you  
8 satisfied with your motion to strike?

9 MR. MORAN: My motion to strike was  
10 addressed to each of the instances in which  
11 she gave --

12 HEARING OFFICER HALLORAN: Well, you  
13 have to bring those up at the time and I  
14 don't recall you bringing them up at the  
15 time.

16 MR. MORAN: I've made at least two  
17 motions to strike.

18 HEARING OFFICER HALLORAN: Well,  
19 you've got to -- and you didn't allow me to  
20 rule on the one, you continued. You said I  
21 move to strike and then you continued.

22 MR. MORAN: So just so I'm clear, your  
23 motion to strike with respect to what she  
24 just indicated was granted?

0342

1 HEARING OFFICER HALLORAN: Was  
2 granted, correct.

3 BY MR. MORAN:  
4 Q. Ms. Bernard, did you have any other  
5 discussions or communications with Mr. Harrison  
6 about the proposed expansion other than what you've  
7 testified to about thus far?

8 A. Not that I can recall.

9 Q. Did you have any communications or  
10 discussions with any other person about the proposed  
11 expansion prior to March 17th of 2004 about the  
12 proposed expansion?

13 MR. PORTER: I'm going object to the  
14 extent.

15 BY MR. MORAN:  
16 Q. -- other than what we've already  
17 indicated?

18 MR. PORTER: My objection is that  
19 particular question is broad enough that it's  
20 going to get into the motion in limine  
21 material.

22 HEARING OFFICER HALLORAN: Could you  
23 read the question back, Terry?

24 (Whereupon, the requested

0343

1 portion of the record  
2 was read accordingly.)

3 HEARING OFFICER HALLORAN: At this  
4 point I'm going to overrule it and see what  
5 happens. Mr. Moran?

6 MR. MORAN: I'm sorry. I didn't hear  
7 the ruling?

8 HEARING OFFICER HALLORAN: You may  
9 proceed. I overruled Mr. Porter's objection  
10 at this time.

11 BY THE WITNESS:

12 A. Can you repeat the question, please?

13 MR. MORAN: Could you repeat it,  
14 please?

15 (Whereupon, the requested  
16 portion of the record  
17 was read accordingly.)

18 BY THE WITNESS:

19 A. Yes.

20 BY MR. MORAN:

21 Q. With whom?

22 A. I would say other County Board  
23 members.

24 Q. Other than other County Board members,

0344

1 did you have any such discussions with any persons?

2 A. Probably while I was campaigning.

3 Q. And for what office were you  
4 campaigning?

5 A. State representative.

6 Q. And during what period were you  
7 campaigning for this office?

8 A. November 2003 to March 17th, 2004.

9 Q. And during the course of your campaign  
10 you had communications or discussions with certain  
11 persons about the 2003 application?

12 MR. PORTER: I'm going to object to  
13 getting into the nature of those discussions.  
14 I think for clarity in the record this  
15 question calls for a yes or no and I guess I  
16 would allow this question, but object if  
17 you're trying to invade that -- what  
18 Mr. Halloran has already ruled upon in  
19 limine. Does that make sense?

20 HEARING OFFICER HALLORAN: I guess. A  
21 yes or no, Ms. Bernard, Mr. Moran?

22 BY THE WITNESS:

23 A. Can you repeat the question, please?

24 (Whereupon, the requested

0345

1 portion of the record  
2 was read accordingly.)

3 BY THE WITNESS:

4 A. Yes.

5 BY MR. MORAN:

6 Q. And your answer was yes?

7 A. Yes.  
8 Q. And were these individuals citizens?  
9 MR. PORTER: Again, I'm going to  
10 object. Perhaps this could be done in the  
11 offer of proof at this time. Now we're  
12 asking for elaboration as to what those  
13 communications entailed on the campaign  
14 trail.

15 MR. MORAN: I just said were they  
16 citizens.

17 HEARING OFFICER HALLORAN: That's  
18 true. So I overrule it at this time, but  
19 stand ready, Mr. Porter. You may answer.

20 BY THE WITNESS:

21 A. Yes.

22 MR. MORAN: At this point it does make  
23 sense to proceed with what I think will be  
24 the offer of proof on the matters relating to

0346

1 the statements she made during her campaign  
2 tomorrow morning. There are a number of  
3 documents and I'm not sure how you will -- if  
4 you will even allow me to present these  
5 documents in the offer of proof. I would ask  
6 to be able to do that, to go through them, to  
7 establish them, to have her testify about  
8 them and it appears -- the only reason I  
9 suggest this is obviously it appears the hour  
10 is a little late and we're all having  
11 difficulty understanding my questions and it  
12 may make sense to put this off until  
13 tomorrow.

14 MR. PORTER: As much as I would like  
15 to do that, Ms. Bernard has a conflict  
16 tomorrow and needs to finish up tonight.

17 HEARING OFFICER HALLORAN: I guess  
18 there we have it, fortunately or  
19 unfortunately. Anyway, you may proceed, Mr.  
20 Moran.

21 MR. MORAN: Thank you.

22 BY MR. MORAN:

23 Q. Ms. Bernard, did you see the signs  
24 that were posted all over the community that said no

0347

1 dump, no Chicago garbage?

2 A. Yes.

3 Q. Do you have any information as to who  
4 placed those signs at various locations throughout  
5 the community?

6 A. I would assume it would be landfill  
7 opponents.

8 Q. Do you have any information to  
9 indicate that Mr. Harrison was putting these signs  
10 all over the place?

11 A. I think he might have been.

12 Q. Did he offer to give you a sign to put  
13 on your property?

14 A. He stopped by the campaign office, I  
15 believe, or -- somebody stopped by and brought  
16 signs.

17 Q. And were those signs posted outside of  
18 your campaign office?

19 A. I think we had one.

20 MR. PORTER: I'm going to object and  
21 move to strike based on the motion in limine.

22 MR. MORAN: She was given a sign  
23 probably by Mr. Harrison, elected to put it  
24 where she thought it was appropriate. It

0348

1 seems to me that the sign and whatever it  
2 means is appropriate actions that go apart  
3 from any issue relating to prejudgement.

4 HEARING OFFICER HALLORAN: I'm going  
5 to have to agree with Mr. Porter. I'm  
6 looking at this motion in limine and what I  
7 ruled on it. It's basically any statements  
8 made by Ms. Bernard and a sign in her yard or  
9 property is a statement. So I would sustain  
10 Mr. Porter's objection. Again, you can go in  
11 an offer of proof if you so choose.

12 MR. MORAN: Well, why don't we go into  
13 the offer of proof?

14 HEARING OFFICER HALLORAN: Sounds  
15 good.

16 BY MR. MORAN:

17 Q. Ms. Bernard, did you take that sign  
18 that said no dump, no Chicago garbage and authorize  
19 its placement at your campaign headquarters?

20 A. Well, we actually had a stand sign  
21 that you put the letters on like a grocery store and  
22 my campaign had put something like that up before  
23 those other signs even came about, I believe.

24 Q. So you had this other sign, which is

0349

1 like the grocery store sign?

2 A. Right, where you put the letters.

3 Q. And what did that say?

4 A. Something like no outside garbage, no  
5 Chicago garbage. You know, it's been over a year.  
6 I don't recall the exact wording.

7 Q. And I thought you said a few moments  
8 ago that the signs that were posted about the town  
9 saying no dump, no Chicago garbage was also a sign  
10 that your campaign or you took and then placed on  
11 the property at your campaign headquarters?

12 A. Well, I believe I might have had a  
13 small lawn sign as well because when you put out  
14 political signs you have a lot of them.

15 Q. And the best of your recollection is  
16 there was one of these signs put at your campaign  
17 headquarters?

18 A. There was the big one and I think  
19 there was a small one.

20 Q. With respect to the communications

21 that you had with the citizens during your campaign  
22 that we've mentioned a little bit earlier today,  
23 these discussions related to the proposed expansion?  
24 A. I believe the discussions just related

0350

1 to landfills in general, environmental issues, other  
2 things I was running on.

3 Q. Did they relate to landfills in  
4 Kankakee County?

5 A. I mentioned some of that in my  
6 campaign literature, I believe.

7 Q. I'm talking now about your  
8 communications with the citizens.

9 A. Well, when I was knocking on doors if  
10 it came up as a topic of discussion, it was  
11 discussed, if it came up at a forum, it was  
12 discussed.

13 Q. And were you asked by any of these  
14 persons what your position was on the proposed  
15 expansion of the Waste Management landfill?

16 A. What I would tell people is what I  
17 wanted to do as a state representative in the 79th  
18 District if elected.

19 Q. And what you would say is what you  
20 intended to do with respect to the proposed  
21 expansion of the Waste Management landfill?

22 A. No. It was to do with just, you know,  
23 looking at new technologies and different things in  
24 general. The Illinois solid waste plan has called

0351

1 for things like incineration, waste reduction,  
2 alternative technologies and landfill has been, I  
3 believe, a choice of last resort if I'm not  
4 mistaken.

5 Q. Did anyone ask you what your position  
6 was on the proposed expansion of the Waste  
7 Management landfill?

8 A. You know, they might have. I knocked  
9 on so many doors.

10 Q. Well, didn't Mr. Keller ask you what  
11 your position was?

12 A. No, I don't believe so.

13 Q. You don't recall Mr. Keller asking you  
14 that?

15 A. No, I don't recall that.

16 Q. And you don't remember any person  
17 asking you at any point in time prior to the primary  
18 election what your position was on the proposed  
19 expansion of the existing Waste Management landfill?

20 A. Well, you know, it might have come up  
21 in a debate and it might have come up door to door  
22 and as far as I was concerned, once the hearings  
23 were over, I heard the evidence I needed to hear.

24 Q. What was your position on the proposed  
0352 expansion of the Waste Management landfill?

2 MR. PORTER: Sorry. I object. If

3 we're going to ask what she announced her  
4 position to be on the election trail, I think  
5 that could be done within the offer of proof,  
6 but what he's doing right now is again  
7 attempting to delve into the mental  
8 impressions of a County Board member by back  
9 dooring it in through this offer of proof.

10 HEARING OFFICER HALLORAN: Could you  
11 read that question back, Terry?

12 (Whereupon, the requested  
13 portion of the record  
14 was read accordingly.)

15 HEARING OFFICER HALLORAN: Mr. Moran?

16 MR. MORAN: It's an offer of proof.  
17 We're asking her about what her position was  
18 regarding the proposed expansion.

19 MR. HELSTEN: Well, Mr. Moran, is this  
20 an offer of proof on her position as a  
21 political candidate or are you going beyond  
22 that? Is it limited to her position as a  
23 candidate for office? I guess that was my  
24 concern when I heard the question. It seems

0353

1 sort of open ended and maybe beyond the offer  
2 of proof. If the offer of proof was just on  
3 her position as -- and her activities as a  
4 political candidate.

5 MR. MORAN: The question is designed  
6 to elicit her views or belief on the proposed  
7 expansion. It doesn't inquire as to the  
8 mental processes by which she arrived at any  
9 conclusion or arrived at her position or in  
10 any way relate to the means by which she  
11 considered whatever she considered to reach  
12 an adjudicatory decision.

13 HEARING OFFICER HALLORAN: Yeah. I  
14 don't think it right now delves into the  
15 mental processes and is still under an offer  
16 of proof. So at this time I am going to  
17 overrule Mr. Porter's objection. You may  
18 answer.

19 BY THE WITNESS:

20 A. Yeah. I had it in my campaign  
21 literature that I was opposed to the landfills in  
22 Kankakee County and making Kankakee a home for  
23 regional landfills. That was in my campaign  
24 literature.

0354

1 BY MR. MORAN:

2 Q. And that opposition was to both the  
3 proposed expansion of the Waste Management landfill  
4 and the proposed Town & Country landfill in Otto  
5 Township, is that correct?

6 A. It was even beyond that because about  
7 five years ago Van Drunnen (phonetic) tried to put  
8 ground up garbage on his farm land and Jerry Joyce  
9 has a really messy operation out on the western edge

10 of the county, there's sludge that's been spread in  
11 Pembroke. I mean, there are several operations out  
12 there, the Bauer operation.

13 MR. MORAN: Mr. Hearing Officer, if I  
14 might approach the witness?

15 HEARING OFFICER HALLORAN: You may.

16 BY MR. MORAN:

17 Q. Ms. Bernard, let me show you what we  
18 have marked as WMII Exhibit No. 4. Have you had a  
19 chance to look through it?

20 A. Yeah. I don't know which part you  
21 want me to look through.

22 Q. I guess I first just wanted you to  
23 identify WMII Exhibit No. 4 for us.

24 A. It's the IVI-IPO 2004 general assembly

0355

1 questionnaire.

2 Q. Did you prepare the responses to this  
3 questionnaire?

4 A. Yes.

5 Q. And all the responses are true and  
6 accurate?

7 A. It's my words.

8 Q. When did you prepare these answers to  
9 the questionnaire?

10 A. It says here January 2003, but that  
11 had to be 2004.

12 Q. And were the answers to the  
13 questionnaire submitted in January of 2004?

14 A. I believe it would have been some time  
15 around then.

16 Q. I'm directing your attention,  
17 Ms. Bernard, for a moment to page eight --

18 A. Yes.

19 Q. -- of Exhibit 4 the answer written to  
20 question No. 44, the first full paragraph. Could  
21 you read for us out loud the last two sentences in  
22 that first full paragraph?

23 A. This answer was in regards to the  
24 questions that said your comment should include --

0356

1 HEARING OFFICER HALLORAN:

2 Ms. Bernard, could you slow down, please?

3 Thank you.

4 BY THE WITNESS:

5 A. This answer is in response to a  
6 question that said your comments should include  
7 enforcement of pollution statutes, recycling and  
8 waste management. So the two sentences, just for  
9 clarification, it says as far as recycling and waste  
10 management, I have been an avid proponent of  
11 recycling and using cleaner alternatives such as  
12 closed loop gasification. Two regional landfills  
13 are being proposed for --

14 HEARING OFFICER HALLORAN:

15 Ms. Bernard, slow down. Thanks.

16 BY THE WITNESS:

17 A. I'm sorry. Two regional landfills are  
18 being proposed for Kankakee County and both are  
19 situated over aquifers. I oppose both proposals.  
20 Neither is environmentally sound, especially over  
21 the long term.

22 Q. And those were accurate and true  
23 statements when you made them in January of 2004?

24 A. Yes. When I was filing out the

0357

1 campaign questionnaire.

2 Q. Ms. Bernard, I'm going to show you  
3 what's been marked as WMII Exhibit No. 5. I'll ask  
4 you to take a look at that.

5 MR. PORTER: Mr. Helsten's concern is  
6 Mr. Moran is still in his offer of proof  
7 until he tells us otherwise?

8 HEARING OFFICER HALLORAN: Yes, that's  
9 my understanding.

10 MR. HELSTEN: Thank you.

11 HEARING OFFICER HALLORAN: Thank you.

12 BY MR. MORAN:

13 Q. Ms. Bernard, have you seen WMII  
14 Exhibit No. 5 before?

15 A. Yes.

16 Q. Can you tell us what it is?

17 A. It's an endorsement letter.

18 Q. And it was prepared by whom?

19 A. Leonard shakey Martin.

20 Q. And he's a fellow County Board member?

21 A. Yes.

22 Q. Are all the statements contained in  
23 this letter accurate?

24 A. I would say so.

0358

1 Q. And this article appeared on  
2 March 10th, 2004 in the Kankakee Daily Journal?

3 A. That's what it says here on the  
4 printout.

5 Q. Let me show you we've marked as WMII  
6 Exhibit No. 6. Take a look at that and then when  
7 you've completed reviewing it, if you can identify  
8 it for us.

9 A. I'm ready.

10 Q. What is it?

11 A. It's a page from my campaign web site.

12 Q. When was this prepared?

13 A. I believe 2004.

14 Q. When in 2004?

15 A. Probably January.

16 Q. Are all the statements contained in  
17 WMII Exhibit No. 6 true and accurate?

18 A. Yes.

19 MR. MORAN: Mr. Halloran, that  
20 concludes the offer of proof.

21 HEARING OFFICER HALLORAN: Okay.

22 BY MR. MORAN:

23 Q. Ms. Bernard, were you aware that the

24 county was considering an amendment to its solid  
0359

1 waste plan back in 2001 to allow for the receipt of  
2 out of county waste?

3 MR. PORTER: Objection, relevance.

4 HEARING OFFICER HALLORAN: Mr. Moran?

5 MR. MORAN: Well, we're going to an  
6 issue that relates again to her consideration  
7 of a siting application and whether her  
8 position on out of county waste in some way  
9 relates to either the 2002 application or the  
10 2003 application.

11 HEARING OFFICER HALLORAN: Mr. Porter?

12 MR. PORTER: The immediate question is  
13 concerning an amendment of the solid waste  
14 management plan, which is completely  
15 irrelevant to not only this proceeding, but  
16 actually would be irrelevant to the  
17 Section 39.2 proceeding itself and whether or  
18 not a Board member took a position in regard  
19 to that solid waste management plan should  
20 not be the subject of inquiry at a 40.1  
21 hearing. Mr. Helston has reminded me that  
22 she was sitting in her legislative capacity  
23 at that time not her judicata capacity and  
24 therefore it could not possibly relate to a

0360

1 Section 40.1 --

2 HEARING OFFICER HALLORAN: I'm going  
3 to sustain the objection. Mr. Moran, you  
4 may...

5 BY MR. MORAN:

6 Q. Ms. Bernard, do you know Mr. Michael  
7 Watson?

8 A. Yes.

9 Q. How long have you known Mr. Watson?

10 A. A few years.

11 Q. Is it your understanding that he's the  
12 owner and operator of United disposal?

13 A. He's a garbage hauler.

14 Q. Are you aware that he owns property  
15 adjacent to the area proposed to be developed for  
16 the expansion of the Kankakee landfill?

17 A. I believe he might.

18 Q. Have you had any discussions with  
19 Mr. Watson about the proposed expansion?

20 A. Not that I can recall.

21 Q. You're not denying you had any, you  
22 just don't recall having any?

23 A. I don't recall any.

24 MR. MORAN: Mr. Halloran, I have no

0361

1 more questions of this witness.

2 HEARING OFFICER HALLORAN: Thank you,  
3 Mr. Moran. Mr. Porter?

4 MR. HELSTEN: Could we have one  
5 second, Mr. Hearing officer?

6 HEARING OFFICER HALLORAN: Sure.  
7 Before we forget, Mr. Moran, I  
8 assume you're going to offer Exhibits 4, 5  
9 and 6 --

10 MR. MORAN: Yes.

11 HEARING OFFICER HALLORAN: -- before  
12 we leave tonight and we'll rule on that?  
13 Thank you. What about one, two, three and  
14 four -- one, two and three, I'm sorry?

15 MR. MORAN: I believe they're already  
16 in the record, but it seems to me it may make  
17 sense to offer them to make the record clear.

18 MR. PORTER: I missed that. I'm  
19 sorry.

20 HEARING OFFICER HALLORAN: We were  
21 just talking about possible exhibits coming  
22 up.

23 MR. PORTER: Mr. Halloran, the only  
24 redirect I have would be a redirect within

0362

1 the offer of proof. Other than that, I have  
2 no questions and so if we're going to follow  
3 the format we have before, I have a few  
4 questions to ask under the offer of proof.

5 HEARING OFFICER HALLORAN: I know  
6 Mr. Moran's stance on it, but I would ask you  
7 to proceed with your redirect within the  
8 offer of proof.

9 D I R E C T E X A M I N A T I O N

10 by Mr. Porter

11 Q. Mr. Moran brought up your legislative  
12 questionnaire. Isn't it true that you drafted that  
13 questionnaire after you had already been through  
14 Waste Management's siting hearing regarding the  
15 first application?

16 A. You mean the first one?

17 Q. Correct.

18 A. Oh, yeah, yeah, that was way after.

19 Q. And so you had drawn your conclusions  
20 about closed loop gasification -- well, strike that.

21 At the second hearing you had  
22 heard Mr. Moran reference that the applications were  
23 very similar between the first and second, is that  
24 correct?

0363

1 A. Uh-huh.

2 Q. Is that yes?

3 A. Yes. I'm sorry.

4 Q. And so when you drafted this  
5 questionnaire response you had already drawn some  
6 conclusions concerning Waste Management's first  
7 application, actually you had voted against it, is  
8 that right?

9 A. See, I don't have the roll call sheet.  
10 I went to look for it and it was missing, but I  
11 clearly recall voting against criteria two and I'm  
12 almost positive I voted against criteria eight,

13 which both addressed public health and safety and  
14 the aquifer.

15 Q. Actually, criteria eight is the  
16 consistency with the solid waste management --

17 A. Right, but the solid waste management  
18 plan does not -- it prohibits landfills from being  
19 built over an aquifer.

20 Q. Okay. Likewise, when you drafted your  
21 web pages, you had already been through the entire  
22 first siting hearings, correct?

23 A. Yes.

24 Q. And you, according to Mr. Moran's  
0364

1 statement, understood that the second application  
2 was similar, is that right?

3 A. He said it was essentially the same  
4 with some updates.

5 Q. And were you also aware that the  
6 record regarding Waste Management's first  
7 application was introduced and admitted in the  
8 second hearing?

9 A. I can't recall on that.

10 Q. Now, did you keep an open mind through  
11 the close of evidence of the second application?

12 A. Yes.

13 MR. MORAN: Objection. I mean, it's  
14 an offer of proof. Technically there  
15 shouldn't be objections, but there have been  
16 and I'm not going to let a question like that  
17 --

18 HEARING OFFICER HALLORAN: Yeah. I'll  
19 sustain Mr. Moran's objection.

20 MR. PORTER: I have nothing further  
21 unless you do.

22 HEARING OFFICER HALLORAN: Mr. Moran,  
23 I guess do you have any redirect within the  
24 offer of proof?

0365

1 R E D I R E C T E X A M I N A T I O N  
2 by Mr. Moran

3 Q. Ms. Bernard, are you saying that you  
4 prepared your statements in WMII Exhibit 4 in which  
5 you indicated that you were opposed to the proposed  
6 expansion of the Waste Management landfill based  
7 upon the evidence presented for the first  
8 application in 2002?

9 A. Well, again, this was a campaign  
10 document being prepared and it says it right here,  
11 they're being situated over the aquifers and that's  
12 an irrefutable fact with the application and when  
13 they asked me to answer this with the campaign, I  
14 put it down right as it was.

15 Q. Mr. Porter asked you if that statement  
16 was prepared after you had an opportunity to  
17 consider the first siting application, do you recall  
18 that question?

19 A. I believe I do.

20 Q. And your answer, I believe, was yes,  
21 wasn't it?

22 A. That I prepared this after the first  
23 siting application?

24 Q. And after you considered what was  
0366 presented in the first siting application?

2 A. Yes, yes.

3 Q. So is it accurate to say that your  
4 preparation of this statement was based upon your  
5 review of the first siting application?

6 A. You know, it was based -- the only way  
7 I could answer that is the fact that it was being  
8 situated over an aquifer and the same thing with  
9 Town & Country, that actually was being built into  
10 an aquifer or excavated into it is my understanding.

11 Q. So is that the complete answer to the  
12 question about how you may or may not have taken the  
13 first application into account when you prepared  
14 this statement?

15 A. Well, when I took this into the  
16 account -- I'm sorry. When I wrote this statement I  
17 had already voted against Waste Management one and  
18 the expansion was to be sited over the aquifer. It  
19 all boils down to that and the Town & Country is  
20 also being built over the aquifer and this was done  
21 in 2004 and we had voted on Waste Management one in  
22 2003.

23 Q. So have you now explained to us what  
24 the basis was for your preparation of that statement  
0367 in WMII Exhibit No. 4?

2 A. I believe that would be right. I  
3 believe it would be on Waste Management one and  
4 Town & Country.

5 Q. When you say Waste Management one,  
6 you're talking about the first siting application?

7 A. The first siting application. I'm  
8 unclear as to what the dates were for the second  
9 hearing.

10 MR. MORAN: Nothing further.

11 MR. PORTER: No follow-ups.

12 HEARING OFFICER HALLORAN: No?

13 MR. PORTER: No.

14 HEARING OFFICER HALLORAN:

15 Ms. Bernard, you may step down. Thank you so  
16 much.

17 Before we get into the exhibits, I  
18 just want to note that I find that there are  
19 no credibility issues with the ten witnesses  
20 that testified here today.

21 I think Mr. Porter when you were  
22 conversing with Mr. Helsten I got Mr. Moran's  
23 ear and I was asking him about the exhibits,  
24 one through six. Mr. Moran, one, two and  
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1 three, what were your plans on that, which I

2 do not have at the time?  
3 MR. MORAN: If we could make copies of  
4 those and submit those. Those are basically  
5 letters that are already in the record, but  
6 for purposes of making this record a little  
7 bit cleaner, it may make sense to offer them  
8 and have them made part of this transcript.  
9 MR. PORTER: I didn't do that when I  
10 got up and showed that they had been supplied  
11 to the county recorder, but -- so I think  
12 it's redundant to be admitting then again.  
13 Nonetheless he's had them marked. I don't  
14 care.  
15 HEARING OFFICER HALLORAN: All right.  
16 So you'll get the copies to me tomorrow?  
17 MR. MORAN: Yes.  
18 HEARING OFFICER HALLORAN: Exhibits 1,  
19 2 and 3?  
20 As to Exhibits 4, 5 and 6 that  
21 were presented during the offer of proof?  
22 MR. MORAN: Yes. We would present  
23 those as well as part of the offer of proof.  
24 HEARING OFFICER HALLORAN: Okay.

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1 Mr. Porter?  
2 MR. PORTER: It's an offer of proof  
3 and it doesn't involve mental impressions  
4 so...  
5 HEARING OFFICER HALLORAN: I'll take  
6 it with the case as an offer of proof, those  
7 are Exhibits 4, 5 and 6.  
8 Mr. Bruck, I haven't forgot about  
9 you, actually I did, but I saw you standing  
10 up. Do you want to come on up and make a  
11 comment or --  
12 MR. BRUCK: Comment.  
13 HEARING OFFICER HALLORAN: You want to  
14 make a comment? Okay. You're already under  
15 oath, but you just want to make a comment  
16 right now?  
17 MR. BRUCK: Right. Public comment, no  
18 cross-examination. I'm too tired for that.  
19 Earlier there was discussion about  
20 picketing. I would just like to note for the  
21 record that there was also picketers out  
22 there in favor of the Waste Management  
23 landfill and I can determine that because I  
24 saw their signs picketing in favor of the

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1 dump and I asked them who they were and they  
2 said they were Waste Management employees and  
3 they said they had been told that if the  
4 expansion didn't happen, that they were going  
5 to lose their jobs and so they were out there  
6 picketing in favor of the dump and that has  
7 not been mentioned to this point.  
8 HEARING OFFICER HALLORAN: Thank you,

9 Mr. Bruck. Have a safe drive home.  
10 I guess with that, any other  
11 issues or are there any issues or something  
12 we need to talk about before tomorrow morning  
13 at 9:00 a.m.?

14 MR. MORAN: There are three more  
15 exhibits we'd like to present. They're  
16 basically the roll call votes from January  
17 31, 2003, March 17, 2004 around April 13,  
18 2004, none of which are in this record. In  
19 addition, we have the evidence depositions of  
20 Lisa Latham Waskosky and Douglas Graves,  
21 which were taken last week and those  
22 transcripts are also ready to be submitted  
23 and made part of this record. I guess the  
24 question is with regard to the evidence

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1 depositions, do we need to mark those as  
2 exhibits, I suppose hearing officer exhibits,  
3 or simply submit them as evidentiary  
4 transcripts?

5 HEARING OFFICER HALLORAN: I always  
6 like to put an exhibit on them, either  
7 hearing officer or Waste Management exhibit.

8 MR. MORAN: We could mark them or  
9 you --

10 HEARING OFFICER HALLORAN: I could  
11 mark them as Hearing Officer Exhibit -- what  
12 is it, 10, 11 and 12?

13 MR. PORTER: That's probably most  
14 appropriate because I have redirect as well.

15 MR. MORAN: No, it wouldn't be 10, 11  
16 and 12, would it?

17 HEARING OFFICER HALLORAN: You were  
18 going to do 7, 8 and 9?

19 MR. MORAN: You're talking about  
20 hearing officer exhibits?

21 HEARING OFFICER HALLORAN: I'm sorry.  
22 Two, three and four. I'm sorry. You're  
23 absolutely right.

24 Is there any objection to that,

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1 Mr. Porter, for the evidence depositions, Hearing  
2 Officer Exhibits 2, 3 --

3 MR. PORTER: No objection to the  
4 evidence depositions.

5 HEARING OFFICER HALLORAN: Hearing  
6 Officer Exhibits 2 and 3 evidence depositions are  
7 admitted without objection.

8 MR. PORTER: As to the other exhibits,  
9 I've already told Mr. Moran I did not have an  
10 objection, however, in regard to the April 13  
11 vote, I object, it's after the March 17th  
12 decision date.

13 HEARING OFFICER HALLORAN: Is this the  
14 roll call?

15 MR. PORTER: Correct. And I guess

16 while I'm on the topic, I also object to the  
17 January 31st, 2003 vote consistent with my  
18 prior objections. I have no objection to the  
19 March 17th, 2004 roll call.

20 HEARING OFFICER HALLORAN: Okay. Just  
21 a minute ago you didn't have an objection to  
22 7 and 8 and only 9, but now you have an  
23 objection to 7 and 9.

24 MR. PORTER: I apologize.

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1 HEARING OFFICER HALLORAN: No need to.  
2 Mr. Moran, any response to Mr. Porter's  
3 objections to 9 and 7 regarding the  
4 April 13th, 2004 and January 31st roll call?

5 MR. MORAN: Well, certainly with  
6 respect to our contention that there was no  
7 basis or reasonable basis for the change or  
8 reversal of vote on what amounts to the same  
9 siting application over a 14-month period we  
10 believe the roll call vote of January 31st is  
11 both relevant and important. With respect to  
12 the April 13th, 2004 roll call, it relates to  
13 a matter which was considered and rendered  
14 the March 17th order or decision of the  
15 County Board and not a final one until there  
16 was final disposition on the application.  
17 That April 13th decision was the final  
18 determination which made that decision  
19 denying the site location.

20 HEARING OFFICER HALLORAN: Okay. As I  
21 indicated earlier, what I'm going to do with  
22 these -- I'm going to accept, over objection,  
23 Exhibit No. 7. I'll accept Exhibit No. 8  
24 into evidence without objection. I will

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1 sustain Mr. Porter's objection on Exhibit  
2 No. 9 regarding the April 13th, 2004, but I  
3 will take it with the case as an offer of  
4 proof. I hope the record reflects that. I  
5 was speaking kind of quickly. Sorry. Did  
6 you give me the evidence depositions?

7 MR. MORAN: Not yet.

8 HEARING OFFICER HALLORAN: Okay. We  
9 can wait until tomorrow if you'd like.

10 MR. MORAN: I have them.

11 HEARING OFFICER HALLORAN: As far as  
12 the evidence depositions, Mr. Porter brought up  
13 another --

14 MR. MORAN: I have the -- I have them  
15 all and there are three because we have  
16 agreed on Pamela Lee's discovery deposition  
17 as being submitted as part of this  
18 proceeding. So what I'm tendering are the  
19 evidence depositions of Lisa Latham Waskosky  
20 and Douglas Graves and the discovery  
21 deposition transcript of County Board Pamela  
22 Lee, which the parties have agreed to submit

23 in lieu of her appearance at the hearing.  
24 HEARING OFFICER HALLORAN: So Lisa

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1 Latham and Douglas Graves, these are both  
2 evidence deps, correct?

3 MR. PORTER: Correct.

4 HEARING OFFICER HALLORAN: Those are  
5 admitted without objection and they will be  
6 marked as Hearing Officer Exhibit 2 for Lisa  
7 Latham and Hearing Officer Exhibit 3 for  
8 Douglas Graves and the discovery dep, I hear  
9 no objection, of Pamela Lee. That will be  
10 admitted as Hearing Officer Exhibit 4. All  
11 right. Go home.

12 MR. PORTER: Thank you.

13 MR. MORAN: Thank you.

14 HEARING OFFICER HALLORAN: Thank you.  
15 We're off the record.

16 (Whereupon, the proceedings  
17 were continued to April  
18 7th, 2005.)  
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21  
22  
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1 STATE OF ILLINOIS )  
2 ) SS.  
3 COUNTY OF W I L L )  
4  
5

6 I, TERRY A. BUCHANAN, CSR, do  
7 hereby state that I am a court reporter doing  
8 business in the City of Chicago, County of Cook, and  
9 State of Illinois; that I reported by means of  
10 machine shorthand the proceedings held in the  
11 foregoing cause, and that the foregoing is a true  
12 and correct transcript of my shorthand notes so  
13 taken as aforesaid.  
14  
15

16 \_\_\_\_\_  
17 Terry A. Buchanan, CSR  
18 Notary Public, Will County, Illinois  
19

20 SUBSCRIBED AND SWORN TO  
21 before me this \_\_\_ day  
22 of \_\_\_\_\_, A.D., 2005.

23 \_\_\_\_\_  
24 Notary Public