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ILLINOIS POLLUTION CONTROL BOARD
May 17, 2007

CITY OF CHICAGO DEPARTMENT)	
OF ENVIRONMENT,)	
)	
Complainant,)	
)	
vs.)	AC 06-40
)	
JOSE R. GONZALEZ,)	
)	
Respondent.)	

TRANSCRIPT OF PROCEEDINGS held in the
above-entitled cause before Hearing Officer
Bradley P. Halloran, called by the Illinois Pollution
Control Board, pursuant to notice, taken before
MARGARET R. BEDDARD, CSR, a notary public within and
for the County of Kane and State of Illinois, at the
James R. Thompson Center, 100 West Randolph Street,
Room 11-512, Chicago, Illinois, on the 17th day of
May, A.D., 2007, commencing at 9:03 a.m.

1 PRESENT:

2 MR. BRADLEY P. HALLORAN, Hearing Officer,
3 ILLINOIS POLLUTION CONTROL BOARD,
4 (100 West Randolph Street, Suite 11-500,
5 Chicago, Illinois 60601),

6 MS. JENNIFER A. BURKE, and
7 MR. GRAHAM G. McCAHAN,
8 CITY OF CHICAGO,
9 (30 North LaSalle Street, Room 900,
10 Chicago, Illinois 60602),

11 appeared on behalf of the Complainant;

12 MR. JEFFREY J. LEVINE,
13 JEFFREY J. LEVINE, P.C.,
14 (20 North Clark Street, Suite 800,
15 Chicago, Illinois 60602),

16 appeared on behalf of the Respondent.

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19 REPORTED BY MARGARET R. BEDDARD, CSR.

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I N D E X

WITNESS	DX	CX	RDX	RCX
CHRIS ANTONOPOULOS				
By Mr. McCahan	5		77, 97	
By Mr. Levine		20		83, 98
JOSE R. GONZALEZ				
By Mr. Levine	101		136	
By Ms. Burke		127		

E X H I B I T S

NUMBER	FIRST REFERENCED	RECEIVED
Complainant's Exhibit		
No. A	8	
No. B	134	136
No. C	13	16

1 HEARING OFFICER HALLORAN: Good morning. My
2 name is Bradley Halloran. I'm a hearing officer at
3 the Illinois Pollution Control Board. I'm also
4 assigned to this matter entitled City of Chicago,
5 Complainant, versus Jose R. Gonzalez. It's
6 documented at the Board as AC 6-40. This matter is
7 also related to AC 6-31, AC 6-41 --

8 MR. LEVINE: 39. You said 31.

9 HEARING OFFICER HALLORAN: I'm sorry.
10 -- 39, and AC 7-25.

11 This hearing was commenced on May 9, and it
12 has been continued on record until today, May 17,
13 2007. It's approximately 9:00 a.m. We're still in
14 the Complainant's case in chief.

15 Ms. Burke or Mr. McCahan?

16 MR. McCAHAN: Good morning. Mr. McCahan for the
17 City of Chicago.

18 MS. BURKE: Jennifer Burke for the City of
19 Chicago.

20 MR. LEVINE: And Jeffrey Levine for Respondent
21 Jose R. Gonzalez.

22 HEARING OFFICER HALLORAN: Okay. If the witness
23 would, please, raise his right hand, the court

24 reporter will swear you in.

5

1 (WHEREUPON, the witness was duly
2 sworn.)

3 CHRIS ANTONOPOULOS,
4 called as a witness herein, having been first duly
5 sworn, was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. McCAHAN:

8 Q. Could you please state your name for the
9 record.

10 A. Chris Antonopoulos.

11 Q. And what position do you have at the City
12 of Chicago?

13 A. I'm an environmental investigator.

14 Q. And when did you start working for the City
15 of Chicago?

16 A. November '05.

17 Q. And what department are you in?

18 A. Department of Environment.

19 Q. What work experience did you have prior to
20 joining the Department of Environment?

21 A. I worked for an environmental company
22 called Heritage Environmental for seven years during

23 which time I -- some of my duties were I was a field
24 chemist, along with a lab chemist. And I also

6

1 received a certificate of achievement for record
2 training, and also I was put through a training
3 course for HAZWAP and OSHA.

4 Q. And have you received any other training or
5 certifications since that time while you've been
6 employed for the City?

7 A. Yes. With the City I went through a
8 training class also, a state certification class.
9 The terminology I think on the certificate is solid
10 waste inspector. And I achieved that in August of
11 '06. I also, again, went through a refresher course
12 for HAZWAP awareness and OSHA awareness. Also, I'm
13 certified in smoke training -- smoke school training,
14 opacity reads.

15 Q. And what's your educational background?

16 A. I have a bachelors in biology.

17 Q. And where is that from?

18 A. The University of Wyoming.

19 Q. What are your duties at the Department of
20 Environment?

21 A. I respond to complaints. I also do

22 investigations for permitted facilities, recyclers,
23 junkyards, things of that nature.

24 Q. On March 22, 2006, did you visit the site

7

1 at 1601 East 130th Street in connection with your
2 duties as an inspector?

3 A. Yes, I did.

4 Q. Why did you visit 1601 East 130th Street on
5 March 22, 2006?

6 A. I was instructed to do so by my supervisor.

7 Q. And who was the supervisor?

8 A. My supervisor was Stan Kaehler.

9 Q. And about what time of day was that when
10 you were instructed to go to the site?

11 A. I would say late morning.

12 Q. And did you go to the site with anyone
13 else?

14 A. Yes, I did. I went with John Kryl, our
15 director of inspectors.

16 Q. What did you do when you arrived at
17 1601 East 130th Street?

18 A. We -- Well, John and I went inside the
19 property and started documenting all of the waste
20 piles that we saw on site.

21 Q. And just to step back a second, do you know
22 why Stan Kaehler requested that you go out to the
23 site that day?

24 A. He said Raphael was needing assistance out

8

1 there at the site, so he asked me to go and also John
2 Kryl.

3 Q. And when you got to the site, how did you
4 get on the site on March 22, 2006?

5 A. We had to walk around the gate over a berm.

6 Q. Okay. And how else -- Did you see any
7 other way to get on the property if you were in a
8 motor vehicle that day?

9 A. Not at that time. There was a gate.
10 However, it was closed at the time.

11 Q. And was the gate locked?

12 A. I believe it was locked, yes.

13 Q. Was there anybody else on the site when you
14 got there on March 22?

15 A. It was just John and I at that time.

16 Q. What did you do once you gained access to
17 the site?

18 A. We started off just going up and down
19 taking pictures and documenting the different waste

20 piles that we saw. And then a little later I did a
21 site sketch of everything that was there.

22 Q. I'm going to direct your attention to what
23 has been admitted as Exhibit A.

24 MR. LEVINE: I don't think it's been admitted in

9

1 this case. I may be wrong.

2 MS. BURKE: I think it was.

3 HEARING OFFICER HALLORAN: Yes, it was.

4 MR. LEVINE: Okay.

5 HEARING OFFICER HALLORAN: Over objections.

6 MR. LEVINE: Okay.

7 BY MR. McCAHAN:

8 Q. If I could direct your attention to the
9 site sketch that you just referenced.

10 MR. LEVINE: What page is that?

11 MR. McCAHAN: On page 8.

12 BY MR. McCAHAN:

13 Q. Is that site sketch a true and accurate
14 depiction of what you observed at 1601 East
15 130th Street on March 22, 2006?

16 A. Yes, it is.

17 Q. And if I could direct your attention to the
18 photos on pages 9 through 22. If you can take a

19 moment to look at those.

20 A. Okay.

21 Q. Are those photos true and accurate
22 depictions of what you observed at 1601 East
23 130th Street on March 22, 2006?

24 A. Yes, they are.

10

1 Q. Once you got on the site, please describe
2 what you and Mr. Kryl did.

3 A. Well, we decided to document all the waste
4 piles. Like I said, there was multiple waste piles.
5 Exactly how many piles there were I'm not exactly
6 sure. Some of the piles contained construction and
7 demolition debris, like wood and stone and bricks.
8 There was also scrap metal commingled with some of
9 the piles, PVC piping. Used tires were also observed
10 out there. I don't know if I said big chunks of
11 concrete, but those were out there also. Some street
12 signs were out there also. That's about it.

13 Q. And so you -- You drew the site sketch and
14 then you documented -- you took photos?

15 A. Yes. I took photos of all the piles and
16 did --

17 MR. LEVINE: Objection. Asked and answered.

18 Objection. Narrative. It's not really a question.

19 HEARING OFFICER HALLORAN: Do you want to
20 rephrase, please?

21 MR. McCAHAN: Sure.

22 BY MR. McCAHAN:

23 Q. What did you do after taking the pictures?

24 A. I did a site sketch of the site itself and

11

1 describing where the piles were in relation to the
2 lot.

3 Q. And did you do anything else on the site
4 that day?

5 A. That was it. That was my main objective --
6 or my main focus out there was to go down there and
7 take pictures and perform a site sketch. And then
8 later I also did some of the narrative.

9 Q. And which portions of the narrative did you
10 write? And this is in Exhibit A.

11 HEARING OFFICER HALLORAN: This is Complainant's
12 Exhibit A, for the record.

13 THE WITNESS: "After gathering all information
14 and meeting," et cetera -- These last two paragraphs.

15 BY MR. McCAHAN:

16 Q. Thank you.

17 And were there any other things on the site
18 that you observed that day that you thought might be
19 a violation?

20 A. The berm itself that surrounded the
21 property I thought could have been a violation. The
22 berm was -- consisted of waste. There was also
23 evidence of scavenging that I saw. There was some
24 remnants of what appeared to be open burning. There

12

1 was some ashes.

2 Q. And when you say there's evidence of
3 scavenging, what do you mean?

4 A. It looked like there was wire -- insulation
5 wire trying to be stripped off to get access to the
6 copper wiring underneath.

7 Q. On March 24, 2006, two days later, did you
8 perform a follow-up visit to 1601 East 130th Street
9 in connection with your duties as an inspector?

10 A. Yes, I did.

11 Q. Why did you visit 1601 East 130th Street on
12 March 24, 2006?

13 A. Again, my supervisor Stan Kaehler was
14 driving by. He saw some activity inside the lot. He
15 thought maybe there was some more dumping going on

16 inside the --

17 MR. LEVINE: Objection to "more dumping."

18 There's never been any testimony of prior dumping.

19 HEARING OFFICER HALLORAN: Overruled.

20 You may answer.

21 THE WITNESS: So he asked myself, along with Ed
22 Collins, to go down back to the site and investigate
23 further.

24 BY MR. McCAHAN:

13

1 Q. I have here what has been marked as
2 Complainant's Exhibit C for identification purposes.

3 Can you take a look at the pages contained
4 after this C tab and tell me what this is.

5 A. We're looking at another site sketch of the
6 site at 1601 East 130th Street, and then we have some
7 pictures here. Some of the areas have been cleaned
8 of the waste from the prior inspection. I don't know
9 if they were moved somewhere else or if they were
10 loaded and taken off site.

11 Q. Let me interrupt you for one second.

12 A. Sure.

13 Q. Generally, how would you describe the
14 totality of the documents contained in Exhibit C?

15 What is this?

16 A. This is a report. This is the Department
17 of Environment official report that we do for each
18 inspection.

19 Q. I'll just have you leaf through that.

20 A. Okay.

21 Q. And did you prepare this report that has
22 been marked as Complainant's Exhibit C as part of
23 your job duties as an inspector for the Department of
24 Environment?

14

1 A. Yes, I did.

2 Q. Did you prepare this report at or about the
3 time of the inspection?

4 A. Yes, I did.

5 Q. As part of its regular course of business,
6 does DOE require its inspectors to prepare such
7 inspection reports after a site inspection?

8 A. Yes.

9 Q. Is this a true and accurate copy of the
10 inspection report that you prepared for your
11 March 24, 2006, inspection of 1601 East 130th Street?

12 A. Yes, it is.

13 Q. Did you draw the sketch on page 63 of

14 Complainant's Exhibit C?

15 A. Yes, I did.

16 Q. Is this a true and accurate sketch of what
17 you saw on March 24, 2006?

18 A. Yes, it is.

19 Q. Did you take the photos on pages 64 through
20 70 of Exhibit C during your site visit at 1601 East
21 130th Street on March 24, 2006?

22 A. Yes, I did.

23 Q. Are these true and accurate representations
24 of what you saw on March 24, 2006?

15

1 A. Yes, they are.

2 MR. McCAHAN: I'd like to admit Exhibit C into
3 evidence.

4 MR. LEVINE: I have to state objections toward
5 the ordinary course of business. That's my
6 objection.

7 BY MR. McCAHAN:

8 Q. Is it -- Are these documents that are part
9 of Exhibit C stored -- kept and stored at DOE as part
10 of the regular course of business?

11 A. Yes, they are.

12 MR. McCAHAN: Like to admit Exhibit C into

13 evidence.

14 MR. LEVINE: My only objection would be as to
15 completeness, that the field notes that we've heard
16 about are not included. These are just portions of
17 the investigation record.

18 HEARING OFFICER HALLORAN: We're going to go off
19 the record for a minute.

20 (WHEREUPON, discussion was had
21 off the record.)

22 HEARING OFFICER HALLORAN: Okay. The
23 Complainant's have moved for admission of
24 Complainant's Exhibit No. C.

16

1 Mr. Levine, your objection was again?

2 MR. LEVINE: It was to completeness. There were
3 no field notes included. And I'm not sure these are
4 the complete records of the investigation.

5 HEARING OFFICER HALLORAN: Okay. I'm willing to
6 allow Exhibit C into admission -- to be admitted into
7 evidence over Mr. Levine's objection, and the Board
8 can weigh it accordingly. Exhibit C is admitted.

9 (WHEREUPON, Complainant's Exhibit
10 No. C was offered and received in
11 evidence.)

12 HEARING OFFICER HALLORAN: Also, for the record,
13 we are skipping over Exhibit B, which there is
14 nonexistent at this time. So this is Exhibit C we're
15 talking about from pages 62 to 70.

16 You may proceed, Mr. McCahan.

17 BY MR. McCAHAN:

18 Q. When you arrived at 1601 East 130th Street
19 on March 24, 2006, what did you do?

20 A. We -- Ed and I first gained access to the
21 site, again, by going around the berm -- going over
22 the berm. We attempted to talk to some of the
23 workers that were there on site. I think there was
24 about six of them at the time. We were trying to get

17

1 some more information to exactly where the material
2 came from, where the intentions were to send it, if
3 they were intending to do so. We also took pictures
4 of new material that appeared from the last
5 inspection. We also did another site sketch.

6 Q. When you say you went over the berm, did
7 you -- how did you get over the berm?

8 A. We had to walk, traverse, over the berm.

9 Q. And why is that?

10 A. The gate was locked again.

11 Q. And how was it locked?

12 A. With a padlock or a combination lock.

13 Q. And there was no other way you could drive
14 on to the site?

15 A. That's correct.

16 Q. When you say -- You said you observed new
17 material on the site. What do you mean by that?

18 A. There appeared to be new material next to
19 the suspect's CTA material. If I could refer to this
20 site sketch right here, I'm referring to this area
21 right over here. I'm saying it looked new because it
22 was dryer. It had a different color to it. And that
23 material was not there from the inspection on the
24 22nd.

18

1 Q. And on your site sketch what number is --
2 are you referring to?

3 A. Number 13 and number 14.

4 Q. And is that depicted in the photos numbered
5 as such?

6 A. Yes, sir, it is.

7 Q. On the photos on 13 and 14, what appears to
8 be new material in those photos?

9 A. This appears to be waste material

10 consisting of concrete and -- chunks of concrete,
11 asphalt, bricks, dirt, and wood. Also, there was
12 some piping in there. Again, like I said, this
13 material was not here from the previous inspection on
14 March 22.

15 Q. What were the people doing on the site?

16 A. They were operating machinery -- heavy
17 machinery, moving piles around. Some laborers were
18 manually sifting and sorting through some of the
19 piles. It looked like they were segregating some of
20 the material out. Later in this investigation Ed and
21 I witnessed --

22 MR. LEVINE: Objection to the narrative as to,
23 "Later in the investigation."

24 HEARING OFFICER HALLORAN: Mr. McCahan.

19

1 BY MR. McCAHAN:

2 Q. What did you -- After you took the photos,
3 what did you do next?

4 A. After we took the photos, we did the site
5 sketch. We tried to, like I said, make contact --
6 tried to talk with the people on the site. And then
7 we pretty much left after that. We drove down the
8 road a little bit and staked out the facility for

9 about 15 to 20 minutes. The goal of that was to see
10 if anybody was going to leave the site or perhaps
11 maybe try to enter the site.

12 Q. And what did you observe at that time?

13 A. 15 minutes later we observed an E. King
14 dump truck drive up to the gate. Then we observed a
15 representative from E. King that was on the site
16 drive in his truck up to the gate, open the gate,
17 unlock the gate, and let the truck in.

18 Q. And what -- Did you observe what the dump
19 truck did once it was on the site?

20 A. Yes. The dump truck pulled into the back
21 of the facility and then was loaded up with
22 construction -- demolition debris and waste. Exactly
23 what piles were being loaded up I couldn't say.

24 Q. And how do you know that the person who

20

1 unlocked the gate was from E. King? Why do you say
2 that?

3 A. There was a white truck, and there was red
4 lettering on the side that "E. King" on it.

5 MR. McCAHAN: Thank you.

6 Nothing further.

7 HEARING OFFICER HALLORAN: Mr. Levine?

8 MR. LEVINE: Thank you.

9 CROSS-EXAMINATION

10 BY MR. LEVINE:

11 Q. Chris, do you remember me?

12 A. Yes, sir, I do.

13 Q. How are you today?

14 A. Good. How are you doing?

15 Q. Good to see you.

16 A. Good to see you.

17 Q. Chris, you know I represent Jose Gonzalez,
18 correct?

19 A. Correct.

20 Q. And your job is to determine where the
21 waste came from, correct, as an investigator?

22 A. Yes.

23 Q. Okay. And why were you called to the site?
24 Do you know?

21

1 A. Why was I called to the site? I was
2 instructed to show up on the site from my supervisor
3 Stan Kaehler.

4 Q. Well, wasn't Raphael there?

5 A. He was also there, yes.

6 Q. Why did he need help from you?

7 A. I don't know.

8 Q. Okay. Who was running the investigation on
9 that day -- the first initial day you got there?

10 A. Raphael.

11 Q. Was Mr. Kaehler or Mr. Kryl directing the
12 investigation?

13 A. No.

14 Q. Do you know why Raphael was taken off the
15 investigation the next day?

16 A. I don't know.

17 Q. Do you have any idea why?

18 A. No.

19 Q. Do you think he did a competent job of the
20 investigation?

21 A. Yes.

22 Q. Did you do a competent job of the
23 investigation?

24 A. Yes.

22

1 Q. Was any effort made to contact E. King
2 after the initial day on the site?

3 A. Not by me.

4 Q. Was it made by anyone from the Department
5 of Environment?

6 A. Not that I know of.

7 Q. And why was that, sir?

8 A. I just don't know. Maybe there was.

9 Q. Okay. Well, was there any that you were
10 aware of, sir?

11 A. No.

12 Q. Okay. Was there any effort to contact
13 anyone at Paschen after the first day on the site?

14 A. Not by me.

15 Q. Was there any effort made by anyone that
16 you're aware of?

17 A. Not that I'm aware of.

18 Q. And do you think, as we sit here today,
19 that a more thorough investigation should have been
20 done?

21 A. I don't know.

22 Q. Well, sir, do you remember when I asked you
23 that question on -- when did I ask you that
24 question -- February 15, 2007, at your deposition?

23

1 A. That was over a month ago. I really don't
2 know exactly.

3 Q. Well, did you tell the truth at your
4 deposition?

5 A. Yes, I did.

6 Q. Okay. Were you asked the following
7 question, and did you give the following answer on
8 page 51:

9 "Question: What would your opinion be of the
10 investigator who performed the lead
11 investigation job being aware that CTA
12 material was required to be stored in boxes
13 from the CTA brought here by E. King under
14 Paschen's general contracting work and
15 was not" --

16 HEARING OFFICER HALLORAN: Mr. Levine, could you
17 slow down.

18 MR. LEVINE: I'm sorry.

19 BY MR. LEVINE:

20 Q. -- "stored in boxes from the CTA, brought
21 here by E. King under Paschen's general
22 contracting work, and was not done?"

23 "Answer: It would. My opinion would be that I
24 don't think that's how, you know -- I think

24

1 maybe a more thorough investigation should
2 be done. I think more questions should have
3 been answered. I'm not saying this hasn't

4 happened. Maybe it has. But my knowledge
5 personally I don't know that."

6 Were you asked that question and gave that
7 answer, sir?

8 A. Yes, sir.

9 Q. Okay. So you believe that a more thorough
10 investigation should have been done?

11 A. Correct.

12 Q. Why?

13 A. Well, we just didn't have all the facts at
14 the time.

15 Q. What facts, sir?

16 A. Well, what the case was about. We didn't
17 know where the material came from, where it was
18 going. We just needed to get some more
19 information -- gather as much information as
20 possible.

21 Q. Do you feel comfortable charging
22 individuals and entities with violations when an
23 adequate investigation in your opinion has not been
24 performed?

25

1 A. No.

2 Q. Okay. If you were to do this type of

3 investigation, is it your opinion that you'd be
4 remiss in your duties?

5 A. Yes.

6 Q. Now, I think we also talked about you had
7 previously spoken -- or at some point spoken with
8 Raphael regarding Mr. Gonzalez, correct?

9 A. Correct.

10 Q. And did Mr. -- Did Raphael have -- When I
11 say Raphael, I'm talking about Raphael Maciel,
12 correct?

13 A. Correct.

14 Q. And did Raphael -- Did you later learn that
15 Raphael Maciel had prior dealings with Mr. Gonzalez?

16 A. Yes.

17 Q. And did he talk about his opinion of
18 Mr. Gonzalez to you?

19 A. Yes.

20 Q. And what was his opinion of Mr. Gonzalez?

21 A. He said that he didn't think Mr. Gonzalez
22 operated his business in a professional manner or a
23 professional way.

24 Q. And did he also believe that Mr. Gonzalez

1 could not be trusted?

2 A. That's correct.

3 Q. Now, do you think that Mr. Maciel's
4 preconceived notions about Mr. Gonzalez had any
5 effect on the amount of the investigation performed?

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

7 Q. If you were aware that Mr. Maciel -- Let me
8 ask you this.

9 If you were aware that an investigator had
10 previously walked up to people and offered to work
11 things out, what would that mean to you in your
12 business?

13 A. What do you mean by "work things out"?

14 Q. If he said to someone who he was
15 investigating, "Maybe we can talk and work this out,"
16 what does that mean to you as an investigator when
17 you hear words like that?

18 A. Working things out means you're trying to
19 work with an individual, giving him the benefit of
20 the doubt perhaps.

21 Q. Okay. Does it also indicate a request for
22 a bribe?

23 A. No.

24 Q. Have you ever come across in your entire

1 history as an investigator investigators who sought
2 money from people they were investigating?

3 A. No.

4 Q. Have you ever heard about it?

5 A. No.

6 Q. Is it your opinion that this property was
7 secured or not secured?

8 A. It was secured in my opinion.

9 Q. I'm sorry?

10 A. It was secured in my opinion.

11 Q. Okay. And would the berms stop a truck
12 from rolling into the property and dumping?

13 A. Yes.

14 Q. Okay. Now, I'm sure you looked at
15 Exhibit A, photographs 1 to 4. I'm directing your
16 attention --

17 A. What were the photos again, Jeff?

18 Q. Try page 9 and 10. Photos 1 to 4.

19 Would you agree that these photos look like
20 they're fly dumped?

21 A. They were definitely dumped. I can't say
22 if they were fly dumped or not.

23 Q. Sir, when you looked at the piles on the
24 property initially, did they look like they were

1 organized piles, or, in your experience, they looked
2 like they were fly dumped?

3 A. The piles were not organized.

4 Q. Did they look like they were fly dumped?

5 A. They looked like they were dumped. I
6 wouldn't particularly say fly dumped.

7 Q. Would you have said that on February 15,
8 2007, in your deposition?

9 A. If I did say that, I'm sorry. I misspoke.
10 They were dumped.

11 MR. LEVINE: Page 37, line 16, Counsel.

12 BY MR. LEVINE:

13 Q. Did you -- Were you asked the following
14 question, and did you give the following answer:

15 "Question: The types of piles on the
16 property, were they organized piles, or, in
17 your experience, it would look like these
18 piles had been fly dumped?

19 "Answer: Yes. They looked like piles that were
20 fly dumped."

21 Were you asked that question, and did you
22 give that answer, sir?

23 A. Yes, I did.

24 Q. Was that true then?

1 A. Yes.

2 Q. You don't know how those piles got there,
3 do you, sir?

4 A. No, I don't.

5 Q. In fact, don't photographs 1 through 4 look
6 like classic fly dumping?

7 A. Yes, they do look like classic fly dumping.

8 Q. Now, you testified absolutely. Do you have
9 any question in your mind that these piles look like
10 classic fly dumping?

11 A. Yes, they do. They look like classic fly
12 dumping.

13 Q. Okay. Now, would you agree with me, if
14 someone had made it on to the property and fly dumped
15 on that property, then the owner of the property
16 would not have caused or allowed that to have
17 occurred, correct?

18 A. Correct.

19 Q. And I'm going to skip around here.

20 You saw some port-a-potties on the
21 property?

22 A. Yes, I did.

23 Q. And you saw no evidence of cleaning?

24 A. Yes, sir, that's correct.

1 Q. And you saw no evidence of waste from the
2 port-a-potties?

3 A. That's correct.

4 Q. And in your investigation -- Now, you -- If
5 I can, again, skip around. I apologize.

6 Now, you had just started the job, correct?

7 A. Correct.

8 Q. And you were in training --

9 A. Correct.

10 Q. -- at the time?

11 A. Yes.

12 Q. Okay. So this was new to you?

13 A. Correct.

14 Q. And you were being told what to do?

15 A. Correct.

16 Q. By Raphael Maciel?

17 A. No.

18 Q. By John Kryl?

19 A. Yes.

20 Q. And by Stan Kaehler?

21 A. Yes.

22 Q. Okay. Since that time you have more
23 experience, correct?

24 A. Correct.

1 Q. Okay. Did you learn that the suspect CTA
2 waste was to be stored in roll-off boxes on the site?

3 A. Correct.

4 Q. And that was the agreement between who,
5 based on your investigation?

6 A. Between Speedy Gonzalez, Paschen
7 Construction, E. King, and Chuck Webber, who's one of
8 the representatives for CTA.

9 Q. Okay. Do you know what the circumstances
10 were that required the CTA waste material to be
11 stored in roll-off boxes?

12 A. I believe the agreement was it was supposed
13 to be stored in the boxes until the CID landfill
14 opened up the next day.

15 Q. Where was the CID landfill compared to the
16 site you were at?

17 A. It was pretty close.

18 Q. Like right next door?

19 A. Like right next door.

20 Q. Okay. I'm sorry. Go ahead.

21 A. That was it.

22 Q. Okay. And where did you learn about this
23 agreement from?

24 A. We had a meeting on site, and that's when I

1 found out about it.

2 Q. Were you at the meeting?

3 A. Yes, I was.

4 Q. Did you have a camera?

5 A. Yes, I did. I took all the pictures.

6 Q. Did you take any pictures of the E. King
7 trucks at the site?

8 A. No, I didn't.

9 Q. Did you take any pictures of any of the
10 representatives from E. King?

11 A. No, I did not.

12 Q. Did you meet Elaine King who was at the
13 site that day?

14 A. No, I did not.

15 Q. Okay. Was someone from Paschen at the
16 site?

17 A. Yes, there was.

18 Q. Okay. Was there someone from CTA at the
19 site?

20 A. Yes.

21 Q. Who was that?

22 A. That was Chuck Webber.

23 Q. Who was the individual from Paschen?

24 A. I don't remember his name.

1 Q. As an investigator, would you have -- would
2 his name have been important?

3 A. Yes.

4 Q. Okay. And why would that have been
5 important to you?

6 A. Well, if we needed to get in contact with
7 him.

8 Q. Did you feel -- Do you feel now as an
9 experienced investigator that E. King would have
10 liability in this matter?

11 A. Perhaps.

12 Q. And what would be the basis of that
13 liability?

14 A. There was an agreement, and the agreement
15 wasn't followed.

16 Q. By who?

17 A. By the parties involved.

18 Q. Do you know who specifically dumped --
19 didn't follow the agreement and dumped the waste?

20 A. I don't know specifically.

21 Q. Would an investigation have revealed that?

22 A. Sure. Yes.

23 Q. And would that have been the person who

24 would have caused or allowed the waste on the

34

1 property in that specific instance?

2 A. Caused.

3 Q. Caused or allowed?

4 A. Just caused.

5 Q. Okay. How about the person from Paschen?

6 Do you know who that person was?

7 A. No, I don't.

8 Q. Okay. As the general contractor, would
9 they have some liability -- or possible liability
10 with regard to the suspect CTA waste on the property?

11 A. Possibly.

12 Q. And what would that liability be?

13 A. Again, they didn't follow the agreement.

14 Q. And if they had followed the agreement,
15 wouldn't -- the waste would have been stored in a
16 roll-off --

17 What's a roll-off box?

18 A. It's a dumpster.

19 Q. It's the kind that fits on the back of a
20 dump truck?

21 A. Yeah. You can take it off of a dump truck.
22 It's, like, a 30 yard, 40 yard dumpster.

23 Q. Okay. A construction dumpster we see
24 outside buildings, correct?

35

1 A. Yeah. Correct.

2 Q. And these are pulled back on trucks?

3 A. Yes.

4 Q. Okay. And did you take -- Did you
5 investigate who the individual was from Paschen?

6 A. No, I did not.

7 Q. Okay. Did you take photographs of these
8 individuals from Paschen or E. King?

9 A. No, I did not.

10 Q. Were you instructed to do so by either
11 Raphael Maciel, John Kryl, or Stan Kaehler?

12 A. I was not.

13 Q. Okay. Would that have been an
14 investigative tool you would have used -- you would
15 use now to learn the identities of individuals?

16 A. I wouldn't say taking pictures of them.
17 But for sure, you know, getting names and phone
18 numbers, points of contact, yes.

19 Q. How about the people on the site --
20 initially on the site? Would you take photographs of
21 people initially on the site when you arrive if they

22 don't want to give you their names?

23 A. Typically I don't.

24 Q. Okay. Now, photograph 4, if I could direct

36

1 your attention.

2 Would you agree with me that that is not
3 landscaping waste? That's construction waste?

4 A. In my opinion, that could be classified as
5 landscaping waste in photo number 4.

6 Q. Well, they're broken pieces of -- I'm
7 sorry -- broken pieces of bricks you would use to
8 build a wall, correct?

9 A. Correct.

10 Q. And if you were constructing landscaping,
11 wouldn't you use nice bricks to fix up a berm?

12 A. They were pretty nice bricks actually.
13 They had a nice finish on the front of them.

14 Q. Aren't these bricks in photograph 4 --
15 Aren't landscaping bricks typically solid and angled
16 on the sides as opposed to the bricks in photograph 4
17 which have holes to allow the concrete to be poured
18 through them to ascend on a wall?

19 A. Yes.

20 Q. Okay. And these have holes in them, do

21 they not?

22 A. Yes, they do.

23 Q. And these are contrary to the kind of
24 bricks used for landscaping, correct?

37

1 A. Yes, they are.

2 Q. And I think we see those also in photo 6,
3 do we not?

4 A. Yes, we do.

5 Q. Those are construction bricks, correct?

6 A. I don't know for sure.

7 Q. Okay. Well, what's your opinion? What's
8 your best guess?

9 A. I think they would have multiple uses.

10 Q. Okay. These are used bricks, are they not?

11 A. I couldn't tell.

12 Q. Well, do you see where the bricks are
13 mortared together in places in the photograph?

14 A. No, I don't.

15 Q. Okay. Did you see it on the day?

16 A. No, I did not.

17 Q. Okay. You don't know what those bricks
18 were used for before they were placed on the
19 property, correct?

20 A. Correct.

21 Q. In photograph 7, you'd agree with me that
22 those are clean stones placed on the property,
23 correct?

24 A. Yes, I do agree with you.

38

1 Q. And the difference of those and the
2 photographs in 1 through 4 is this is consistent
3 material dumped in the same location load after load,
4 correct, as opposed to an individual load scattered?

5 A. I would say it's consistent. Meaning, it
6 was consistently -- The substance was consistent. It
7 wasn't mixed with any other type of material.

8 Q. Okay. This looks more like the delivery
9 dumping than fly dumping, correct?

10 A. Yes.

11 Q. And would a user -- Would an owner of
12 property use gravel to get rid of water on land?

13 A. Yes.

14 Q. Okay. And this is the type of stone he
15 would use, the stone depicted in photograph 7?

16 A. Yes.

17 Q. Okay. Photograph 12, if we can move ahead
18 there.

19 Those are railroad ties, correct?
20 A. Correct.
21 Q. And I think you testified to this.
22 This is by the railroad property, correct?
23 A. Correct.
24 Q. Now, the ties towards the railroad tracks,

39

1 I believe you testified that that was not the
2 defendant's property? Do you remember?
3 A. I think I said that I wasn't sure if it was
4 the defendant's property. But it is pretty close to
5 the railroad.
6 Q. Okay. Does that look like the way the
7 railroad would store materials?
8 A. I couldn't tell you that. I don't know for
9 sure.
10 Q. Have you ever seen railroad ties next to
11 railroad tracks?
12 A. No.
13 Q. You've never seen railroad ties next to
14 railroad tracks?
15 A. I've seen railroad ties on the tracks --
16 part of the track itself, but not like this.
17 Q. Okay. Not like photograph 12?

18 A. Unless they were doing some type of
19 maintenance work.

20 Q. Now, if they were doing maintenance work,
21 they would be taking the old ties out and putting the
22 new ties in?

23 A. Correct.

24 Q. And the way to get the new ties there would

40

1 be to bring them to the site, correct?

2 A. Right.

3 Q. So you don't know if that's the
4 Respondent's property in photograph 12; is that
5 correct?

6 A. That's right.

7 Q. Okay. Now, if an owner such as the
8 respondent Jose Gonzalez had material fly dumped on
9 his property, he would have been given time to clean
10 the fly-dump material off the property? If there was
11 water on his property, he would have time to put
12 gravel down to soak up the water, correct?

13 A. It all depends on the --

14 Q. Let's start with, would he be given time to
15 do that?

16 A. By who?

17 Q. By the Department of Environment.

18 A. Well, Raphael was the lead investigator, so
19 it's ultimately up to him how much time, if any, he
20 wants to give.

21 Q. Okay. Would you agree with me that an
22 owner -- whether an owner would be -- the amount of
23 time an owner would be given to clean fly-dump
24 material off his property is up to the investigator?

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1 A. That's correct.

2 Q. Okay. And how much time would, in your
3 experience, be given to clean up a large amount of
4 fly-dump waste on property?

5 A. I would say --

6 Q. It depends, doesn't it?

7 A. Absolutely. It depends on the quantity.

8 Q. If it's a big site, he would be given more
9 time?

10 A. Perhaps.

11 Q. I'm sorry?

12 A. Perhaps.

13 Q. Well, when you said, "It depends," wouldn't
14 it depend on how big the site was?

15 A. Yes.

16 Q. So I'm assuming that a person with a large
17 amount of waste would be given more time and a person
18 with a small amount of waste would be given shorter
19 time?

20 A. Yes.

21 Q. Okay. Is that policy at the Department of
22 Environment?

23 A. No, it's not.

24 Q. Okay. Is it the common, usual way of doing

42

1 business at the Department of Environment?

2 A. No. I wouldn't say so necessarily.

3 Q. Is this consistently what investigators do
4 when they come upon a waste site?

5 A. Is it consistent? I wouldn't say it's not
6 consistent.

7 Q. Okay. But it is something that
8 investigators do do at times?

9 A. Yes.

10 Q. They give respondents the opportunity to
11 clean up sites that they did not cause or allow,
12 correct?

13 A. Correct.

14 Q. Okay. Again, you don't know where any of

15 the waste on this property came from, do you, sir?

16 A. No, I don't.

17 Q. You couldn't even conclude whether the
18 suspect CTA's was, in fact, CTA waste, correct?

19 A. Right.

20 Q. In fact, there was no further -- You did no
21 further investigation, correct?

22 A. I did not, correct.

23 Q. And you know of no other further
24 investigation that was performed, correct?

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1 A. I believe in my narrative that Chuck Webber
2 from CTA was going to investigate the matter himself.

3 Q. Let me rephrase.

4 You don't know of any further investigation
5 performed by the Department of Environment, correct?

6 A. Right.

7 Q. Now, is the Department of Environment
8 adverse to giving the CTA violations for any reason?

9 A. No.

10 Q. Okay. Now, would you agree with me that
11 you can't write up a ticket without proof of a
12 violation?

13 A. Correct.

14 Q. Now, I'm going to direct your attention to
15 the narrative.

16 A. The one on the 22nd?

17 Q. This is the first one, correct.

18 Were you there at the meeting with Chuck
19 Webber?

20 A. Yes.

21 Q. Did -- Were you there to examine manifests
22 that he provided -- that were provided to -- I'm
23 sorry.

24 Were you there to examine manifests that

44

1 were provided to the Department of Environment from
2 the person driving the trucks?

3 A. No, I was not.

4 Q. Did you ever see him at a later point?

5 A. See?

6 Q. Any documents signed by Chuck Webber.

7 A. Yes.

8 Q. Okay. I'm showing you what has been marked
9 as Defendant's Exhibit A.

10 Do you recognize that?

11 A. Yes, I do.

12 Q. Okay. What is that, sir?

13 A. It's a hazardous waste manifest.

14 Q. Okay. Does that indicate where the waste
15 was coming from, who was moving it, and where it was
16 going to?

17 A. Yes, it does.

18 Q. And was that document received by the
19 Department of Environment in the course of their
20 investigation in this matter?

21 A. I don't know.

22 Q. Okay. Have you ever seen it before?

23 A. I saw it the day of the investigation. I
24 believe Raphael showed it to me.

45

1 Q. Okay. So Raphael had it on the day of the
2 investigation, correct?

3 A. I think he did, yeah.

4 Q. Do you know whether or not it made it into
5 the investigation report at any time?

6 A. I don't know.

7 Q. Do you know why it would have been kept out
8 of the investigation report?

9 A. No.

10 Q. Okay. Would you have put a document like
11 that into the investigation report?

12 A. Yes.

13 Q. Why?

14 A. Well, it basically gives us another piece
15 of information trying to narrow down exactly where
16 the material came from.

17 Q. And that would be helpful in determining
18 who would be responsible for the alleged violations,
19 correct?

20 A. Yes.

21 Q. Okay. Looking at that document, does that
22 look the same as the one you saw when Raphael Maciel
23 had it?

24 A. I don't remember.

46

1 Q. Okay. Well, the document that you
2 previously viewed indicated that the material was
3 coming from the CTA and being transported by E. King?

4 A. Yes, it was being transported by E. King.

5 Q. Okay. And do you know -- I can't think of
6 the word here -- the final location of where the
7 material was supposed to be?

8 A. Yes. It says it right here.

9 Q. And where is that?

10 A. The CID landfill.

11 Q. And where is that in connection with the
12 respondent's property?

13 A. Right next door.

14 Q. Okay. Do you have any doubt in your mind
15 that the people moving the suspect CTA waste were
16 taking it -- the waste was being taken by E. King to
17 the CID landfill?

18 A. That was the agreement.

19 Q. Okay. What I'm asking you is, do you have
20 any doubt that that was what was occurring?

21 A. No, I don't.

22 Q. Okay. Now, on March 24, did you see -- I'm
23 sorry. Let's go to March 22, which is page 6.

24 A. Where is it at?

47

1 Oh, okay. Thanks.

2 Q. Okay. You said the investigation that you
3 were responsible for was the last two paragraphs on
4 page 6?

5 A. That's correct.

6 Q. Did you see any trucks bringing any waste
7 to the respondent's property?

8 A. I did not.

9 Q. Okay. Did you ever see any trucks bringing

10 waste to the respondent's property?

11 A. No, I did not.

12 Q. On March 22 did you see trucks departing
13 with waste?

14 A. No, I did not.

15 Q. Okay. Were you aware that there were
16 E. King employees on the property?

17 A. No, I was not aware.

18 Q. Okay. Were you aware that -- Was there a
19 front-end loader on the property?

20 A. I didn't see one.

21 Q. Okay. In your investigation -- And I'm
22 discussing these bottom two paragraphs on page 6.

23 HEARING OFFICER HALLORAN: This, for the record,
24 is Complainant's Exhibit A.

48

1 MR. LEVINE: Thank you.

2 BY MR. LEVINE:

3 Q. This is your March 22, 2006, narrative
4 evaluation, correct?

5 A. Correct.

6 Q. And you previously testified you had
7 gathered the information on the bottom two paragraphs
8 of that narrative investigation?

9 A. Correct.

10 Q. And you signed off on this, correct?

11 A. Correct.

12 Q. Before you signed off, it indicates,
13 "Investigation completed." Do you see where it says
14 that on the next page?

15 A. Yes.

16 Q. Now, was the investigation completed on
17 March 22?

18 A. That particular investigation was
19 completed.

20 Q. Okay. Do you see where it says,
21 "Investigation completed," and there's two boxes?

22 A. Uh-huh.

23 Q. Is that a yes or a no, sir?

24 A. It says, "No."

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1 Q. Let me ask you this.
2 Do you see where it says --

3 A. Yes, I do.

4 Q. Okay.

5 A. And I do see that it's checked, "No."

6 Q. Okay. Was that your check mark?

7 A. I don't remember if that's my check mark or

8 if that's Raphael's.

9 Q. Okay. Do you know what further information
10 was required for the investigation when you completed
11 that narrative evaluation on March 22?

12 A. I don't know.

13 Q. So your investigation revealed that someone
14 didn't -- either Paschen Construction or E. King
15 didn't follow the agreement to store the material in
16 roll-off trucks, correct?

17 A. Correct.

18 Q. And you don't know who would have violated
19 that agreement, correct?

20 A. Correct.

21 Q. But the person who violated that agreement,
22 would you agree with me, would cause the waste to be
23 on the property?

24 A. Correct.

50

1 Q. Okay. Now, with regard to the other waste
2 on the property on March 22, were you aware whether
3 that property was being cleaned?

4 A. I was not aware.

5 Q. When a fly dumper generally gets rid of a
6 load, do they segregate the material before they dump

7 it?

8 A. No.

9 Q. Okay. Why is that?

10 A. They just want to get out of there as fast

11 as they can.

12 Q. That's not one of their concerns, is

13 segregating material, correct?

14 A. Right.

15 Q. Okay. Now, if an entity -- an individual

16 or an entity were to be cleaning property and he was

17 taking it -- and they were taking the property -- the

18 material to an authorized fill or an authorized yard,

19 would the material require some segregation from what

20 had been fly dumped?

21 A. Perhaps, yeah.

22 Q. And what would be the reason for that?

23 A. What would be the reason for what?

24 Q. For some segregation prior to taking it to

51

1 an authorized place.

2 A. Some landfills have special requirements

3 for the waste that's brought in. Some landfills

4 don't want contamination or things of that nature.

5 Q. In fact, if some material is in a dump --

6 For instance, PVC piping. If a load of material --
7 or construction debris is taken to a legitimate
8 landfill and it contains PVC piping, some landfills
9 will reject the entire load, correct?

10 A. Correct.

11 Q. Okay. And that is the same with wood,
12 correct?

13 A. Correct.

14 Q. And that is also the same with wire,
15 correct?

16 A. Correct.

17 Q. And, in fact, some places you have to take
18 rocks and stone, and other places -- and there are
19 other places, like transfer stations, where you're
20 required to take metal, correct?

21 A. Correct.

22 Q. Okay. And I'm assuming this metal is
23 recycled or sold?

24 A. Yes, it is.

52

1 Q. And that is by statute that these landfills
2 and dumping stations can only take specific things?

3 A. I'm not sure.

4 Q. Okay. But that -- In your experience,

5 that's a requirement, correct?

6 A. Correct.

7 Q. Now, if an entity discovered fly-dump
8 material on his property which was not segregated and
9 intended to clean the material off his property and
10 take it to a -- either a landfill or a transfer
11 station, would the entity be required to segregate
12 the material prior to taking it there?

13 A. Yes.

14 Q. Do you have any knowledge or information in
15 the course of your entire investigation that that's
16 what was not occurring at this property?

17 A. No, I don't.

18 Q. Now, I'm going to move to Exhibit C, which
19 is your March 24 report.

20 On that date you saw that workers were
21 sorting and segregating multiple waste piles
22 scattered throughout the lot, correct?

23 A. Correct.

24 Q. And they were using heavy machinery. I'm

53

1 assuming this is a front-end loader, correct?

2 A. Correct.

3 Q. And you said this was -- E. King Trucking

4 was doing this?

5 A. There was an E. King Trucking supervisor
6 there.

7 Q. Okay. But you don't know who the people
8 working there were?

9 A. Correct.

10 Q. Okay. They were cleaning up the site, were
11 they not?

12 A. They were moving -- Well, yeah. I guess
13 they were, yes. Yes.

14 Q. And the way they were cleaning up the site,
15 they were moving piles of some stuff some places and
16 moving other piles other places, correct?

17 A. Correct.

18 Q. And they were also taking some of the piles
19 and dumping them in the E. King truck which you saw
20 leaving the site, correct?

21 A. Correct.

22 Q. And all this activity is consistent with an
23 entity or individual or individuals cleaning up the
24 site, correct?

54

1 A. Correct.

2 Q. Now, if numerous Department of Environment

3 investigators had swarmed an owner's site two days
4 before, would it be logical for that owner to accept
5 additional waste on the site?

6 A. No.

7 Q. In fact, wouldn't, in your experience, the
8 owner of the site be making best efforts at that
9 point to clean up the site?

10 A. Absolutely.

11 Q. And to avoid further investigation?

12 A. Right.

13 Q. And to avoid further trouble from the
14 Department of Environment?

15 A. Right.

16 Q. And isn't that what you saw on March 24,
17 2006?

18 A. Yes.

19 Q. Did you follow where the C&D material was
20 shipped to?

21 A. No, I did not.

22 Q. Okay. You didn't see it go to the landfill
23 around the corner, did you?

24 A. No, I did not.

1 Q. Now, there's a statement in the narrative

2 that you asked about the illegal dump. Do you see
3 that halfway through? It's the first paragraph,
4 three lines from the bottom.

5 A. Yes.

6 Q. What were you just talking about when you
7 were talking about an illegal dump?

8 A. I was referring to Investigator Kaehler's
9 statement when he said there was a possible illegal
10 dump.

11 Q. Okay. You had no information that any
12 dump -- that any dumping was illegal, correct?

13 A. Correct.

14 Q. And you have no knowledge or information
15 that any of the material on the site was -- dumped on
16 the site was caused or allowed by Jose R. Gonzalez,
17 correct?

18 A. Correct.

19 Q. You mentioned the berm. You said the berm
20 was possible waste, correct?

21 A. Correct.

22 Q. You don't know how long that berm had been
23 there, correct?

24 A. Correct.

1 Q. And you don't know where the dirt had come
2 from to make the berm, correct?

3 A. Correct.

4 Q. And in the City of Chicago over the -- it's
5 couple-hundred year history buildings go up and
6 buildings come down, correct?

7 A. Correct.

8 Q. And you don't know the background of this
9 particular site, correct?

10 A. Correct.

11 Q. If dirt was taken off the site and used to
12 make the berm, it's possible it could have contained
13 rocks and concrete from the site itself, correct?

14 A. Correct.

15 Q. What are field notes, sir?

16 A. Field notes are exactly what it is. You're
17 in the field, and you take notes on a piece of paper.

18 Q. Are those commonly kept in the
19 investigation file?

20 A. No, not the notes.

21 Q. What happened with the field notes?

22 A. My field notes?

23 Q. What are done with field notes in your
24 experience?

1 A. I keep my field notes.

2 Q. Okay. Where do you keep them?

3 A. In my drawer.

4 Q. When a case comes up for hearing, do you
5 provide those to anyone -- those field notes?

6 A. If they're needed.

7 Q. Have you ever been asked for field notes?

8 A. Yes.

9 Q. Sir, do you have any knowledge or
10 information that the berm -- the dirt, and you said
11 there was material in the berm, had come from any
12 other site other than the instant site?

13 A. I have no knowledge of that.

14 Q. Now, you also -- Let's look at page 64, if
15 we could.

16 Did you do the writing underneath the
17 photographs?

18 A. Yes, I did.

19 Q. It looks like your handwriting?

20 A. Yes.

21 Q. Okay. This shows number 1 -- Photo
22 number 1 shows a back portion of piles removed,
23 correct?

24 A. Correct.

1 Q. So what you observed was cleaning going on
2 at the site, correct?

3 A. I observed the piles removed from the
4 inspection on 3-22-06.

5 Q. Okay. Do you know where they were removed
6 to?

7 A. No, I don't.

8 Q. Okay. How about the photographs 3 and 4?

9 HEARING OFFICER HALLORAN: For the record, we're
10 still on Complainant's Exhibit C.

11 MR. LEVINE: Thanks, Mr. Halloran.

12 BY MR. LEVINE:

13 Q. Exhibit 4, you don't know whether there was
14 arsenic contamination on those boards, do you?

15 A. No, I don't.

16 Q. Were those there prior?

17 A. Prior to 3-24?

18 Q. Yeah.

19 A. I believe they were.

20 Q. Okay. On photograph 5, that is a pile of
21 metal?

22 A. Yes, it is.

23 Q. And photograph 6 is a pile of metal,
24 correct?

1 A. Correct.

2 Q. And this is what we discussed before, that
3 the metal would have to be sorted out to be taken to
4 a transfer station as opposed to a landfill, correct?

5 A. Correct.

6 Q. If an entity was cleaning up the lot, this
7 would -- photograph 5 and 6 would be -- would be
8 indications of what it would look like before it was
9 taken to a transfer station, correct?

10 A. Correct.

11 Q. Now, also on photographs 1 through -- 1, 2,
12 and 6 we see tracks on the mud?

13 A. Yes.

14 Q. Are those recent tracks?

15 A. They look pretty recent.

16 Q. Would that indicate cleaning?

17 A. I don't know if they would indicate
18 cleaning.

19 Q. Okay. Let's move to photo 8.

20 Is that a front-end loader?

21 A. Yes, it is.

22 Q. A big red one, isn't it?

23 A. Yes.

24 Q. And what are the workers doing?

1 A. It looks like they're loading up a bunch of
2 waste into the bucket of the front-end loader.

3 Q. And they're using a --

4 A. A bobcat.

5 Q. A bobcat. Thank you.

6 A. You're welcome.

7 Q. -- to do that, correct?

8 A. Correct.

9 Q. And you have that listed as workers sorting
10 and segregating waste piles in standing water,
11 correct?

12 A. Correct.

13 Q. Would another interpretation of that
14 photograph be workers cleaning up waste on property?

15 A. Sure.

16 Q. Okay. Now, on photograph 7 we have a lot
17 of waste piles removed, correct?

18 A. Correct.

19 Q. So those waste piles were moved somewhere
20 else?

21 A. Correct.

22 Q. You don't know where they were moved to?

23 A. Correct.

24 Q. Okay. And it says, "Berm could be from

1 illegal dump," correct?

2 A. Correct.

3 Q. You don't know where that berm came from?

4 A. Right.

5 Q. And that berm had been there for a couple
6 of years, had it not?

7 A. It could have been.

8 Q. Well, isn't there vegetation all over it?

9 A. Yes.

10 Q. And the vegetation indicates it had been
11 there for quite some time?

12 A. Yes.

13 Q. It looks like heavy cover, does it not, a
14 hunting term we use?

15 A. Yes.

16 Q. Okay. Now, moving on to photograph 9 --

17 Nice pictures, by the way.

18 A. Thank you.

19 Q. -- these are workers segregating waste
20 piles, correct?

21 A. Correct.

22 Q. Again, you indicate, "Berm could be from
23 illegal dump," correct?

24 A. Correct.

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1 Q. But it is covered with vegetation, is it
2 not?

3 A. Correct.

4 Q. And it's possible it could be from the
5 site, correct?

6 A. Correct.

7 Q. In fact, the site is kind of low in spaces,
8 is it not?

9 A. It is.

10 Q. And isn't there cattails on the site,
11 indicating low land?

12 A. I don't remember seeing cattails.

13 Q. Okay. We'll go back to that.

14 A. Okay.

15 Q. Was gravel being spread at the site from
16 the clean gravel being put down on the road to move
17 the bobcat in?

18 A. Not on the 24th.

19 Q. Okay. How about on the 22nd? Did you see
20 it there?

21 A. Yes, I did. I saw the piles -- From the
22 22nd inspection, he had the piles of gravel. On the

23 24th, those piles were gone, and they were spread out
24 throughout the property.

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1 Q. Okay. So, in fact, whoever was working on
2 the property was spreading gravel throughout the
3 property, correct?

4 A. Correct.

5 Q. And you previously stated that one reason
6 you would do this was to get rid of standing water,
7 correct --

8 A. Correct.

9 Q. -- if I could be so technical?

10 Here's another photograph. We have
11 photographs 11 or 12. These are the spy photos,
12 right?

13 A. That's right.

14 Q. And these are workers loading up E. King
15 trucks --

16 A. That's correct.

17 Q. -- with waste?

18 Now, this is an example of the berm, is it
19 not?

20 A. Yes, it is.

21 Q. In fact, there's a tree on the berm?

22 A. Yes.

23 Q. Now, a tree on a berm would indicate that
24 the berm had been there for quite some time?

64

1 A. Are you referring to this tree right here?
2 I'm not exactly sure if that's on the berm or not.
3 That could be on the other side of the berm.

4 Q. Well, how about in front of the berm behind
5 the telephone pole? That's a small tree, is it not?

6 A. Yes.

7 Q. Would you agree with me that the berm is
8 covered with heavy cover?

9 A. Yes, it is.

10 Q. Did you have a tough time getting through
11 that?

12 A. Yeah.

13 Q. Because it had been growing for years,
14 correct?

15 A. Correct.

16 Q. Now, on -- Oh, was E. King ticketed on
17 March 24?

18 A. I don't think so.

19 Q. You knew there were E. King individuals
20 working on the site, correct?

21 A. Correct.

22 Q. And you suspected that they were sorting
23 scrap material, correct?

24 A. Correct.

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1 Q. Did you have charging decisions on that
2 day?

3 A. No, I did not.

4 Q. Can you tell me, in your opinion, why you
5 believe that E. King was not cited if they were -- if
6 you took pictures of them sorting scrap material?

7 A. Maybe they were, but I didn't personally
8 cite them.

9 Q. Do you have any knowledge, based on your
10 history of working at the Department of Environment,
11 that E. King was ever cited with regard to actions
12 taken or failure -- actions that were failed to be
13 taken at this property, 1601 East 130th Street?

14 A. I have no knowledge of that.

15 Q. Okay. Moving on to photographs 13 and 14,
16 13 and 14 are what you indicate as suspect CTA
17 material?

18 A. Correct.

19 Q. And your notes say that this material may

20 have been recently dumped, correct?

21 A. Correct.

22 Q. You have no knowledge that this was
23 recently dumped, do you?

24 A. Yes, I do.

66

1 Q. Okay. How do you know this material was
2 recently dumped?

3 A. Because on March 22 it was not there.
4 March 24 it was there.

5 Q. Okay. But you will agree with me that
6 other piles, for instance at photograph 7, were
7 removed?

8 A. Yes.

9 Q. Okay. And is it possible that these were
10 removed to photographs 13 and 14 in order to
11 consolidate them?

12 A. No.

13 Q. And how do you know that, sir?

14 A. These piles were dry.

15 Q. Okay.

16 A. The site was completely wet and saturated
17 with water. These piles were completely dried.

18 Q. Okay.

19 A. So that leads me to believe --
20 Q. That leads you to believe --
21 A. -- that it didn't come from the site.
22 Q. Okay.
23 A. It came from another site somewhere else.
24 Q. Now, if there was a big pile somewhere else

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1 on the site and a big dump truck came and scooped up
2 the pile and the water had not soaked down all the
3 way through the pile and there was dry material at
4 the bottom and the dry material was put on top of the
5 material as it was moved, would that be an
6 explanation of how dry material was next to this on
7 photographs 13 and 14?

8 A. It's a possibility.

9 Q. Now, how tall are these piles?

10 A. I don't remember. Judging by the
11 photographs, I'd say at least 6 feet.

12 Q. Were they taller than you?

13 A. Yes.

14 Q. So these are big piles?

15 A. Yes, they are.

16 Q. And we have a big front-end loader moving
17 them around, correct?

18 A. Yes.

19 Q. In your experience, does water when it
20 rains go all the way through 6, 9 feet of dirt?

21 A. Correct.

22 Q. Does it do that?

23 A. Yes. Percolates.

24 Q. Does the top get wet and then it runs off,

68

1 or does it go all the way through the pile, in your
2 experience?

3 A. It does both.

4 Q. You don't know if it went all the way
5 through the pile in this case, correct?

6 A. Correct.

7 Q. You don't know if material is moved from
8 another area on the site, overturned, and then put
9 over here with a front-end loader, correct?

10 A. That's a possibility.

11 Q. You just assume that it was new material,
12 correct?

13 A. Correct.

14 Q. You didn't see any trucks bringing
15 material, correct?

16 A. Correct.

17 Q. And the owner was just cited two days
18 before with numerous violations, correct?

19 A. Correct.

20 Q. Okay. When you were there on the 24th, you
21 saw a bobcat and a front-end loader cleaning the
22 site, correct?

23 A. Correct.

24 Q. I'm going to skip through -- I'm going back

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1 to pages 10, 11, and 12. Let's try 12 first.

2 You testified that there was evidence of
3 scavenging, correct?

4 A. Correct.

5 Q. Now, at page 12 there's a wire -- a
6 photograph of a wire?

7 A. Correct.

8 Q. Did you see any other evidence of
9 scavenging?

10 A. Yes.

11 Q. Okay. Were those the waste piles of metal
12 that we looked at previously?

13 A. Yes.

14 Q. Okay. And it's your opinion that the
15 material was not being segregated to take it to a

16 legitimate transfer station, but instead being
17 scavenged at the site?

18 A. Correct.

19 Q. What do you base that opinion on, sir?

20 A. Just common practice. Legitimate business
21 issues. I don't think that would be considered
22 legitimate.

23 Q. I'm sorry. What would not be considered
24 legitimate?

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1 A. Pulling out scrap material from a fly-dump
2 pile or any type of a dump pile and try to resell
3 that metal for money.

4 Q. Do you know whether or not this material
5 was trying to be resold?

6 A. I would assume it was. I believe that was
7 the intentions.

8 Q. Okay. And what do you base that belief
9 upon, sir?

10 A. Because it really has no other use, but for
11 the metal.

12 Q. Didn't you previously testify that certain
13 landfills will not take entire loads if they have
14 wire or metal in them?

15 A. Yes, I did.

16 Q. Okay. So if the entity or individuals were
17 in the process of cleaning property and taking the
18 loads to a landfill, wouldn't this metal material
19 have to be segregated from that load prior to taking
20 it to the landfill?

21 A. Yes.

22 Q. And wouldn't that be legitimate activity?

23 A. Yes.

24 Q. How does that look different from what you

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1 see in photograph 12?

2 A. Photograph 12?

3 Q. I'm sorry. Photograph 8. I apologize.

4 Page 12.

5 A. Around this box here there's a bunch of
6 brick, and there was also ash present. Somebody was
7 trying to burn the insulation off.

8 Q. Did you see a fire that day?

9 A. I did not see a fire that day.

10 Q. Did you see burn marks on the wire?

11 A. I don't believe I did.

12 Q. I can't see in them photograph 8.

13 A. Yeah.

14 Q. Okay. So you don't know -- You don't know
15 where the fire was or whether the fire was occurring
16 on site or somewhere else, correct?

17 A. I never a saw a fire.

18 Q. Okay. And you also saw those two days you
19 were there instances of metal being gathered in
20 certain piles, correct?

21 A. Correct.

22 Q. And being segregated out from other piles?

23 A. Correct.

24 Q. And you would agree with me that the

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1 segregation of these type of materials would have
2 legitimate bases if the material -- if the waste was
3 being cleaned from the lot and taken to landfills and
4 transfer stations?

5 A. Correct.

6 HEARING OFFICER HALLORAN: If it hasn't been
7 stated already, we're talking about Complainant's
8 Exhibit A, for the record.

9 MR. LEVINE: Thank you, Mr. Halloran.

10 HEARING OFFICER HALLORAN: I'm not sure if it
11 was or not. We are skipping around.

12 MR. LEVINE: I am skipping around. I apologize.

13 BY MR. LEVINE:

14 Q. I'm going to direct your attention, if I
15 could, to Exhibit A, photographs 14 and 16.

16 That's just junk, is it not?

17 A. Yes.

18 Q. Do you know how long that junk had been
19 there?

20 A. No.

21 Q. Well, by looking at the rust on the wheel
22 on photograph 16 and the rust underneath the sign on
23 photograph 14, would it look like it had been there
24 for quite some time?

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1 A. Not necessarily in that particular spot or
2 on that particular property.

3 Q. You couldn't tell how long it had been
4 there, correct?

5 A. Correct.

6 Q. Now, what was the weather like prior to
7 March 22, 2006?

8 A. It was cold.

9 Q. Was it snowy and wet?

10 A. I don't remember. Judging by the pictures,
11 it doesn't look like it was snowy. But, yes,

12 definitely wet.

13 Q. Now, if the land was wet prior to

14 March 22 --

15 And you don't know that, correct?

16 A. Correct.

17 Q. But you know it was wet on March 22, do you
18 not?

19 A. I do know that, yes.

20 Q. Because there's piles of water, correct?

21 A. Correct.

22 Q. If you drive a big, heavy front-end loader
23 into a pile of water, what happens to the front-end
24 loader?

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1 A. It might sink.

2 Q. Okay. So prior to doing that, you have to
3 put something down on the mud, correct?

4 A. Correct.

5 Q. To stop the front-end loader -- a heavy
6 front-end loader from sinking?

7 A. Yes.

8 Q. And you would put stones down to do that?

9 A. Yes.

10 Q. Okay. Now, a dump truck is also heavy and

11 that would also sink, correct?

12 A. Yes.

13 Q. Okay. So prior to sticking in a big
14 front-end loader, would you agree with me that in an
15 attempt to clean up property that stones would have
16 to be put down first?

17 A. Yes.

18 Q. And did you see evidence of stones being
19 put down --

20 A. Yes.

21 Q. -- at that yard?

22 Now, did you see a huge pile of stones?

23 A. Yes.

24 Q. Now, that pile came to this site prior to

75

1 you coming to the site on March 22, correct?

2 A. Correct.

3 Q. And you don't -- What was the weather like
4 on March 22?

5 A. It was sunny. I have cloudy down here.
6 About 35 degrees.

7 Q. It was just over freezing, was it not?

8 A. That's correct.

9 Q. So would you say this was, like, one of the

10 first warm days after the Chicago winter?

11 A. Yes.

12 Q. Okay. It was still cold, was it not?

13 A. Yes, it was.

14 Q. Do you know whether the workers on March 22
15 lit a fire to keep their hands warm when they were
16 working?

17 A. I don't know that.

18 Q. Do you know whether the workers on the site
19 were E. King workers?

20 A. I don't know. I wasn't on site at that
21 time. When I showed up, there was no one there.

22 Q. When you did show up, did you see Jose R.
23 Gonzalez there?

24 A. No, I did not.

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1 Q. Did you see ever see him on the site?

2 A. Never.

3 Q. Okay. Do you know whether he was aware of
4 what was occurring at the site?

5 A. In terms of?

6 Q. E. King's actions on the site.

7 A. Yes.

8 Q. Okay. How do you know he was aware of

9 that?

10 A. Because there was an agreement he was part
11 of. There was a meeting that he took part in. And
12 about storing material in roll-up boxes. So he was
13 aware of that situation.

14 Q. Okay. So he was aware that material would
15 be stored on his site in roll-up boxes, correct?

16 A. Correct.

17 Q. Was he aware that material would be dumped
18 out of the roll-up boxes?

19 A. I don't know.

20 Q. Okay. Do you have any information or
21 knowledge, based on your investigation, that
22 Mr. Gonzalez had any knowledge that the agreement was
23 violated and the materials dumped out of the roll-up
24 boxes?

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1 A. No, I don't.

2 MR. LEVINE: I have no further questions.

3 HEARING OFFICER HALLORAN: Thank you.

4 Mr. McCahan, redirect?

5 MR. McCAHAN: Yes, please.

6 HEARING OFFICER HALLORAN: Thank you.

7 REDIRECT EXAMINATION

8 BY MR. McCAHAN:

9 Q. You testified to Mr. Levine that your job
10 is to determine where the waste comes from; is that
11 correct?

12 A. Correct.

13 Q. Do you also observe violations that occur
14 at a particular site?

15 A. Correct.

16 Q. And does the source or destination have any
17 bearing on the waste you observed on the site at
18 1601 East 130th Street in March of 2006?

19 A. Yes. The source has a lot to do with it.
20 The source -- It's the big one. You know, we need to
21 know where it comes from -- where it came from and
22 why it came to a facility or yard that wasn't
23 permitted.

24 Q. And do you -- Do you know where the waste

78

1 that you observed at 1601 -- 1601 East 130th Street,
2 do you know where that waste came from that you
3 observed?

4 A. I don't know where it came from, but I do
5 have guesses, I suppose, of where it came from. I
6 know most likely it did not come from the site. It

7 came from an off-site location.

8 Q. Let me direct your attention to what has
9 been marked as Defendant's Exhibit A.

10 Can you please identify this again?

11 A. Sure. This is a uniform hazardous waste
12 manifest from the State of Illinois.

13 Q. Can you review that document.

14 Do you anywhere see the address 1601 East
15 130th Street listed on that document?

16 A. I do not.

17 Q. Is there anything on that document that
18 describes the waste that the document is supposed to
19 pertain to?

20 A. All I see is nonhazardous by DOT
21 contaminated soil, which isn't even a DOT
22 description.

23 Q. Is there anything about the waste you
24 observed at 1601 East 130th Street that leads you to

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1 believe that this document has anything to do with
2 the waste you observed at 1601 East 130th Street?

3 A. I don't.

4 Q. How often would you say that you catch fly
5 dumpers in the act?

6 A. Well, I've been working for the Department
7 since November '05. I think I've caught maybe one.

8 Q. So who do you -- How many tickets have you
9 issued for dumping violations?

10 A. Dumping violations? I would say more than
11 five.

12 Q. And who were those issued to?

13 A. Well, most of them were issued to the
14 owners of the property.

15 Q. The owners of the property --

16 A. Where the material was dumped.

17 Q. You mentioned an agreement between Paschen,
18 CTA, and E. King concerning transportation of waste,
19 correct?

20 A. Correct.

21 Q. How do you know about this agreement?

22 A. I heard about it through, I believe, John
23 Kryl and Raphael and a couple other people from DOE
24 that mentioned it to me. It could have been even

80

1 talked about during that meeting at the time that
2 there was an agreement.

3 Q. Have you ever seen a copy of this
4 agreement?

5 A. No, I have not.

6 MR. LEVINE: Objection. You're assuming that
7 the agreement's written.

8 HEARING OFFICER HALLORAN: I'm sorry. Could you
9 read the question back, Peggy.

10 (WHEREUPON, the record was read
11 by the reporter as requested.)

12 HEARING OFFICER HALLORAN: Mr. Levine?

13 MR. LEVINE: I'm saying it presupposes that an
14 agreement is written. It discounts the possibility
15 of an oral agreement.

16 HEARING OFFICER HALLORAN: Mr. McCahan, do you
17 want to rephrase, if you're able? Sustained.

18 MR. LEVINE: Move to strike his response.

19 HEARING OFFICER HALLORAN: Overruled. The Board
20 will disregard it.

21 BY MR. McCAHAN:

22 Q. What form did this agreement take as far as
23 you know?

24 A. I don't know. All I know there was an

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1 agreement. I don't know if was a verbal or if it was
2 a documented agreement. I couldn't say.

3 Q. Have you seen a document embodying this

4 agreement?

5 A. I have not.

6 Q. Is there anyone else besides other DOE
7 inspectors that has told you about this agreement?

8 A. No.

9 Q. I'd like to refer your attention to
10 Exhibit A.

11 Starting on page 9, can you please
12 identify --

13 HEARING OFFICER HALLORAN: That would be
14 Complainant's Exhibit A?

15 MR. McCAHAN: Complainant's Exhibit A. Sorry.

16 BY MR. McCAHAN:

17 Q. I'm going to ask -- Is the -- Is -- The
18 material in photo number 1, is that the subject of --
19 is that what we've been referring to as suspect CTA
20 material?

21 A. It is not.

22 Q. And photo number 2?

23 A. That is not.

24 Q. Photo number 3?

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1 A. No.

2 Q. Photo number 4?

3 A. No.

4 Q. Photo number 5?

5 A. No.

6 Q. Photo number 6?

7 A. No.

8 Q. Photo number 8?

9 A. No.

10 Q. Photo number 11?

11 A. No.

12 Q. Photo number 12?

13 A. No.

14 Q. Photo number 13?

15 A. No.

16 Q. Photo number 14?

17 A. No.

18 Q. Photo number 15?

19 A. No.

20 Q. Photo number 16?

21 A. No.

22 Q. So for all the photographs that you just

23 mentioned, they were not the basis of any agreement,

24 as far as you know, between CTA or E. King or the

1 owner of this site at 1601 East 130th Street?

2 A. That's correct.

3 MR. McCAHAN: Nothing further.

4 HEARING OFFICER HALLORAN: Okay. Let's go off
5 the record.

6 (WHEREUPON, discussion was had
7 off the record.)

8 HEARING OFFICER HALLORAN: We are back on the
9 record.

10 Chris, you're still under oath.

11 Mr. Levine is going for recross.

12 MR. LEVINE: Thank you.

13 RE CROSS EXAMINATION

14 BY MR. LEVINE:

15 Q. Counsel on redirect asked you a couple
16 things, and one of the things he discussed with you
17 was whether or not there was any evidence of an
18 agreement.

19 Do you remember that?

20 A. Yes.

21 Q. And isn't one of the reasons there's no
22 evidence of an agreement is because we don't -- in
23 the course of the investigation, the individuals from
24 E. King and Paschen's names were never taken down,

1 correct?

2 A. That's correct.

3 Q. And if those people's names -- If those
4 people were identified and could be brought as
5 witnesses, then we would have been able to ask them
6 questions with regard to the agreement, correct?

7 A. Correct.

8 Q. Okay. And you indicated on redirect that
9 the source is the big one. What is the big one?

10 A. The big one meaning the big factor.

11 Q. Is that the big target of an investigation
12 also?

13 A. No.

14 Q. Okay. Wouldn't you want to know during the
15 course of an investigation where the source was so
16 violations could be given to the appropriate
17 individuals?

18 A. Yes.

19 Q. And you testified you didn't know where the
20 waste came from, correct?

21 A. Correct.

22 Q. And one of the reasons you don't know where
23 the waste came from was because the investigation in
24 this case was not thorough, correct?

1 A. I wouldn't say that. I thought it was
2 pretty thorough.

3 Q. Well, wouldn't you have done a more
4 thorough investigation in this case?

5 A. Yes.

6 Q. And the reason -- What are the reasons you
7 think that a more thorough investigation should have
8 been done?

9 A. What are the reasons?

10 Q. Yes.

11 A. We needed to think about where the material
12 came from. We needed to ask more questions perhaps.
13 Again, CTA was going to do their own investigation.

14 Q. Well, you're not relying on the CTA to
15 prove violations, are you, sir?

16 A. No.

17 Q. And you testified that on Defendant's
18 Exhibit A Mr. Gonzalez or the address of his yard was
19 not on that, correct?

20 A. Correct.

21 Q. And what -- The fact that it was not on
22 there would lead you to believe that the waste was
23 moved contrary to the manifest, correct?

24 A. Correct.

1 Q. Okay. Would that be a violation?

2 A. I don't know.

3 Q. Okay. Do you have any question in your
4 mind that the CTA had waste coming from 567 West Lake
5 Street?

6 A. I don't know for sure.

7 Q. Okay. Well, does the manifest state that?

8 A. Yes, it does.

9 Q. Did Mr. King -- Mr. Webber state that?

10 A. He did not.

11 Q. Okay. Did the individual from Paschen and
12 E. King state that?

13 A. He did not either.

14 Q. Did they indicate that it was from the
15 Brown Line?

16 A. They did not.

17 Q. Did they say that they had an agreement to
18 move waste from CTA?

19 A. Yes.

20 Q. And that was E. King that stated that,
21 correct?

22 A. Yes.

23 Q. And E. King further stated that their
24 agreement to transport the waste -- that the final

1 destination was the CID landfill, correct?

2 A. Correct.

3 Q. And that was right next to the property in
4 question, correct?

5 A. Correct.

6 Q. And are you aware whether or not the CID
7 landfill is closed on the weekends?

8 A. Yes, it is.

9 Q. Okay. And are you aware whether or not CTA
10 was moving material on the weekends?

11 A. Yes.

12 Q. Okay. And how do you know that?

13 A. From prior conversations I had with John
14 Kryl and Stan Kaehler. They informed me that that
15 was the situation, that was the agreement.

16 Q. Does -- Whose fault is it if a manifest is
17 not followed?

18 A. I'm not sure.

19 Q. Okay. Well, is it Mr. Gonzalez' fault if
20 the manifest is not followed?

21 A. I'm not sure.

22 Q. Okay. You testified that you had no belief
23 that the waste in this case was connected to the CTA
24 manifest, correct?

1 A. Correct.

2 Q. Okay. E. King trucks were on site,
3 correct?

4 A. I didn't see any E. King trucks on site.

5 Q. You had an investigation report, did you
6 not?

7 A. Pardon me?

8 Q. You had an investigation report?

9 A. Right.

10 Are you referring to the 22nd or the 24th?

11 Q. I'm talking about the 22nd and the 24th.

12 A. On the 24th I did witness an E. King
13 truck -- pickup truck, but on the 22nd I did not
14 visually see an E. King truck on site.

15 Q. But you signed a narrative evaluation
16 summary, did you not?

17 A. Yes, I did.

18 Q. And that indicates that E. King trucks were
19 on site?

20 A. Yes.

21 Q. And they were on site in the process of
22 receiving loads of what looked to be C&D debris,
23 correct?

24 A. Correct.

1 Q. Do you have any knowledge that that summary
2 is incorrect?

3 A. No.

4 Q. Okay. So you know E. King trucks were on
5 site?

6 A. Yes.

7 Q. And you know that a manifest was given by
8 an E. King driver to one of your investigators,
9 correct?

10 A. Correct.

11 Q. Okay. You said that was Raphael Maciel?

12 A. Correct.

13 Q. Okay. And you know that there was an
14 agreement -- and this is from your two final
15 paragraphs -- there was an agreement between the CTA,
16 Paschen, E. King, and Gonzalez to store soil from the
17 CTA Brown Line until CID resumed business, correct?

18 A. Correct.

19 Q. Okay. And the trucks in question -- Now,
20 on your site plan you took pictures of what has been
21 marked -- and this is page 8 of Exhibit A -- what has
22 been marked as, "Suspect CTA material," correct?

23 A. Correct.

24 Q. That's on the site plan.

1 There's also numerous photographs, correct?

2 A. Correct.

3 Q. And you know that there was a manifest from
4 the CTA to a transporter, E. King, with a final
5 designation of CID, correct?

6 A. Correct.

7 Q. And you know the agreement that you wrote
8 up in your March 22 narrative evaluation, page 6 and
9 7 of Exhibit A, correct?

10 A. Correct.

11 Q. Now, taking all that in account, why do you
12 not believe that there was no connection between the
13 CTA and the waste found on site?

14 A. There possibly could have been a
15 connection. I don't know for sure. I didn't do a
16 follow-up investigation to where the material came
17 from, who it belonged to. We did ask a
18 representative from Paschen and E. King, you know, if
19 this material came from their site, and neither one
20 could give us an answer. Both of them said they
21 didn't know where it came from.

22 Q. If they didn't give you an answer, you
23 could have given them tickets that day, correct?

24

A. No.

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1 Q. Could you have investigated further and
2 given them tickets at a later date?

3 A. Yes.

4 Q. Okay. So it's not unusual for someone to
5 deny knowledge of something where they could have
6 been libel, correct?

7 A. Right.

8 Q. Now, you did testify that you do not
9 believe they were connected, the waste on the site
10 with the CTA material?

11 A. Correct.

12 Q. And you said the reason you don't believe
13 they were connected is because no further
14 investigation was done, correct?

15 A. Correct.

16 Q. What I'm asking you is, based on the
17 investigation that you conducted with regard -- as
18 explained in your March 22 narrative evaluation,
19 page 6 of Exhibit A, based on your conversations with
20 Mr. Webber, the unknown representative from Paschen,
21 the E. King individual, and the --

22 MR. McCAHAN: Objection. Where does it say that

23 in the narrative? I don't believe it says anything
24 about an E. King representative being present.

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1 MR. LEVINE: Okay. I'll remove that.

2 HEARING OFFICER HALLORAN: Thank you.

3 MR. LEVINE: I'll withdraw that.

4 BY MR. LEVINE:

5 Q. Based on your narrative evaluation, pages 6
6 and 7, dated March 22, which is Exhibit A, regarding
7 the agreement to move the CTA material; based on the
8 fact that E. King trucks were on site loading
9 material; based on the fact that you viewed a
10 manifest from the CTA signed by Chuck Webber with a
11 generator's point being the CTA, the transporter
12 being E. King, and the designated facility being CID,
13 the landfill next door to the property in question,
14 why do you still believe -- why did you testify that
15 they were not connected?

16 A. I didn't have any proof.

17 Q. What more would you have needed?

18 A. I would need somebody to tell me exactly
19 what was going on out there.

20 Q. Well, didn't Chuck Webber, the Paschen
21 representative that you spoke to, tell you what was

22 going on?

23 A. Yes.

24 Q. Okay.

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1 A. In terms of the agreement, yes.

2 Q. Now, how much proof do you need to bring a
3 violation?

4 A. I don't know.

5 Q. Okay. What proof do you have -- If this
6 wasn't adequate proof to demonstrate that this was
7 CTA material and no further investigation was done by
8 the Department of Environment, what proof do you have
9 that Jose Gonzalez caused or allowed the waste on the
10 site?

11 A. I don't know.

12 Q. Would you agree with me that in order to
13 bring a violation of this sort further investigation
14 would be required?

15 A. Yes.

16 Q. Would you agree with me that the
17 photographs contained in Exhibit A throughout --
18 pages 9 to 17, indicate evidence of fly dumping on
19 the property?

20 A. Yes.

21 Q. And I'm talking about -- We're not talking
22 about the suspect CTA waste, correct, but everything
23 that is not the suspect CTA material?

24 A. Are you saying that was the fly-dump

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1 material?

2 Q. No. I'm saying everything other than the
3 suspect CTA material.

4 A. Correct.

5 Q. The suspect CTA material was all in one big
6 pile, was it not?

7 A. It was.

8 Q. And it was in a big pile much like the
9 phones were, photo 7, correct?

10 A. Correct.

11 Q. Which indicates nonillegal dumping,
12 correct?

13 A. Correct.

14 Q. Okay. And would you agree with me that
15 there was sufficient -- there was some evidence that
16 the material that was suspect CTA material actually
17 came by the CTA and was dumped by E. King contrary to
18 an agreement?

19 A. It's a possibility.

20 Q. Well, it's more than a possibility. You
21 have testimony of specific witnesses and a manifest
22 to those facts, correct?

23 A. Correct.

24 Q. What more evidence would you require to

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1 determine that the material was CTA material?

2 A. That's enough evidence.

3 Q. And what more evidence would you require to
4 determine that the material was dumped contrary to
5 the agreement?

6 A. You wouldn't have to have any more
7 evidence.

8 Q. Now, one of the reasons you issue tickets
9 to owners of property is it's easier than chasing
10 down a fly dumper, correct?

11 A. Correct.

12 Q. And in this case it was easier to ticket
13 Mr. Gonzalez than conduct an adequate investigation,
14 correct?

15 A. Correct.

16 Q. And an adequate investigation would have
17 identified witnesses as to where the material came
18 from and why it was on the property, correct?

19 A. Correct.

20 Q. Now, you testified -- One of the reasons
21 that there's no evidence of the agreement is because
22 we don't know who the witnesses are, correct?

23 A. Correct.

24 Q. So when you testify that there was no

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1 evidence of an agreement previously, first of all,
2 you mean there was no written agreement that you ever
3 found, correct?

4 A. Correct.

5 Q. But it was never looked for, was it?

6 A. I don't know.

7 Q. You didn't look for it?

8 A. I didn't.

9 Q. And you don't know of anyone else at the
10 Department of Environment who looked for it?

11 A. That's correct.

12 Q. And with regard to evidence of an oral
13 agreement, no further investigation, as far as you
14 know, was conducted by the Department of Environment
15 to determine whether or not the agreement was
16 actually in place?

17 A. Correct.

18 MR. LEVINE: Nothing further.

19 Thanks, Chris.

20 HEARING OFFICER HALLORAN: Mr. McCahan,
21 re-redirect?

22 MR. McCAHAN: I just have two questions.

23 HEARING OFFICER HALLORAN: Go ahead.

24 MR. LEVINE: Sure you do.

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1 RE-REDIRECT EXAMINATION

2 BY MR. McCAHAN:

3 Q. You testified on recross that the agreement
4 as you know was that the material was to be stored on
5 site over the weekend because the CID landfill was
6 closed; is that correct?

7 A. That is correct.

8 Q. What day of the week was March 22, 2006, if
9 you remember?

10 A. I don't remember.

11 Q. You also testified that the source is
12 important; is that correct?

13 A. That's correct.

14 Q. Whether the waste is -- the source of the
15 waste is on site or off site is an important aspect
16 of whether something is a dump; is that correct?

17 A. Correct.
18 MR. McCAHAN: Nothing further.
19 HEARING OFFICER HALLORAN: Thank you.
20 Mr. Levine?
21 MR. LEVINE: Sorry.

22 RE-RE-CROSS EXAMINATION

23 BY MR. LEVINE:

24 Q. Two things.

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1 Whether something is on site or off site --
2 I don't understand what you just testified to. Could
3 you explain it?

4 THE WITNESS: Can you explain the question?

5 BY MR. LEVINE:

6 Q. No. You have to explain the question.

7 What is the difference between an on-site
8 and an off-site waste?

9 A. Off-site waste would be something that was
10 brought in to a site from an off-site location.
11 On-site waste is something that was generated on
12 site.

13 Q. For instance, the berm compared to the
14 suspect CTA material, correct?

15 A. Correct.

16 Q. The CTA material would be -- came from off
17 site?

18 A. Off site, right.

19 Q. Correct?

20 A. Correct.

21 Q. And if it was stored in boxes, as pursuant
22 to the agreement, that would not be a dump, correct?

23 A. Correct.

24 Q. That would just be storage?

99

1 A. Correct.

2 Q. Also, as you know, the agreement -- Your
3 understanding of the agreement was that material was
4 supposed to be stored in boxes, correct?

5 A. Correct.

6 Q. What is the time difference between moving
7 a box as opposed to moving dumped material? Does it
8 take longer to move dumped material than a box?

9 A. Yes.

10 Q. Why?

11 A. Because it's not containerized.

12 Q. So it takes additional time to load it back
13 in the container?

14 A. Yes.

15 Q. And put it on the truck and take it away?
16 A. Yes.
17 Q. And you know the agreement was to store it
18 in a box, correct?
19 A. Correct.
20 Q. So if the agreement was to store it in a
21 box over the weekend and the agreement was violated
22 by people unbeknownst to us, then would that explain
23 why the individuals were on site still cleaning it a
24 couple days after the weekend?

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1 A. Perhaps.
2 Q. Is that a good explanation of that?
3 A. Yes.
4 MR. LEVINE: Nothing further.
5 HEARING OFFICER HALLORAN: Mr. McCahan?
6 MR. McCAHAN: Nothing further.
7 HEARING OFFICER HALLORAN: Thanks. Chris, you
8 may step down. Thanks. I don't know if you're
9 needed any further.
10 We can go off the record.
11 (WHEREUPON, discussion was had
12 off the record.)
13 HEARING OFFICER HALLORAN: We're going to go

14 back on the record briefly.

15 The prosecution has rested their case.

16 It's the respondent's case in chief, and he's going
17 to go get his witness. Thank you.

18 We can go off the record.

19 (WHEREUPON, discussion was had
20 off the record.)

21 HEARING OFFICER HALLORAN: We can go back on the
22 record.

23 Mr. Levine?

24 MR. LEVINE: Could you swear the witness,

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1 please.

2 HEARING OFFICER HALLORAN: Yes, Peggy.

3 (WHEREUPON, the witness was duly
4 sworn.)

5 JOSE R. GONZALEZ,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY MR. LEVINE:

10 Q. Sir, please state your name.

11 A. Jose Gonzalez.

12 Q. And are you the owner of the property at

13 1601 East 130th Street?

14 A. Yes.

15 Q. Did you acquire that property in the winter
16 of late 2005/early 2006?

17 A. Yes.

18 Q. Do you know the specific date you acquired
19 it?

20 A. I don't remember off the top of my head.

21 Q. Okay. When you acquired the property --
22 what do you plan to do with the property?

23 A. The property when I was -- I'm having --
24 It's in a design stage right now. The blueprints for

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1 the property are probably, like, 80 percent done.
2 I'm going to develop the property. I'm going to put
3 commercial precast buildings on it, and I'm going to
4 set up my company there. We're going to put six
5 buildings, about 36,000 square feet each building,
6 and we're going to lease out the space to tenants for
7 the Ford Company.

8 Q. When you acquired the property, what was
9 the condition of the property with regard to material
10 on site?

11 A. The condition is just a piece of vacant

12 land, and it has a vacant steel building that used to
13 be, like, an old truck wash.

14 Q. Was there junk on the property?

15 A. Yes. There was garbage on the property.

16 Q. Was there a lot of garbage on the property?

17 A. Yes.

18 Q. Was that a contention between you and the
19 seller of the property prior to your purchase?

20 A. Yes, it was.

21 Q. How long did you go back and forth with the
22 owner of the property with regard to who was
23 responsible for cleaning up the waste on the
24 property?

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1 A. I would say at least -- It dragged on maybe
2 between six to eight months.

3 Q. Did you finally acquire the property?

4 A. Yes.

5 Q. Now, you acquired it in the winter,
6 correct?

7 A. Yes.

8 Q. When did you start cleaning the property?

9 A. We didn't start doing nothing on the
10 property until the -- when the snow starting melting

11 on '06.

12 Q. Why did you wait?

13 A. Because there was a foot -- There was snow
14 on the property, and it was, like, real cold. All
15 the garbage that was there was frozen. Plus, we had
16 a problem because the property -- It's all, like --
17 It's, like, top soil -- like, clay. There was a
18 problem. We had to construct a gravel road in order
19 to get access to the piles because the trucks were
20 getting stuck.

21 Q. So it was basically mud and water, correct?

22 A. Correct.

23 Q. And when the snow melted, what was left on
24 the property? Was that mud and water?

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1 A. When the snow melted, yes.

2 Q. Could you move heavy machinery and trucks
3 in there when the snow -- as soon as the snow melted?

4 A. Could we? Yeah, we were able to. But
5 before we even -- Before we could even access the
6 property, we started constructing a gravel road to
7 gain access to the back of the property.

8 Q. Now, on March 22 there's photographs of
9 gravel on the property, stone, correct?

10 A. Correct.

11 Q. So that gravel -- You purchased that
12 gravel?

13 A. Yes.

14 Q. How many dump truck loads of gravel did you
15 purchase?

16 A. For the entire road?

17 Q. Yeah.

18 A. We probably purchased, like, between 25 and
19 30 semis, and each semi is maybe approximately 20
20 tons.

21 Q. Of gravel?

22 A. Yes.

23 Q. And there was gravel on the property on
24 March 22, correct?

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1 A. Correct.

2 Q. And there's a picture -- I'm showing you a
3 picture. This is in Exhibit A, page 12,
4 photograph 7.

5 Do you have a copy there?

6 A. Yes.

7 Q. That gravel was on site on March 22,
8 correct?

9 A. Correct.

10 Q. And on March 22 your workers were already
11 spreading that gravel, were they not?

12 A. Correct.

13 Q. And how far had they gotten with spreading
14 the gravel on March 22, if you remember? Was there
15 gravel spread at the entrance?

16 A. Yes. It was -- Maybe from the entrance it
17 was probably -- I would say, like, a couple -- From
18 the entrance they probably went a couple hundred feet
19 west.

20 Q. You were making a road with the gravel?

21 A. Yes. Going west.

22 Q. By putting the gravel down, you were able
23 to get a front-end loader and a truck in there,
24 correct?

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1 A. Correct.

2 Q. And you were using the front-end loader and
3 the truck to clear the waste from the property,
4 correct?

5 A. Correct.

6 Q. Now, I'm going to start you off with
7 page 9, if you can go back.

8 Do you have page 9 in front of you?

9 A. Yes.

10 Q. Okay. Photograph 1, was this fly-dump
11 material?

12 A. On photograph 1?

13 Q. Yeah.

14 A. That was --

15 Q. Was that material that you were cleaning up
16 on the site?

17 A. Yes.

18 Q. Did you put that material there?

19 A. No.

20 Q. Did you cause or allow it to be put there?

21 A. No.

22 Q. Now, briefly tell me some of the problems
23 you've had with fly dumpers since you've acquired the
24 property.

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1 A. It's an ongoing battle. I mean, they fly
2 dump. They always try to gain access to the
3 property. Maybe since I own the property they
4 probably fly dumped on the property already, like,
5 12, 15 times. On numerous times I've cleaned up
6 sometimes. That's why you have some of these

7 photographs where they're saying that there's
8 dumping.

9 Q. In fact, it says -- Underneath photograph 1
10 it says, "Illegally dumped," correct?

11 A. Correct.

12 Q. Did you illegally dump that?

13 A. No.

14 Q. Okay. Now, how have the fly dumpers gained
15 access to your property?

16 A. The front gate. They've knocked it down a
17 few times.

18 Q. Have they cut the lock?

19 A. They've cut the lock. And then they also
20 pulled it off the hinges --

21 Q. Okay.

22 A. -- and just opened both of the gates.

23 Q. And when you came back -- You're not there
24 at night, are you?

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1 A. No.

2 Q. When you come back to the property, what
3 have you found with regard to the fence -- the front
4 gate?

5 A. The gate's off to the side or just on the

6 ground.

7 Q. Have they run over the gate at times?

8 A. Yeah.

9 Q. And knocked the fence down?

10 A. Yeah.

11 Q. Now, there's a berm around the property as

12 well, correct?

13 A. Correct.

14 Q. Does the berm keep trucks out?

15 A. Yes.

16 Q. Okay. Let's go to photograph 3 and 4 and 5

17 and 6. This is page 10 and 11 on Exhibit A.

18 A. I'm there.

19 Q. Okay. Is this fly-dump material?

20 A. Yes.

21 Q. Did you put this material there?

22 A. No.

23 Q. Is this the material that was either on the

24 site when you purchased it or brought in by fly

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1 dumpers?

2 A. Yes.

3 Q. Do you use any type of materials like the

4 bricks in photographs 4 and 6 for landscaping?

5 A. No. Those bricks were there for -- They
6 were mason bricks to construct, like, a building --
7 like, a wall. Those are not landscaping bricks.
8 Q. Okay.
9 A. They have mortar stuck in between them.
10 Q. Okay. Would you ever use mortar on bricks
11 to do landscaping?
12 A. No.
13 Q. Would you ever use bricks with slots in
14 them or holes in them to do landscaping?
15 A. Yeah. There's some bricks that -- which we
16 build retaining walls out of that do have slots in
17 them.
18 Q. Okay. Did you dump these bricks here?
19 A. No.
20 Q. Did you clean those bricks up?
21 A. That pile of bricks, I believe, is still
22 there.
23 Q. Okay. Are you in the process of working on
24 cleaning up the property?

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1 A. Well, we were. But then they shut us down.
2 I mean, every time we go out there the City will go
3 out there and start giving us tickets. We just

4 stopped until we resolve this issue.

5 Q. Were you cleaning up the property on
6 March 22 and 24?

7 A. Yes.

8 Q. Okay. If I could have you skip to page 14,
9 photograph 11, those wood ties.

10 Did you cause or allow those wood ties to
11 be on your property?

12 A. No.

13 Q. How about photograph 12? The wood ties
14 behind by the railroad, is that your property?

15 A. No. That's the railroad property. That's
16 the embankment that belongs to the railroad.

17 Q. Now, photograph 12, the material in front,
18 the concrete and the wood, was that from the CTA?

19 A. Yes.

20 Q. Photograph 13, does that show where the
21 bricks were being -- the gravel was being put down?

22 A. Where's photograph 13 here?

23 Q. Keep flipping around. It's page 15 on top.

24 A. What was your question?

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1 Q. Was that where gravel was being put down in
2 that area to stop the water?

3 A. Yes.

4 Q. Okay. The piles in the background, were
5 those piles being cleared on your property?

6 A. The piles in the background, those were --
7 that was rubbish. This was, like, brick -- like,
8 brick and steel.

9 Q. Okay.

10 A. All these piles here were fly dumped.

11 Q. Okay. That's photograph 13, correct?

12 A. Correct.

13 Q. Photographs 14 and 16 on the next page,
14 these are city signs and tires?

15 A. Correct.

16 Q. Where was that material from? Was that
17 material --

18 A. The --

19 Q. Where did it come from?

20 A. Okay. The material on top --

21 Q. This is photograph 14?

22 A. No. Photograph 15, that's fly dump
23 material.

24 Q. Okay. I'm talking about photograph 14.

1 A. Okay. Photograph 14, the bottom, that's

2 right next to the building -- a building. There's
3 maybe, like, a 10,000-square-foot building that was
4 just there outside the building.

5 Q. When you purchased the land?

6 A. It's always been there. You can see
7 there's, like, a Hilton's coffee can that's, like,
8 from the '80s that's still there.

9 Q. Where is that? On photograph 14?

10 A. On photograph 16.

11 Q. Okay. So the tires and the signs, these
12 were on the property when you purchased it, correct?

13 A. You can see, like, the rust of them just
14 sitting out there for years. They're all rusted.

15 Q. Now, I'd like to direct your attention to
16 page 17.

17 A. Okay.

18 Q. This is the CTA waste material, correct?

19 A. Correct.

20 Q. Did you have an agreement with E. King?

21 A. Yeah, I did.

22 Q. And what was your agreement with regard to
23 E. King with regard to storing CTA waste material?

24 A. The agreement was I was going to lease them

1 the property for \$500 a night, and they were going to
2 bring dumpsters or they were going to just leave the
3 material in semis overnight.

4 Q. And why did they -- E. King need to leave
5 the material in dumpsters or leave it in the trucks
6 overnight?

7 A. Because CID's a contaminated landfill, and
8 they don't open at night or they don't open on the
9 weekends. They wouldn't be open on Saturday or
10 Sunday.

11 Q. Okay. Who's your agreement with?

12 A. My agreement is with E. King.

13 Q. Who at E. King?

14 A. Elaine King.

15 Q. Okay. Was Elaine King at the site on
16 March 22?

17 A. No.

18 Q. Did she later come? Do you know?

19 A. Yes.

20 Q. Okay. Did E. King follow its agreement?

21 A. No.

22 Q. Okay. What did they do?

23 A. Well, originally she told me that they were
24 only going to -- that the CTA job they could only

1 work at night on the weekends. And they were only
2 going to have between 10 to 15 loads of material, and
3 they were just going to leave the trucks there
4 parked.

5 Q. Or leave it in roll-offs, correct?

6 A. Yes.

7 And then they were going to transfer the
8 waste in the morning to CID to dispose of it
9 properly.

10 Q. Okay. Did they follow their agreement?

11 A. No, they didn't.

12 Q. What did they do?

13 A. They ended up dumping all the material, and
14 then they ended up dumping, like -- I would say they
15 had to dump between 1,000 to 1500 yards of cubic
16 dirt.

17 Q. On your property?

18 A. Yes.

19 Q. Did you allow them to do that?

20 A. No.

21 Q. Did you cause them to do that?

22 A. No.

23 Q. Were you upset when you found out they did
24 it?

1 A. Yes.

2 Q. Were you very upset or a little upset?

3 A. I was very upset.

4 Q. Were you yelling at Ms. King?

5 A. Yes.

6 Q. Were you swearing at her?

7 A. Yes.

8 Q. What did she tell you? How did she say she
9 would take care of this?

10 A. Well, she says -- She told me that she
11 understood. First, she, like, apologized. She goes,
12 "But don't worry about it because Paschen" -- which
13 she was working for -- "is the general contractor for
14 CTA." She said that Paschen was going to rent the
15 machine and that she was sending trucks over there to
16 start cleaning up all the material. And I told her,
17 "She better make sure that all the f'ing material
18 gets cleaned up" -- "that everything gets cleaned. I
19 don't want that shit on my property." She said,
20 "Don't worry. They're going to rent the machine.
21 I'm sending the trucks. We're going to stay there
22 until we clean it. If we don't finish today, we're
23 going to keep going at it until we finish it all."

24 Q. On March 22, 2006, when the Department of

1 Environment investigators came through to your site,
2 what was happening with regard to Paschen's front-end
3 loader and E. King's trucks?

4 A. They were loading the material and hauling
5 it out of there.

6 Q. Were they cleaning the yard?

7 A. Yes.

8 Q. Were you also -- Did you also discuss with
9 Elaine King additional cleaning of your yard to be
10 done?

11 A. Yes. They started cleaning on Monday. But
12 when the Department of Environment showed up, they
13 probably already had, like, I would say, at least,
14 like, 700 yards of dirt out of it. They already
15 probably had between Monday and I believe it was
16 Tuesday. I think they showed up on Wednesday. By
17 then I already had cooled down because I seen they
18 were cleaning it. And so I asked her -- I said,
19 "Hey, now since" -- She told me they had rented the
20 wheel loader for a week. I said, "Since you already
21 have the wheel loader, can you have the guys clean up
22 the rest of all the material that's there, and I'll
23 pay you for the trucking? And I'll tell you where to
24 take it to to dispose of it." She said, "Yes."

- 1 Q. Now, the wheel loader is the front-end
2 loader?
- 3 A. Yes.
- 4 Q. Could you turn to Exhibit C, please.
- 5 A. Where is that at?
- 6 Q. I'll give you a page number in a second.
- 7 A. Okay.
- 8 Q. Look at page 67 and 68.
- 9 A. Yes.
- 10 Q. Is photographs 8, 9, and 10 photographs of
11 the bobcat and the front-end loader --
- 12 A. Yes.
- 13 Q. -- cleaning up waste on your property?
- 14 A. Yes.
- 15 Q. Okay.
- 16 A. This is where they originally had -- When
17 they first -- Some drivers dumped on this side of the
18 road, and some others dumped on this side. And this
19 is, like, the first area they had dumped at. They
20 were just cleaning up, like, what the guys -- They
21 were picking the wood and stuff out of those loads.
22 The last of -- The wheel loader was there, and the
23 guy was pushing it with the bobcat.
- 24 Q. Why would wood have to be segregated from

1 the loads if you were taking it to the dump?

2 A. Because CID was complaining because
3 they said that the stuff that they had -- Everything
4 that goes to CID has to be manifested and tested. So
5 CID was -- They started complaining saying that when
6 they did their test there was no water, iron, or none
7 of this other crap that was in the loads. So the guy
8 at CID called Elaine and told her, "Either you pick
9 it up, or I'm not going to take the stuff." So then
10 they started picking it to clean the material up.

11 Q. Okay. Because wood has to be taken to
12 another location?

13 A. Correct.

14 Q. And how about metal? Is metal -- Does
15 metal have to be taken to a transfer point?

16 A. Yeah. Metal normally is recycled.

17 Q. Okay.

18 A. But Elaine said -- It was on the rail yard
19 for CTA, and they had -- Because they have a lot of
20 restrictions as far as how many hours they can work
21 on there, so she said that they had to change the
22 amount of trucks. And they weren't separating the
23 stuff at the job. The guy was just loading. They

24 were just getting trucks out of there. They wanted

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1 to get the extent of the wood done in a period of,
2 like, six hours -- like, the hours that they're
3 allowed to work that weekend.

4 Q. With your agreement with Elaine King, did
5 you allow her -- When you agreed to allow material to
6 be kept on your lot in boxes and in trucks, did you
7 allow her to segregate material at your yard?

8 A. No.

9 Q. Okay. Did she do that in the course of
10 cleaning up the waste that she dumped on your
11 property?

12 A. Yeah. Well, after they dumped it all, then
13 they had that problem with CID. That's when they
14 started separating it to the best of their ability.

15 Q. After the investigators came to your yard
16 on March 22, 2006, did you allow E. King to dump --
17 or anyone to dump additional waste material at your
18 yard?

19 A. No.

20 Q. Okay. Could you look at page 70, please.

21 A. Yes.

22 Q. Do you see photographs 13 and 14 on page 70

23 are different colors of earth?

24 A. Yes.

120

1 Q. Okay. On the left on the top it's a light
2 color, and on the bottom it's a darker color?

3 A. Yes.

4 Q. Do you know -- Was that new waste that was
5 dropped at your yard from the 22nd?

6 A. No. What happened was I was complaining to
7 E. King that -- Because this stuff was classified as
8 special waste. So I told E. King that she better
9 scrape all this shit off what was my existing ground.
10 So the stuff on the bottom is, like, the muck of what
11 was there. If you go back to -- If you go back to,
12 like, page 67 --

13 Q. I have it right in front of me.

14 A. -- you can see on those two pictures -- The
15 top page you can see all the tracks of the wheel
16 loader where they were scraping. That's what they
17 were doing. They were just scraping everything and
18 cleaning all the top of it all.

19 Q. Okay. So photographs 13 and 14 --

20 A. This stuff was wet, and the other stuff was
21 just, like, the dry stuff on the top.

22 Q. Okay. That was my question.

23 This wasn't new material that was brought
24 to the site between the 22nd?

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1 A. No. You can see it's around the outside of
2 it, not on top, because that's where they were just
3 pushing it to load it all out of there.

4 Q. Okay. You were very vigilant after the
5 investigators came to your yard about what was going
6 on, were you not?

7 A. Correct.

8 Well, I was there -- When they showed up, I
9 was there because for the same reason. I was making
10 sure that they cleaned up the site the way I wanted
11 it cleaned up.

12 Q. You wanted to make sure you weren't getting
13 any more violations, correct?

14 A. Correct.

15 Q. The berm around the property, you can see
16 those in photographs 7 and 8 on page 67 and page --
17 photographs 11 and 12 on 69.

18 Do you have that in front of you?

19 A. Page 69?

20 Q. Yes.

21 A. Yes.
22 Q. There's trees on that berm, are there not?
23 A. Yeah.
24 Q. That berm has been there for years, has it

122

1 not?
2 A. It's been there forever.
3 Q. And the growth -- There's heavy growth on
4 top of the berm, correct?
5 A. It's all vegetation.
6 Q. Okay. And did the owner of the property
7 that you -- I'm sorry.
8 Did the seller of the property tell you
9 where the dirt came from to make the berm?
10 A. Yes.
11 Q. Where did he tell you it came from?
12 A. He said that he took a scraper or a big
13 dozer, and he just cut the whole site down about a
14 foot. And he just piled it all there because he
15 couldn't control the fly dumping on it because it was
16 an open field just for them to go in. He didn't want
17 to spend the money to fence it all off. It was,
18 like, a couple hundred thousand or something to fence
19 it all off.

20 Q. And one of the problems with a fence is
21 that the fly dumpers will just drive right over it,
22 correct?

23 A. Yes.

24 Q. And the berm keeps the fly dumpers out?

123

1 A. Correct.

2 Q. Did you cause or allow waste to be placed
3 on your property?

4 A. No.

5 Q. In fact, you've spent -- Approximately how
6 much money have you spent cleaning up that property?

7 A. Just in disposal fees, I probably have,
8 like, 30,000. That's not even including the
9 trucking.

10 Q. Did you conduct waste storage or waste
11 treatment?

12 A. No.

13 Q. Did you cause or allow open dumping or
14 scavenging?

15 A. No.

16 Q. Did you cause or allow open burning?

17 A. No.

18 Q. Did you cause or allow the deposition of

19 waste in standing waters?

20 A. No.

21 Q. Did you cause or allow dumping of tires?

22 A. No.

23 Q. In fact, this property's been nothing but a
24 headache for you, hasn't it?

124

1 A. Yes.

2 Q. Did you ever see a manifest -- a waste
3 manifest with regard to the CTA material?

4 A. Yes.

5 Q. Okay. I'm showing you what's been marked
6 as Respondent's Exhibit A for identification.

7 Is that a copy of the manifest that you
8 saw?

9 A. Yes.

10 Q. And what does that manifest tell you about
11 the material -- Let me go back.

12 Where did you get that manifest?

13 A. We got the manifest from -- Elaine got them
14 from this guy Chuck Webber from F.H. Paschen.

15 Q. Do you know who Chuck Webber worked for?

16 A. He was working for F.H. Paschen.

17 Q. Okay. Were you out there that day meeting

18 with Elaine and Chuck Webber?

19 A. No. They weren't there. They were there
20 early in the morning. We met there about, like, 6:30
21 in the morning because I was ranting and raving that
22 Monday about the stuff. And I told her she better
23 get out there. And then they were just finishing up
24 that Sunday working, so Elaine called Chuck because I

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1 told Elaine they dumped all over this place. Elaine
2 said -- Elaine tried to claim that she didn't know
3 because she was at home sleeping. So then she said
4 she'd call that guy Chuck.

5 Q. Do you know whether or not Chuck actually
6 worked for the CTA?

7 A. No. I believe he was a superintendent for
8 Paschen.

9 Q. Okay. What did the manifest -- When you
10 obtained a copy of the manifest, you got it from
11 Elaine?

12 A. Yes.

13 Q. What did it tell you about where the waste
14 came from?

15 A. It's showing you that it came from Lake
16 Street -- from this Lake Street job.

17 Q. Okay. What's the address there?
18 A. It says 567 West Lake, CTA.
19 Q. Okay. That's the CTA, correct?
20 A. Yes.
21 Q. Okay. Did it identify who the transporter
22 or the company was -- transport company? That's
23 number 5.
24 A. Yes.

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1 Q. And who is that?
2 A. Elaine King.
3 Q. And that was pursuant to your agreement
4 that the CTA waste would be stored in roll-off trucks
5 until the CID landfill could open up, correct?
6 A. Yes.
7 Q. And where is the designated facility for
8 the waste? That's number 9.
9 A. That's CID, 138th and Bishop Ford Highway.
10 Q. And that's right next to your property, is
11 it not?
12 A. Right next door, yes.
13 Q. Okay. Was this document kept in the
14 ordinary course of business at -- of your business?
15 A. I don't understand what --

16 Q. Well, you kept a copy of this, did you not,
17 at the office?

18 A. Of this manifest?

19 Q. Yeah.

20 A. No.

21 Q. You didn't keep it?

22 A. I just saw them when they handed them to
23 the drivers, and that was it.

24 Q. Okay. Is it substantially the same as when

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1 you saw it?

2 A. Yes.

3 Q. Okay. Did you -- Was this --

4 MR. LEVINE: I have nothing further.

5 HEARING OFFICER HALLORAN: All right. Thank
6 you, Mr. Levine.

7 Let's go off the record.

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

10 HEARING OFFICER HALLORAN: Ms. Burke, cross?

11 CROSS-EXAMINATION

12 BY MR. McCAHAN:

13 Q. Mr. Gonzalez, you mentioned that you paid
14 approximately \$30,000 in disposal fees to clean up

15 the property, correct?

16 A. Correct.

17 Q. Who did you pay those fees to?

18 A. We paid -- The name of the place is
19 Tri-State Disposal. They're on 127th and Ashland.
20 And they were dumped -- I don't have an account
21 there, but a good friend of mine has an account. We
22 used his account. They were dumped under B.T. Mayer
23 Construction.

24 MR. LEVINE: P.T. -- What's the last name?

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1 THE WITNESS: B.T. Mayer.

2 MR. LEVINE: How do you spell Mayer?

3 THE WITNESS: M-a-y-e-r. I always use his
4 account to dump stuff there.

5 BY MS. BURKE:

6 Q. When you paid the disposal fee, did you pay
7 it to B.T. Mayer?

8 A. No. Normally what he does is he just
9 forwards the bill to me, and I just cut a check to
10 Tri-State. Before I used to cut him a check, but
11 then he just started giving me the invoice and said,
12 "Here. Just pay it." He would just mark which was
13 mine, and I would pay it.

14 Q. And was this disposal fee for materials
15 that were on the site on March 22, 2006?

16 A. Yes.

17 MR. LEVINE: I'm going to object as to
18 foundation. The CTA material or the fly-dump
19 material?

20 THE WITNESS: It was the fly-dump material --

21 HEARING OFFICER HALLORAN: Wait a minute.

22 Ms. Burke?

23 MS. BURKE: We'll get to that.

24 MR. LEVINE: All right. As long as you're going

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1 to go into that.

2 HEARING OFFICER HALLORAN: Okay. Overruled.

3 The witness may answer.

4 BY MS. BURKE:

5 Q. What materials -- Which materials that were
6 on the site on March 22, 2006, did you dispose of at
7 Tri-State Disposal?

8 A. The fly-dump material, which was the
9 timbers and all those tires you seen on those
10 pictures and, like, all the stuff around the
11 building. And then I took dirt. The dirt was taken
12 to Lincoln.

13 Q. In terms of the materials that were sent to
14 Tri-State Disposal and the check you wrote to
15 Tri-State Disposal, whose name was on the check -- or
16 what account -- what was the name on the account of
17 the check that you wrote to Tri-State Disposal?

18 A. I wrote it out of my company.

19 Q. What company name is that?

20 A. Speedy Gonzalez Landscaping.

21 Q. I thought you said Speedy Gonzalez
22 Landscaping?

23 A. Yes.

24 Q. You mentioned that you -- that dirt

130

1 materials were sent to a disposal facility called
2 Lincoln; is that correct?

3 A. Yes.

4 Q. And those were dirt materials that were on
5 the site on March 22, 2006?

6 A. That was the dirt that was all the way in
7 the back.

8 Q. Looking at the site sketch on Exhibit A,
9 page 8, where are you referring to the dirt materials
10 as coming from?

11 A. Right over here by where it says 18, 19.

12 Q. So to the western edge of the site?

13 A. Yeah, the west side of -- Yeah, the west
14 side of the property.

15 Q. And for the -- And did you pay -- And for
16 the disposal fees paid to Lincoln, how did you pay
17 for those?

18 MR. LEVINE: Objection. Relevance.

19 HEARING OFFICER HALLORAN: Ms. Burke?

20 MS. BURKE: I mean, it goes to -- The relevance
21 is it goes to what Mr. Gonzalez' activities were at
22 the site. He's a respondent or a defendant in this
23 matter.

24 HEARING OFFICER HALLORAN: You know, I'll allow

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1 it.

2 MR. LEVINE: Well, wait. If I could argue it.

3 HEARING OFFICER HALLORAN: For the record, you
4 can. But I'm going to allow it.

5 MR. LEVINE: Okay. I understand that.

6 HEARING OFFICER HALLORAN: Okay.

7 MR. LEVINE: You said it goes to what now?

8 MS. BURKE: It goes to Mr. Gonzalez' activities
9 and involvement with the site.

10 MR. LEVINE: Mr. Gonzalez -- How is it relevant

11 if he directed the site to be cleaned how he paid for
12 it?

13 MS. BURKE: I want to know who --

14 MR. LEVINE: That's material that you didn't
15 question in discovery. What difference does it make
16 how he paid for it? If he took pennies out of his
17 bank to pay for it --

18 HEARING OFFICER HALLORAN: I've ruled. He may
19 answer. Your objection is so noted on the record.

20 MR. LEVINE: All right. I'm getting
21 argumentative, aren't I?

22 HEARING OFFICER HALLORAN: Thank you.

23 BY MS. BURKE:

24 Q. How did you pay for the disposal fees to

132

1 Lincoln?

2 A. They were paid from Speedy Gonzalez
3 Landscaping.

4 Q. Were there any other facilities that
5 materials were sent -- disposal facilities that
6 materials were sent to on March 22, 2006?

7 A. To the best of my knowledge, those were the
8 only places the stuff was taken to. And CID with
9 that other stuff.

10 Q. Which materials were taken to CID?

11 A. All the contaminated stuff. The stuff that
12 was manifested.

13 Q. You're referring to the material that came
14 from CTA?

15 A. Yeah.

16 Q. Referring to Exhibit A, pages 9 through 22,
17 the photographs, are these photographs on pages 9
18 through 22 photographs taken of the property at
19 1601 East 130th Street?

20 A. Yes.

21 Q. And you testified that wood materials were
22 taken out of -- or segregated from materials on the
23 site in order to dispose -- in order to dispose of
24 the materials; is that correct?

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1 A. Yes.

2 Q. Did your employees remove the wood
3 materials out of the piles?

4 A. No.

5 Q. Did E. King's employees remove the wood
6 materials out of the piles?

7 A. Yes.

8 Q. You stated that you had an arrangement with

9 E. King to store materials on your site for \$500 per
10 night; is that correct?

11 MR. LEVINE: Objection. Foundation. That
12 wasn't the entire agreement. The agreement was to
13 store it in boxes on the site.

14 MS. BURKE: I'll rephrase.

15 BY MS. BURKE:

16 Q. Did you state earlier that you had an
17 agreement with E. King to store materials in boxes on
18 your site for \$500 per night?

19 A. That's right, yes.

20 Q. And did you receive the money -- Did you
21 receive the \$500 per night from E. King?

22 A. No. To this day we haven't been paid yet
23 on it. I'm actually arguing with Paschen right now
24 as far as the money.

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1 Q. Was part of your agreement with E. King
2 that you would give E. King a key to the gate of the
3 property?

4 A. Yes.

5 Q. Has Illinois EPA -- Back up.

6 Has the Illinois Environmental Protection
7 Agency issued to you any permits to operate any

8 activities on the property?

9 A. No.

10 Q. I'm going to show you a document --

11 MS. BURKE: I don't know whether I should go
12 back to B or go on to a new letter?

13 HEARING OFFICER HALLORAN: You know, we can go
14 back to B so there won't be a skip in the exhibits.

15 BY MS. BURKE:

16 Q. I'm going to show you a document that we'll
17 mark as Exhibit B. It's a self authenticating
18 document, a certified deed, from the County
19 Recorder's office.

20 Mr. Gonzalez, does this document refresh
21 your memory as to when you acquired the property at
22 1601 East 130th Street?

23 A. Yes. It says on January 2005. But then it
24 says on the bottom 2003 -- March 2003 -- dated March

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1 2003.

2 Q. Did you acquire the property then at
3 1601 East 130th Street in January of 2005?

4 A. Yes. That's what it reads here.

5 Q. And is that what you remember?

6 A. Yes.

7 MS. BURKE: I have no further questions.
8 HEARING OFFICER HALLORAN: Thank you.
9 MS. BURKE: Wait. I'm sorry. Can I move to --
10 Well, I think I moved, but let me clarify. I move to
11 admit this Exhibit B into evidence.
12 MR. LEVINE: I object. This is a copy. It's
13 hearsay unless you have the original.
14 MS. BURKE: I have a self-authenticating
15 document from the Recorder's Office that's certified.
16 HEARING OFFICER HALLORAN: You do have a
17 certified copy?
18 MS. BURKE: I have a certified copy.
19 MR. LEVINE: All right. No objection.
20 HEARING OFFICER HALLORAN: The certified copy of
21 the trustee's deed is admitted into evidence. That's
22 Exhibit B -- Plaintiff's Exhibit B.
23
24

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1 (WHEREUPON, Complainant's Exhibit
2 No. B was offered and received in
3 evidence.)
4 MS. BURKE: I have nothing further.
5 HEARING OFFICER HALLORAN: Mr. Levine, redirect?

6

REDIRECT EXAMINATION

7 BY MR. LEVINE:

8 Q. Jose, did you just call Kathy on the phone
9 15 minutes ago?

10 A. Yes.

11 Q. And did you check with her as to when you
12 acquired the property?

13 A. Yes, I did.

14 Q. 20 minutes ago did you remember when you
15 acquired the property?

16 A. No.

17 Q. And did you have a conversation with your
18 employee Kathy --

19 A. Yes.

20 Q. And did you -- The reason for the
21 conversation was to check when you acquired it?

22 A. Yes.

23 Q. And what did she tell you?

24 A. She told me that I had acquired it in

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1 January of 2006. That's what she told me.

2 Q. And is that what you remembered at the
3 time?

4 A. Yes.

5 Q. And is that incorrect? Do you remember now
6 for sure, or do you still have doubts?

7 A. I still have doubts right now.

8 Q. Okay. You don't really remember for sure
9 when you acquired it?

10 A. No. Like I told you before, there was a
11 lot of haggling. I really don't remember. We had a
12 lot of problems, a lot of issues. We even had
13 environmental issues as far as what was going on with
14 the property. I really don't know off the top of my
15 head.

16 Q. When you previously testified you acquired
17 it in the winter of '05 to '06, what was that based
18 on? Was that based on what you were told?

19 A. Yes.

20 MR. LEVINE: Nothing further.

21 HEARING OFFICER HALLORAN: Thank you.

22 Ms. Burke?

23 MS. BURKE: I have nothing further.

24 HEARING OFFICER HALLORAN: Okay. Great.

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1 Sir, you may step down. Thank you very
2 much.

3 We can go off the record.

4 (WHEREUPON, discussion was had
5 off the record.)

6 HEARING OFFICER HALLORAN: Let's go back on the
7 record. We're back on the record regarding AC 6-40.

8 Mr. Levine, you're still in your case in
9 chief. Have you rested?

10 MR. LEVINE: I have rested, Judge.

11 HEARING OFFICER HALLORAN: Ms. Burke, any
12 rebuttal?

13 MS. BURKE: No.

14 HEARING OFFICER HALLORAN: Okay. It looks like
15 we're finished with AC 6-40.

16 And I do want to note, for the record, that
17 no members of the public were in the room or at the
18 hearing at the time other than the parties affiliated
19 with the matter.

20 In any event, we're going to take an hour
21 lunch break and come back and commence AC 6-41.
22 Thank you.

23 (WHEREUPON, discussion was had
24 off the record.)

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1 HEARING OFFICER HALLORAN: We're back on the
2 record.

3 We just got done talking about the briefing
4 schedule. By agreement of the parties, for AC 6-40
5 the briefing -- post-hearing briefing schedule is as
6 follows. The City's brief is due on or before
7 June 13, 2007. The respondent's brief is on or
8 before June 29, 2007. And the City's reply, if any,
9 is due July 13, 2007. I'm setting public comment due
10 on or before June 8, 2007.

11 Thank you very much, and this matter is
12 closed.

13 (WHICH WERE ALL THE PROCEEDINGS HAD
14 IN THE FOREGOING CAUSE ON THIS DATE.)

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2 COUNTY OF K A N E)

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4 I, MARGARET R. BEDDARD, a Certified Shorthand
5 Reporter of the State of Illinois, do hereby certify
6 that I reported in shorthand the proceedings had at
7 the hearing aforesaid and that the foregoing is a
8 true, complete, and correct transcript of the
9 proceedings of said hearing as appears from my
10 stenographic notes so taken and transcribed by me.

11 IN WITNESS WHEREOF, I do hereunto set my hand at
12 Chicago, Illinois, this _____ day of May, 2007.

13

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Certified Shorthand Reporter

17

CSR Certificate No. 84-3565.

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