

1           BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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4	AMERICAN NATIONAL BANK AND TRUST,	)
	COMPANY OF CHICAGO, a/t/u,	)
5	TRUST NO. 10357705	)
		)
6	Complainant,	)
		)
7	vs	) PCB 99-142
		) (Enforcement -
8	ROBERT DUNHAM, individually and	) Citizens, land)
	d/b/a DUNHAM CLEANERS,	)
9		)
	Respondent.	)

10

11

12                           The following transcript is a report

13 of the proceedings in the above-entitled cause

14 before BRADLEY P. HALLORAN, HEARING OFFICER and

15 stenographically by TERRY A. STRONER, CSR, a notary

16 public within and for the County of Cook and State

17 of Illinois, at Suite 8-32, 100 West Randolph

18 Street, Chicago, Illinois, on the 30th day of

19 January, A.D., 2001, commencing at 9:45 o'clock a.m.

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

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

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GARFIELD & MEREL, LTD.,  
223 West Jackson Boulevard  
Suite 1010  
Chicago, Illinois 60606  
(312) 583-1600  
BY: MR. BRIAN A. BOSCH

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Appeared on behalf of the Complainant,

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MILITELLO ZANCK & COEN, P.C.,  
40 Brink Street  
Crystal lake, Illinois 60014  
(815) 459-8800  
BY: MR. JAMES L. WRIGHT

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Appeared on behalf of the Respondent.

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1		I N D E X	
2			
3	THE WITNESS:		
4	WILLIAM LINIEWICZ,		
5			
6	Direct Examination by Mr. Bosch.....	10-58	
7	Cross-Examination by Mr. Wright.....	58-78	
8	Redirect Examination by Mr. Bosch.....	79-80	
9			
10	ROBERT DUNHAM		
11	Direct Examination by Mr. Bosch.....	82-105	
12	Cross-Examination by Mr. Wright.....	105-113	
13	Redirect Examination by Mr. Bosch.....	113-117	
14	Recross Examination by Mr. Wright.....	117-117	
15			
16	Douglas Anderson		
17	Direct Examination by Mr. Bosch.....	118-132	
18	Cross-Examination by Mr. Wright.....	134-136	
19			
20	ROBERT DUNHAM		
21	Direct Examination by Mr. Wright.....	138-145	
22	Cross Examination by Mr. Bosch.....	145-146	
23	Redirect Examination by Mr. Wright.....	147-147	
24	Recross Examination by Mr. Bosch.....	148-148	

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E X H I B I T S

Marked for  
Identification

Plaintiff's Exhibit No. 1..... 15  
Plaintiff's Exhibit No. 2..... 19  
Plaintiff's Exhibit No. 3..... 22  
Plaintiff's Exhibit No. 4..... 45  
Plaintiff's Exhibit No. 5..... 46  
Plaintiff's Exhibit No. 7..... 121  
Plaintiff's Exhibit No. 8..... 124  
  
Respondent's Exhibit No. 1..... 136

L.A. REPORTING (312) 419-9292

5

1 HEARING OFFICER HALLORAN: Good morning.  
2 My name is Bradley Halloran. I'm the hearing  
3 officer with the Illinois Pollution Control Board  
4 and I'm also assigned to this matter. We are here  
5 today on Pollution Control matter docket No. PCB  
6 99-142 entitled American National Bank and Trust  
7 Company of Chicago under Trust agreement No.  
8 10357705 versus Robert Dunham, individually and  
9 doing business as Dunham Cleaners where complainant  
10 seeks reimbursement costs incurred by the  
11 complainant.

12 It's approximately 9:47, January 30th in  
13 the year 2001. I want to note for the record there  
14 are no members of the public here nor are there any  
15 members of the Board or employees of the Board.  
16 If there were members of the public, they would be  
17 allowed to testify subject to cross-examination.  
18 Also, there will be a short period of time for  
19 written public statements at the end of the hearing.

20 Also, I want to note for the record this  
21 hearing was changed from Room 11-512 to 8-032.  
22 The 8-032 room is larger and I think better suited

23 for this hearing. I also note for the record that I  
24 did put change of room signs up in and around Room

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6

1 11-512 so that if anybody comes up there, they can  
2 proceed down to this room.

3 We're going run this hearing pursuant to  
4 Section 103 of the Board's regulations where the  
5 matter deals with a citizen enforcement matter.  
6 I note this hearing is intended to develop a record  
7 for review of the appeal by the entire Pollution  
8 Control Board. I will not be making the ultimate  
9 decision. It is the Pollution Control Board that  
10 will be making the ultimate decision. They will  
11 review the transcript of this proceeding and the  
12 remainder of the record including your post-hearing  
13 briefs and render a decision in this matter. My job  
14 is to ensure an orderly hearing and clear record so  
15 that the Board will have all the necessary  
16 information before them to make the appropriate  
17 decision.

18 Again, after the hearing the parties will  
19 have an opportunity to file their post-hearing  
20 briefs. With that said, I understand there's a  
21 stipulation either Mr. Wright or Mr. Bosch would

22 like to enter on the record.

23 MR. WRIGHT: Yes, there is. As I understand  
24 it, the petitioner or the complainant is planning to

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7

1 introduce two of the environmental reports that have  
2 been prepared in connection with this matter. It's  
3 my understanding that those two larger reports also  
4 contain copies of the Phase I and Phase II reports  
5 that were earlier done. We have no objection to the  
6 admission of those documents, but it's my  
7 understanding that both parties would stipulate that  
8 all of the environmental reports would come in that  
9 were prepared by Benchmark just so that the Board  
10 has the benefit of all of them and it's my  
11 understanding that there would be two other reports  
12 that will be introduced as well, one relating to a  
13 remedial investigation and another relating to a  
14 further remedial investigation, and the attorneys  
15 have also spoken about the fact that if it appears  
16 upon later review after today's hearing that any of  
17 the documents submitted into evidence to the Board  
18 have pages missing from them, that the parties could  
19 supplement those with some submission to the Board  
20 after the hearing.

21 HEARING OFFICER HALLORAN: Mr. Bosch, does that  
22 pretty much accurately sum it up?

23 MR. BOSCH: That accurately sums it up.

24 HEARING OFFICER HALLORAN: That stipulation is

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1 noted and allowed and accepted. Also, if there are  
2 exhibits, not full exhibits, that are submitted at  
3 the hearing, they are allowed to be supplemented in  
4 the post-hearing briefs or with the post-hearing  
5 briefs.

6 With that said, Mr. Bosch, do you have  
7 an opening statement? We'll go with opening  
8 statements, then complainant's case in chief and  
9 then respondent's case in chief and rebuttal.

10 MR. BOSCH: We're going to -- I'd like just a  
11 very, very brief opening statement. As you noted,  
12 this is a cost recovery action. The property in  
13 question here is known as the Streamwood Shopping  
14 Center. It's located in Streamwood, Illinois. It  
15 has a street address running from approximately 323  
16 through 345, I believe, South Bartlett in  
17 Streamwood, Illinois. The respondent operated a  
18 dry cleaner facility in the shopping center for a  
19 long number of years. When the owner of the



20 property went to refinance the building, the bank  
21 requested that a Phase I be done. During the course  
22 of that environmental investigation, it was  
23 discovered that there was contamination at the  
24 project, the source of the contamination being dry

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1 cleaning fluid. There was a decision made because  
2 they could not refinance the building given the  
3 environmental contamination to cleanup and seek no  
4 further remediation by the IEPA. That was done.  
5 It is the damages arising from that cleanup and the  
6 contamination that were caused by the respondent  
7 that we're seeking to recover here. The damages in  
8 this particular instance for the cleanup itself is  
9 \$83,171.43. In addition, the respondent seeks to  
10 recover in this proceeding an additional \$33,000.  
11 That \$33,000 arises from the lost time, three years,  
12 where it could not refinance the property from its  
13 prior mortgage at a rate that would have been one  
14 percent less than the rate that it had its prior  
15 mortgage at. They had a \$1,100,000 mortgage at  
16 three percent -- I'm sorry, one percent for three  
17 years, that's an additional \$33,000 that they seek  
18 to recover and the plaintiff here intends to call

19 three witnesses, Mr. Liniewicz of Benchmark  
20 Environmental, Mr. Doug Anderson, who performed the  
21 booking and account receivables for the partnership  
22 in 1997, '98 up until the current time frame and Mr.  
23 Dunham, who owned and operated the cleaners at the  
24 shopping center.

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10

1 HEARING OFFICER HALLORAN: Thank you,  
2 Mr. Bosch. Mr. Wright, for the respondent, any  
3 opening?

4 MR. WRIGHT: No. We will stand on our answer  
5 which has denied all material allegations.

6 HEARING OFFICER HALLORAN: We can go off the  
7 record for a minute.

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

10 HEARING OFFICER HALLORAN: All right.  
11 Mr. Bosch, would you call your first witness,  
12 please?

13 MR. BOSCH: Yes. We call Bill Liniewicz.

14 HEARING OFFICER HALLORAN: Okay. Would you  
15 please raise your right hand and the court reporter  
16 will swear you in.

17 (Witness sworn.)

18 MR. BOSCH: Before I start, if I may, I'd like  
19 to tender to the hearing officer four exhibits I  
20 intend to use with the witness.

21 HEARING OFFICER HALLORAN: And Mr. Wright has a  
22 copy?

23 MR. BOSCH: He has a copy of the three of them,  
24 I'm going to give him four.

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11

1 THE COURT REPORTER: I'm going to sit up here  
2 so I can hear better.

3 HEARING OFFICER HALLORAN: Okay. We're off the  
4 record for a brief second.

5 (Whereupon, a discussion  
6 was had off the record.)

7 HEARING OFFICER HALLORAN: We're back on.

8 WHEREUPON:

9 W I L L I A M L I N I E W I C Z,  
10 called as a witness herein, having been first duly  
11 sworn, deposeth and saith as follows:

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

13 by Mr. Bosch

14 Q. Would you please state your full name for  
15 the record?

16 A. William Joseph Michael Liniewicz.

17 Q. Mr. Liniewicz, are you employed?  
18 A. Yes, I am.  
19 Q. By whom?  
20 A. Benchmark Environmental Services, Inc.  
21 Q. And what position or positions do you hold  
22 with Benchmark?  
23 A. President and treasurer of the corporation.  
24 Q. And how long have you been associated with

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12

1 Benchmark?  
2 A. Six years.  
3 Q. Let's briefly walk through your educational  
4 background starting with college. Can you provide  
5 us with the institutions you attended and the  
6 degrees you attained?  
7 A. Okay. I attended the University of  
8 Illinois, Chicago Circle, for three years majoring  
9 in a pre-medical program, left that to go to  
10 National Lewis University, which was, at the time,  
11 just called National College of Education, Evanston,  
12 Illinois, graduated with a bachelor of science  
13 degree in biology/chemistry and psychology with a  
14 minor in drama and social studies. I have a  
15 master's from IIT as a certified hazardous material

16 manager.

17 Q. When did you attain that degree?

18 A. Oh, it's been -- early '90s. I can't  
19 remember the exact year.

20 Q. Okay.

21 A. And --

22 Q. When did you graduate from National Lewis?

23 A. National Lewis, I graduated in 1974. It  
24 gets fuzzy with age.

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13

1 Q. Have you attended any other institutions of  
2 higher education or attained any other degrees?

3 A. Just courses taken at the University of  
4 Wisconsin, Madison, University of Wisconsin,  
5 Milwaukee, and other professional courses taken  
6 through different -- as just additional educational  
7 credits.

8 Q. What area generally were those additional  
9 courses taken?

10 A. Groundwater and soil investigation,  
11 remediation and air pollution, hazardous waste  
12 management.

13 Q. Were all those courses in one way or  
14 another involved in some sort of dealings with soil

15 or air contamination -- contaminates to soil in the  
16 air?

17 A. True.

18 Q. What do you do now with Benchmark  
19 Environmental?

20 A. A lot of paperwork. I oversee the  
21 operations of the corporation, manage the day-to-day  
22 aspects over the different divisions of the company,  
23 and maintain a client liaison or public relations  
24 type of atmosphere with our clients.

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1 Q. What does Benchmark Environmental do?

2 A. Benchmark Environmental is predominately in  
3 environmental services from a consulting engineering  
4 standpoint relating to investigations, remediation  
5 of different types of contaminates or different  
6 types of sources of pollution and also things  
7 related to wetlands, flood plains and getting  
8 involved with civil engineering types of  
9 developments.

10 Q. Prior to your involvement with Benchmark  
11 Environmental, can you describe to us briefly what  
12 your employment background was?

13 A. Well, I started in the '70s after college

14 working in the field of water and wastewater  
15 pollution control and then into the '80s I worked  
16 for a company out of Janesville, Wisconsin for  
17 several years going around the country and outside  
18 the country consulting with municipalities for  
19 purification purposes of water and wastewater  
20 systems, and the mid '80s I worked for a company  
21 out of Oak Creek, Wisconsin and sat on the board of  
22 directors for -- basically, they were involved in  
23 all areas of environmental work, laboratory,  
24 consulting and field related services and on

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1 transportation and disposal of hazardous waste  
2 materials, pretty much the whole gamut, and the  
3 late '80s, I was the chief business manager for a  
4 Wisconsin corporation division of a Chicago based  
5 corporation that was an analytical environmental  
6 laboratory and field related services doing  
7 investigations and cleanups of the same nature, just  
8 on a larger scale until at the time I left that for  
9 ethical reasons to start and form Benchmark  
10 Environmental Services.

11 Q. And is there any particular area that  
12 Benchmark Environmental Services specializes in?





12 attorneys.

13 Q. What's an SOQ?

14 A. Statements of qualifications, but we  
15 abbreviate it as SOQ, which is as for most of the  
16 time to establish your credibility for functionality  
17 and business purposes.

18 Q. Does this cover the firm in its entirety  
19 in terms of the scope of work it does and the prior  
20 projects or is it a representative sampling of the  
21 type of projects it's done?

22 A. It's just a representative of what we do  
23 and also in relationship to a couple other firms  
24 that we piggyback work with that are involved in

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17

1 some civil engineering, adjunct things of what we  
2 do.

3 Q. And if you look at -- there's a fax line  
4 across the top here, which is the easiest way to  
5 refer to it because it's not internally numbered,  
6 page 16 at the top, right-hand corner.

7 A. Okay.

8 Q. Can you tell me is that -- what that  
9 page is?

10 A. That's a brief summary of my educational

11 and professional experience.

12 MR. BOSCH: We request that the witness be  
13 deemed as an expert for purposes of this hearing.

14 HEARING OFFICER HALLORAN: Mr. Wright -- I'm  
15 sorry. You wanted to exhibit him? That's fine.

16 MR. BOSCH: No. Actually, I'm asking first  
17 that he be qualified as an expert.

18 HEARING OFFICER HALLORAN: Mr. Wright?

19 MR. WRIGHT: I guess I would like to wait until  
20 I hear what, if any, opinions are going to be asked  
21 of this witness before I would agree that he's an  
22 expert -- just that he's generally an expert. I  
23 don't know how far counsel is carrying that  
24 qualification and once again if he's -- I think we

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18

1 should wait and hear what kind of opinions he's  
2 being asked to render.

3 MR. BOSCH: I think that we're asking him to  
4 be qualified generally as an expert in the area of  
5 environmental assessment and cleanup. If counsel  
6 believes that I exceed the scope of his expertise  
7 during any particular questioning, I think that's  
8 the appropriate time to then raise the issue and  
9 object that it is beyond his expertise and

10 qualification as an expert also subject to the  
11 cross-examination of counsel to see if, in fact, or  
12 test if this expert has further qualifications, but  
13 in terms of just qualifying as an expert, I believe  
14 that both his testimony shows and the exhibits show  
15 that he's well qualified as an expert in the fields  
16 which the hearing is going to be addressing.

17 HEARING OFFICER HALLORAN: I agree. He is  
18 qualified as an expert and I would overrule your  
19 objection, Mr. Wright, if it was that, an objection.

20 MR. BOSCH: And with respect -- well, I'll move  
21 for the admission of my exhibits at the end of each  
22 witness as opposed to individually.

23 HEARING OFFICER HALLORAN: Very well.

24

L.A. REPORTING (312) 419-9292

19

1 BY MR. BOSCH:

2 Q. Mr. Liniewicz, did there come a time in  
3 which you and Benchmark were ever retained or had  
4 any dealings with a property located at 323 to 427  
5 South Bartlett Road in Streamwood, Illinois?

6 A. Property known as the Streamwood Shopping  
7 Center?

8 Q. Property known as the Streamwood Shopping

9 Center, yes. Did your company or you --

10 A. We were retained, correct, by Bronson Gore  
11 Bank.

12 Q. Initially you were retained by whom?

13 A. Bronson Gore Bank.

14 Q. And can you tell me what the reason for  
15 that retention was?

16 A. The clients of the bank, which were unknown  
17 to us at the time, were in the process of seeking  
18 refinancing for their mortgage and we were retained  
19 to do an environmental -- a legal environmental  
20 Phase I assessment of the property.

21 (Document marked as  
22 Plaintiff's Exhibit No. 2  
23 for identification, 1/30/01.)  
24 (Document tendered.)

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20

1 BY MR. BOSCH:

2 Q. Okay. I'm going to hand to you what's  
3 been previously marked as Plaintiff's Exhibit No. 2  
4 and if you look at the bottom, these are Bates  
5 stamped, there's a number, see at the first page it  
6 says 1329 --

7 A. Right.

8 Q. -- if you go to the -- continuing with that  
9 numbering to page 1434.

10 A. Okay.

11 Q. Take a look at that document, is that the  
12 Phase I assessment that you were referring to?

13 A. Yes, it is.

14 Q. Okay. Then did there come a point in time  
15 when your firm performed a Phase II investigation of  
16 the property -- of the Streamwood Shopping Center?

17 A. Yes, there was.

18 Q. Okay. If you go to page 1499 of that same  
19 document and take a look at that page and the ones  
20 following, is that the Phase II that you performed?

21 A. Yes, it is.

22 Q. Did there come a point in time when the  
23 owner of the property retained Benchmark -- let me  
24 back up a second.

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21

1 Were both the Phase I and the Phase II  
2 done for and at the request of Bronson Gore Bank?

3 A. Yes, they were.

4 Q. Did there come a point in time when the  
5 owner of the property retained your services?

6 A. Subsequent to the Phase II that was

7 performed, Streamwood Partners therein retained us  
8 personally to progress with the remedial  
9 investigation that was recommended.

10 Q. And who do you understand Streamwood  
11 Partners to be?

12 A. My preliminary contact was Bernie Keiser.

13 Q. And what did you understand Streamwood  
14 Partner's relationship to the property to be?

15 A. To be the owners of the property.

16 Q. Did you then perform subsequent  
17 investigations at the property at Mr. Keiser's  
18 request or Streamwood Property's request?

19 A. Yes, we did.

20 Q. And can you then identify for me what the  
21 Plaintiff's Exhibit No. 2 document is in its  
22 entirety?

23 A. The basic document is the investigation  
24 that was performed subsequent to the Phase II and

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22

1 to the Phase I that's included as the attachments.

2 (Document marked as  
3 Plaintiff's Exhibit No. 3  
4 for identification, 1/30/01.)

5 (Document tendered.)

6 BY MR. BOSCH:

7 Q. And I'm going to hand you what's been  
8 marked as Plaintiff's Exhibit No. 3, it's a document  
9 entitled Remedial Action Plan and the title actually  
10 goes on, can you tell me what that document is?

11 A. This report was done subsequent to the  
12 investigation to highlight the findings and our  
13 professional recommendations of what should be done  
14 to remediate the property.

15 Q. And as a result of your investigation of  
16 the property, what did Benchmark find?

17 A. From the investigation, we found that  
18 was -- from the investigation itself, we found there  
19 were considerably elevated levels of dry cleaning  
20 compound known as perc along the property structure  
21 branching out, or as we call it, migrating outward a  
22 certain distance that contaminated well above  
23 Illinois EPA action limits, a good amount of soil  
24 contamination is documented in our closure report.

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23

1 Q. And did there come a point in time that --  
2 let's first take a look at Plaintiff's Exhibit No. 2  
3 and if you go to the internally Bates stamped number  
4 page 1360. Actually, it's kind of turned sideways

5 so you have to --

6 A. Okay.

7 Q. And can you identify for me what that  
8 particular document shows?

9 A. The document shows the plume of  
10 contamination related to the soil as elevations  
11 above the Illinois EPA limit of primarily perc,  
12 which for the record is tetrachloroethene, and some  
13 of its by-products.

14 Q. What is the major source of perc?

15 A. Dry cleaning compounds, it's been used  
16 extensively for years. It's one of the best dry  
17 cleaning fluid cleaners available.

18 Q. As part of the initial investigation of  
19 this property, did Benchmark identify whether or not  
20 any dry cleaners were ever located at the shopping  
21 center?

22 A. In the initial Phase I investigation we  
23 found from a historical standpoint -- if I can refer  
24 back to that document?

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24

1 Q. Sure.

2 MR. WRIGHT: Referring to?

3 THE WITNESS: The Phase I.



4 BY THE WITNESS:

5 A. If you look at page 1443 we state, to  
6 establish a history of such a site, Benchmark  
7 Environmental Services, Inc., consulted sources such  
8 as Sidwell for aerial photos, Cook County Registrar  
9 of Deeds office, Village of Streamwood fire  
10 department, Village of Streamwood community  
11 development office, and the Village of Streamwood  
12 public works office and through our investigation of  
13 the background through those sources, we had  
14 found --

15 BY MR. BOSCH:

16 Q. Did you find that there were dry cleaners  
17 located at the premise?

18 A. Correct. With the original tenant starting  
19 in 1961. It showed potential tenants at the time in  
20 a preliminary plat of occupancy to be dry cleaners  
21 as potential tenants.

22 Q. Okay.

23 A. Subsequently in 1972 --

24 Q. You did locate -- you did determine that

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1 there had been tenants of dry cleaners, correct?

2 A. Yes.

3 Q. As a result of locating dry cleaners as  
4 tenants, were there any particular steps that  
5 Benchmark took as part of its Phase I or Phase II  
6 investigation to determine if there was any  
7 contamination related to those tenancies? If you  
8 need to refer to page 1510 -- Bates stamped page  
9 1510.

10 A. That's just where I was -- thank you.

11 Actually, prior to that, in the course of  
12 the Phase I, there was documentation provided in the  
13 building records from the Village of Streamwood --

14 Q. Did you do -- as a result of locating the  
15 two dry cleaners, was there something that Benchmark  
16 did then to follow-up?

17 A. We procured records from the village that  
18 they had complaints filed by the village plumbing  
19 inspector that there were problems with the  
20 wastewater discharge system or the drainage --  
21 wastewater drains of the shopping center that were  
22 filed with the village and this was documented at  
23 page 1484 that the Village of Streamwood had written  
24 to Streamwood -- to the Streamwood Shopping Center

L.A. REPORTING (312) 419-9292

26

1 showing that the sanitary line under the building

2 was broken, the wastewater effluent continued to  
3 percolate at the surface at the rear of the shops;  
4 namely the Norge Town Laundry and Cleaners, 343  
5 South Bartlett. Subsequent to this investigation  
6 that we found of this and visual inspection of the  
7 property behind the shopping center that showed a  
8 deterioration of the surface, which is an indication  
9 of pollution in the soil, Benchmark recommended  
10 doing its Phase II.

11 Q. Okay. There were two cleaners, there was  
12 Norge Town Cleaners and there was another, One Hour  
13 Martinizing Cleaning?

14 A. Right.

15 Q. As part of your Phase II, did you take any  
16 soil samples?

17 A. Yes, we did.

18 Q. Okay. And as a result of the testing, was  
19 there any hazardous material located -- found on the  
20 property?

21 A. Yes, there was.

22 Q. And what was the hazardous material that  
23 was found on the property?

24 A. The hazardous material that was found was

1 the tetrachloroethene, the perc.

2 Q. And can you tell me briefly where that was  
3 found?

4 A. That was found as what we identified behind  
5 the 329/331 building.

6 Q. The store front having the address  
7 329/331?

8 A. Correct.

9 Q. That was the One Hour Martinizing location?

10 A. I believe so.

11 Q. And with respect to the other dry cleaning  
12 location in the building, did you also do testing  
13 behind that?

14 A. Yes, we did.

15 Q. And did you find any hazardous material  
16 behind that?

17 A. No, not above the Illinois EPA action  
18 limits.

19 Q. So the only place that you found hazardous  
20 materials above the IEPA limits was behind one of  
21 the cleaners, is that correct?

22 A. Correct.

23 MR. WRIGHT: Objection to the leading.

24 HEARING OFFICER HALLORAN: Okay.

1 MR. BOSCH: I'll rephrase the question.

2 HEARING OFFICER HALLORAN: Thank you.

3 BY MR. BOSCH:

4 Q. Did you find any behind -- did you find  
5 any contamination above the IEPA levels behind the  
6 Norge Town Cleaners located at 343 South Bartlett?

7 A. No.

8 Q. Okay. Did you find contamination exceeding  
9 the IEPA limits behind the dry cleaners located at  
10 329/331 South Bartlett?

11 A. Yes, we did.

12 Q. And what was your recommendation at that  
13 point in time?

14 A. Our recommendation at that point was to  
15 proceed with an extensive remedial investigation of  
16 the property we said to determine the vertical and  
17 horizontal extent of the contamination on site and  
18 possibly off site.

19 Q. If you can go back to page 1360, which was  
20 the map that I asked you to look at originally.

21 A. Okay.

22 Q. I'd like you to explain to me very briefly,  
23 there is some borings indicated across here, there's  
24 a location noted as D-7, do you see that on the far,

1 right-hand side?

2 A. Yes, I do.

3 Q. From this map can you tell if there was any  
4 contamination levels that exceeded the IEPA minimal  
5 standards at that D-7?

6 A. No, there wasn't.

7 Q. The D-7 location, was that behind the Norge  
8 Town or the One Hour Martinizing location or maybe  
9 it's -- let me rephrase it, maybe it's easier to ask  
10 you it this way.

11 Was the D-7 location behind the 343 South  
12 Bartlett location or the 329 South Bartlett  
13 location?

14 A. I would have to look at the document to  
15 refresh my memory.

16 Q. Okay. Let's look at the plume boundaries,  
17 do you see that?

18 A. Yes.

19 Q. Okay. Those dotted lines, and there's one  
20 that kind of curves and bows out to the right and  
21 then bows back in with an arrow pointing to that,  
22 could you explain to me what that means and then  
23 there's a squiggly line on the left?

24 A. The dotted lines show the estimated extent

1 of contamination going horizontally through the soil  
2 surface above the Illinois action limits.

3 Q. Okay. And there is, between D-5 and D-7,  
4 an indication, it says 30 feet, do you see that?

5 A. Uh-huh.

6 Q. Can you explain to me what that 30 feet  
7 means?

8 A. That between the two soil borings that were  
9 taken, 30 feet was the measurement that separated  
10 them.

11 Q. Okay. If there was a potential source of  
12 the contamination at or near the D-7 location, is it  
13 possible, given your understanding of -- let me ask  
14 you a different question.

15 Are you familiar with how perc, as we call  
16 it, can travel through the soil?

17 A. Yes.

18 Q. Have you worked on projects where perc has  
19 leached or traveled through the soil?

20 A. Numerous.

21 Q. Okay. And has that been part of the  
22 study -- some of the programs that you've taken and  
23 studied as well?

24 A. Yes, definitely.

1 Q. Okay. If a source, a potential source, of  
2 that contamination would have been located at the  
3 D-7 location, given the findings that are indicated  
4 on this particular drawing, is it your belief that  
5 the source could have been at or near the D-7 boring  
6 and have traveled in some way and caused the plume  
7 that's depicted on this drawing?

8 A. It's impossible that the source would have  
9 been close to D-7.

10 Q. I want to, just so it's very clear here  
11 and so we understand what some of this means, if  
12 you'll look at page 1386 again, that's the Bates  
13 stamped numbers and also keep, if you will, the map  
14 so we can flip between the two.

15 Can you tell me what the two pages at 1386  
16 and 1387 tell you. Actually, let's just focus on  
17 1386.

18 A. Okay. You're referring to the description  
19 at the top that says soil C-4, four foot -- or C-3,  
20 four foot.

21 Q. C-3, yes, four foot, BSG.

22 A. Okay.

23 Q. Can you briefly tell me first of all what  
24 this basic -- volatile organic compounds is a big



1 heading there, what does this particular document  
2 indicates or shows?

3 A. The volatile organic compounds that are  
4 shown here are analytes or compounds that are  
5 regulated by USEPA and, subsequently, Illinois EPA  
6 as compounds that are potentially dangerous to human  
7 health and safety.

8 Q. Is there one of the chemicals shown on  
9 this page that is the same thing as we've been  
10 referring to as perc?

11 A. Correct. The chemical that's in bold  
12 titled tetrachloroethene.

13 Q. Which says 17,000 sample results?

14 A. 17,000 and the units above are UG/KG,  
15 which is micrograms per liter or in layman's terms  
16 people hear the terminology parts per billion.

17 Q. And if you look immediately to the left it  
18 says 5.0, what does that indicate?

19 A. That's the detection limit, which means  
20 that the instrument that this was run on could read  
21 down to a level as low as 5.0 parts per billion.

22 Q. Now, the tetrachloroethene that's showing  
23 there as 17,000, why is that highlighted?

24 A. The tetrachloroethene is highlighted

1 because of the fact that it's well in exceedance of  
2 the Illinois EPA limit.

3 Q. What was the Illinois EPA limit in 1997 or  
4 1998 for that?

5 A. Referring back page 1349 it shows on the  
6 far left column under IEPA TACO, which stands for  
7 Tiered Approach to Cleanup Objectives, a number of  
8 0.3.

9 Q. Okay.

10 A. And 0.3, which is in units in this table is  
11 MG/KG, which is parts per million, which is 1,000  
12 times higher than parts per billion. So  
13 transferring that back into the other table for the  
14 analysis purposes, that would equate to 300 parts  
15 per billion. So you're looking at a limit of 300  
16 versus an analytical result of 17,000.

17 Q. And that particular boring was where, if  
18 you can refer to the map. That might be the easiest  
19 way.

20 A. C-3, to the best of my knowledge, relating  
21 back to what the field measurements were would be  
22 outside the back door of the cleaners.

23 Q. And then let's go to page 1391, 1392,

24 again, the Bates stamped number if we may.

L.A. REPORTING (312) 419-9292

34

1 A. Uh-huh. One being C-6, the other --

2 Q. I think it's --

3 A. They're both C-6. Okay.

4 Q. I think it might be a continuation.

5 A. Yes, they are.

6 Q. It says sample describes soil C-6. Is  
7 that -- if you relate that back to 1360, is that the  
8 circle that's partially colored in and has the C-6  
9 next to it?

10 A. Yes, it is.

11 Q. Now, can you tell me, is this the same sort  
12 of table and you treat it the same way as the prior  
13 one we just talked about?

14 A. Yes, we did.

15 Q. And there again are several chemicals that  
16 are highlighted there, can you tell me again what  
17 the highlighted chemicals indicate to you?

18 A. The chemicals that are highlighted are  
19 again chemicals or compounds that are above the  
20 action limits for Illinois EPA.

21 Q. And is there again tetrachloroethene  
22 indicated as being found at this sample boring?

23 A. Yes, there is.

24 Q. And what was the sample result there?

L.A. REPORTING (312) 419-9292

35

1 A. That same result was 1,900 parts per  
2 billion.

3 Q. Which was less than the amount that we  
4 found at the C-3 boring?

5 A. Correct, showing that it's going farther  
6 away from the source of contamination.

7 Q. Are you generally familiar with this  
8 document that's Plaintiff's Exhibit No. 2?

9 A. (Witness nodded.)

10 Q. And were you ever out at the Streamwood  
11 Shopping Center site?

12 A. Yes, I was.

13 Q. And were you generally familiar with the  
14 work performed by Benchmark -- personally familiar  
15 with the work performed by Benchmark at the shopping  
16 center?

17 A. Yes, I was.

18 Q. Can you generally describe for me, again,  
19 using the map and the map is kind of turned on its  
20 side, if you'll see at 1360 north is to the right so  
21 if we can talk from right to left or left to right,

22       whichever works for you.

23           A. Well, can we turn it more --

24           Q. Sure, you want to turn it north. That's

L.A. REPORTING (312) 419-9292

36

1       fine. Let's turn it --

2           A. North is up.

3           Q. Can you tell me generally which way the  
4       contamination flowed in terms of from the greatest  
5       levels of contamination to the least levels of  
6       contamination?

7           A. The contamination predominately flowed to  
8       the east, northeast.

9           Q. Starting where?

10          A. Starting actually underneath the structure  
11       of the building where the former dry cleaners was  
12       located.

13          Q. Was there a drain or pipe at that location  
14       where you found the contamination?

15          A. Yes, there was.

16          Q. What was the condition of the drain or  
17       pipe -- or was there excavation to get to that drain  
18       or pipe?

19          A. I don't remember that.

20          Q. Do you recall if you or Benchmark saw the

21 condition of that drain and pipe?

22 A. At the time, the village had replaced it  
23 based on testimony of village employees. They had  
24 related back to us the condition of it.

L.A. REPORTING (312) 419-9292

37

1 Q. Okay. So the plume moved in a north to  
2 northeast direction from the greatest levels of  
3 contamination to the least, is that correct?

4 A. Correct.

5 Q. And the greatest levels of contamination  
6 were closest or furthest away from the building?

7 A. Closest.

8 Q. Okay. And given the way in which the plume  
9 flowed, would there, in your opinion, be any chance  
10 that the contamination could have been from a tenant  
11 that was located anywhere between the D-5 boring and  
12 the column boring?

13 A. Not at all.

14 Q. I'm going to ask you to go, it's almost all  
15 the way to the back, it's page 1515, again as Bates  
16 stamping goes. It's probably easiest to start at  
17 the back and move forward.

18 A. I was there already.

19 Q. Okay. And for the record, this is part of

20 the Phase II, is that correct, investigation?

21 A. Correct.

22 Q. Okay. So we're clear on what report we're  
23 on.

24 Can you tell me basically briefly what

L.A. REPORTING (312) 419-9292

38

1 this particular map shows?

2 A. The map shows two borings that were done to  
3 establish if gross contamination was present based  
4 on the knowledge gained from the Phase I that was  
5 done prior.

6 Q. And now this was done before all the  
7 charts and the drawings of the plume that we've been  
8 discussing early?

9 A. Yes. This was done outside the areas of  
10 both prior dry cleaners and the results showed that  
11 there was contamination present outside of 1331 --  
12 or 331, I'm sorry and that there was no  
13 contamination at the 342 location.

14 Q. Now, just so we're clear, there's three  
15 numbers -- there's a rectangle with lines across it,  
16 what does that indicate to you?

17 A. That indicates the stores of the structure.

18 Q. That's the building and the stores?

19 A. Yeah.

20 Q. And then there's three numbers within that,  
21 329, 331 and 342, what do those indicate to you?

22 A. Those are the building numbers outside the  
23 areas of where we sampled.

24 Q. That would be the addresses of the store

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39

1 fronts?

2 A. Correct.

3 Q. Okay. Did there come a point in time when  
4 the partnership asked for recommendations as to how  
5 to remediate the contamination?

6 A. Yes, they did.

7 Q. And just generally, what were the  
8 remediation options that were suggested, if you  
9 recall?

10 A. The options involved the possibility of  
11 doing what we call a tiered approach to corrective  
12 action or risk-based assessment, Illinois EPA calls  
13 it a TACO report, asking for a deed restriction for  
14 the contamination to be left on site with different  
15 barriers put in place such as covering of the  
16 contaminated area, having a deed restriction put on  
17 and subsequently having to maintain that indefinite



18 for future purposes or putting in a vapor extraction  
19 type of system for cleaning up the property or doing  
20 an excavation and disposal of the contaminated soil.

21 Q. And was one of those three options actually  
22 undertaken by the owners of the property?

23 A. After considering that the first option to  
24 perform a risk-based assessment would decrease the

L.A. REPORTING (312) 419-9292

40

1 value of the property and inhibit the future use and  
2 the saleability of it considerably, the fact that  
3 the second option of the extraction system taking  
4 possibly an indefinite amount of time to produce the  
5 results of a cleanup with no guarantees, the third  
6 option was secured.

7 Q. Okay. And by doing the third option, which  
8 was what?

9 A. The excavation and disposal.

10 Q. Would there then be anything issued by the  
11 Illinois Environmental Protection Agency to the  
12 owner of the property?

13 A. By --

14 Q. If the excavation was successful in terms  
15 of cleaning up.

16 A. Yes. If the remediation was successful

17 then Illinois EPA would produce a letter called a  
18 no-further-action or no-further-remediation letter.

19 Q. And did, in fact, the excavation of the  
20 contaminated soil occur?

21 A. Yes, it did.

22 Q. And are you familiar with the term land  
23 ban?

24 A. Yes.

L.A. REPORTING (312) 419-9292

41

1 Q. And what, in this context, does it mean?

2 A. Land bans are certain compounds that cannot  
3 be disposed of as just conventional waste and must  
4 be taken to appropriate disposal facilities.

5 Q. When you say appropriate disposal  
6 facilities, could you briefly tell me what you mean  
7 by that?

8 A. Appropriate disposal facilities would be  
9 one that would be geared to properly handle  
10 extremely hazardous materials.

11 Q. And when you say extremely hazardous, does  
12 that mean because of the type of contamination, the  
13 level of the contamination or something else, in  
14 this instance?

15 A. Basically, based on the type secondary to

16 the level.

17 Q. Okay. So would there be some soils -- were  
18 there some soils at this particular site that were  
19 below the land ban that didn't need the special  
20 handling or did everything need the special  
21 handling?

22 A. No. Anything that has that compound -- any  
23 of those extremely hazardous compounds has to be  
24 handled no matter what the level is.

L.A. REPORTING (312) 419-9292

42

1 Q. Okay. Poor question. Were there some  
2 soils at this site that were above the land ban?

3 A. Definitely.

4 Q. And so did they have to be shipped to any  
5 place special or could they be disposed of along  
6 with the soils that were below the land ban level?

7 A. No. All the soils had to go to a special  
8 disposal facility.

9 Q. Could they go to the same place, the ones  
10 above the land ban and the ones below or did they  
11 have to go to separate places?

12 A. No, they had to go too.

13 Q. Okay. Let's look at page 1220 of this  
14 Exhibit No. 3 and see if this helps refresh your

15 recollection and get to the point I'm trying to get  
16 to. If you look at -- it also says internally  
17 numbered page 8, there's a last paragraph, if you'd  
18 just take a moment to read it and once you've done  
19 so let me know.

20 A. Okay.

21 Q. And part of my problem is I'm probably  
22 asking poor questions.

23 A. Okay.

24 Q. And so does this help refresh your

L.A. REPORTING (312) 419-9292

43

1 recollection with how -- as to how the soils that  
2 were excavated from the Streamwood Shopping Center  
3 site were disposed of?

4 A. Yes.

5 Q. Okay. Having said that, were all of the  
6 soils that were excavated from the Streamwood  
7 Shopping Center site disposed of in the same place?

8 A. No.

9 Q. And why was that?

10 A. Because of the fact that by regulation of  
11 Illinois EPA the disposal facility in Peoria --

12 Q. Is that Peoria, Illinois?

13 A. Peoria, Illinois, correct, for the land

14 filling could only take materials up to a certain  
15 limit of contamination.

16 Q. Is that called a land ban limit?

17 A. Correct.

18 Q. Okay.

19 A. And after that, those other soils then have  
20 to be taken to a more secure facility.

21 Q. Okay. And where were those soils that  
22 exceeded the land ban that were excavated from this  
23 shopping center taken?

24 A. They were taken to a site in Michigan.

L.A. REPORTING (312) 419-9292

44

1 Q. I'm going to ask you generally, I just want  
2 you to identify something for me, if you can go to  
3 this Exhibit 3 and again it might be easier to start  
4 at the back and flip forward, but starting at page  
5 1304 and continuing, I think, through almost the end  
6 of the exhibit, I'd just like you to flip through  
7 those and tell me if the document there, waste  
8 manifests or something else -- let me ask you a  
9 preliminary question, are you familiar with  
10 hazardous waste manifests?

11 A. Yes.

12 Q. Having said that, would you take a look at

13 those documents and tell me what they are.

14           Basically, from 1304 through 13 -- through  
15 the end of the exhibit, are they -- just flip  
16 through them generally quickly.

17           A. Generally, the -- you have an application  
18 for Peoria Disposal, 1304, 1305 and 1306 are  
19 manifests for the soil that was taken to Michigan,  
20 and starting at 1308 to 1320 are the manifests for  
21 the soil that was taken to Peoria Disposal.

22           Q. Through 1320 or 1324?

23           A. Well, interspersed are a couple receipts.

24           Q. Some receipts are in there as well. Okay.

L.A. REPORTING (312) 419-9292

45

1           Did you find any migration paths where  
2 the perc could have moved from, say, from one end of  
3 the shopping center to another?

4           A. There was a possibility of the  
5 contamination moving along the footing of the  
6 structure, the foundation of the structure.

7           Q. Was that located -- was that limited to  
8 the area that was indicated in the plume that we --  
9 the boundaries that we were talking about in the  
10 other exhibit?

11           A. Correct.

12 Q. Okay. Do you know if there was ever an NFR  
13 letter issued by the Illinois EPA?

14 A. I believe that there was finally.

15 (Document marked as  
16 Plaintiff's Exhibit No. 4  
17 for identification, 1/30/01.)

18 (Document tendered.)

19 BY MR. BOSCH:

20 Q. I'm going to hand you what's been  
21 previously marked as Plaintiff's Exhibit No. 4 and  
22 before we get to that, did Benchmark assist the land  
23 owner in putting together the necessary documents  
24 and submitting them to the Illinois Environmental

L.A. REPORTING (312) 419-9292

46

1 Protection Agency in order to obtain an NFR?

2 A. Yes, we did.

3 Q. Did you ever receive any NFR letter from  
4 the EPA on this matter?

5 A. Yes, we did.

6 Q. Could you tell me what this document is  
7 I've handed to you that's been marked as Plaintiff's  
8 Exhibit No. 4?

9 A. The document that I'm looking at is a copy  
10 of the recorded no-further-action letter and

11 stipulations from Illinois EPA.

12 Q. Was the site successfully cleaned up, in  
13 your opinion?

14 A. Yes, it was.

15 (Document marked as  
16 Plaintiff's Exhibit No. 5  
17 for identification, 1/30/01.)  
18 (Document tendered.)

19 BY MR. BOSCH:

20 Q. Okay. If I may, Mr. Liniewicz, I'm going  
21 to hand you what has been marked as Exhibit No. 5,  
22 Plaintiff's Exhibit No. 5 in this matter and again,  
23 this is a collection of documents, they have Bates  
24 stamp numbers on them in the bottom, right-hand

L.A. REPORTING (312) 419-9292

47

1 corner in most of all, but they're not consecutive.  
2 So I'm going to refer you to certain documents by  
3 the Bates stamp number, but again they won't be  
4 consecutive.

5 A. Okay.

6 Q. In terms also for counsel and the hearing  
7 officer, on the first page of the exhibit you'll see  
8 that there are indications of who the vendors are  
9 and I'm going to walk down the vendors in the order



10 that they show on this page so it kind of helps in  
11 trying to skip through some documents. If you go to  
12 the second page of the exhibit, which is 1538 -- let  
13 me back up a second.

14           Were you familiar with the billing and  
15 charges that were submitted by Benchmark to the  
16 landowner in this matter?

17           A. Yes, I was.

18           Q. And is it part of your responsibilities or  
19 do part your responsibilities include the billing  
20 and oversight of billing of clients at Benchmark?

21           A. I review all the billing before it goes  
22 out.

23           Q. You basically review all the billing before  
24 it goes out?

L.A. REPORTING (312) 419-9292

48

1           A. Correct.

2           Q. So almost all the billing that leaves  
3 Benchmark and goes to a client, not just this one,  
4 is reviewed by you?

5           A. Correct.

6           Q. I'd like you to look at No. 1538 and it  
7 says invoice at the top, right-hand corner, bill to  
8 Bronson Gore Bank, can you tell me what this

9 document is?

10 A. It's the invoice for the legal Phase I  
11 assessment that we did initially on the shopping  
12 center.

13 Q. And who was the client in that one?

14 A. Bronson Gore Bank.

15 Q. Okay. And what was the amount that was  
16 charged?

17 A. \$1,400.

18 Q. And is that a fair, reasonable and  
19 customary charge for Benchmark for the services  
20 rendered as shown in this invoice?

21 A. More so.

22 Q. More so?

23 A. They asked for it on an expedited basis and  
24 out of professional courtesy of being a good client,

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49

1 we didn't charge them for additional expeditation,  
2 as you can see expedited charge.

3 Q. If you look at the next page it says 1539,  
4 could you tell me what that is an invoice for?

5 A. That's an invoice for the preliminary  
6 remedial investigation done on the property.

7 Q. And again, did you review this invoice

8 before it went out?

9 A. Yes, I did.

10 Q. And was it fair and reasonable -- was it  
11 fair, reasonable and customary in terms of its  
12 charges for the services rendered for Benchmark?

13 A. Based on our normal charges in our  
14 profession, it was more than reasonable.

15 Q. Okay. The next page is 1540, again, can  
16 you tell me what that is?

17 A. Charges for continuing or further  
18 investigation done on the property.

19 Q. And did you, again, review this invoice  
20 before it went out?

21 A. Yes, I did.

22 Q. And given the charges in the -- are you  
23 familiar with what the charges in your industry are?

24 A. Very, very much so.

L.A. REPORTING (312) 419-9292

50

1 Q. Given your understanding of that and your  
2 billing practices, would you say the charge  
3 indicated here, which was what?

4 A. 5,981.

5 Q. Was fair, reasonable and customary given  
6 the services provided by Benchmark?

7 A. More so than just customary.

8 Q. Okay. We only have a couple more, if you'd  
9 go to the next page, 1541, can you tell me what that  
10 is for?

11 A. 1541 is an invoice for a continuing  
12 investigation and installation of groundwater  
13 monitoring wells at the shopping center.

14 Q. And did you review this invoice before it  
15 went out to the client?

16 A. Yes, I did.

17 Q. Given your understanding of the work  
18 Benchmark provided and charges customarily charged  
19 by people in the industry, is this fair, reasonable  
20 and customary charges for the services provided?

21 A. More than fair.

22 Q. You are going to have to skip a couple  
23 pages to the one that's marked 1542.

24 A. Okay.

L.A. REPORTING (312) 419-9292

51

1 Q. Are you with me?

2 A. Yep.

3 Q. Again, can you tell me -- is this a  
4 two-page invoice or a one-page invoice?

5 A. This is a two-page invoice.

6 Q. Can you tell me exactly what it --

7 MR. WRIGHT: What's the number, counsel?

8 MR. BOSCH: I'm sorry, 1542 and 1543.

9 BY MR. BOSCH:

10 Q. Can you tell me what this two-page document  
11 is?

12 A. This is an invoice for our engineering  
13 oversight for the cleanup of the contaminated soil  
14 at the shopping center.

15 Q. Did you, again, review this before it was  
16 submitted to the client?

17 A. Yes, I did.

18 Q. And given your understanding of the charges  
19 in the industry and the work performed by Benchmark,  
20 was this a fair, reasonable and customary charge?

21 A. Much more so.

22 Q. Much more so than fair, reasonable and  
23 customary?

24 A. Correct. Because we were involved with

L.A. REPORTING (312) 419-9292

52

1 expedited charges, again, for lab analysis, et  
2 cetera, because of having to keep the excavation  
3 open to make sure that we had done the cleanup  
4 properly and to verify that before we closed it up

5 so rather than wait a normal period of time, which  
6 was a week for laboratory results to come back, we  
7 overnighted the results and didn't charge for what  
8 that additional cost would be.

9 Q. Okay. I believe there are two more  
10 invoices from your firm, the next one is at 1544,  
11 which is several pages in, do you see that?

12 A. I'm shuffling here. Okay. I have it.

13 Q. Again, can you tell me basically what this  
14 invoice is for?

15 A. This invoice was for the remediation or SRP  
16 report and closure paperwork that was submitted to  
17 Illinois EPA for the shopping center.

18 Q. Did you review this invoice before it was  
19 tendered to the client?

20 A. Yes, we did.

21 Q. And given your understanding of charges in  
22 the industry and the services provided by Benchmark  
23 Environmental, is this a fair, reasonable and  
24 customary charge for the services provided?

L.A. REPORTING (312) 419-9292

53

1 A. Yes, it is.

2 Q. Okay. I believe there is one more, which  
3 is actually the next page, that one has a different

4 Bates stamping format, it's 001675, do you see that?

5 A. Yes, I do.

6 Q. Okay. Can you tell what that statement is?

7 A. It's a statement for an invoice dated  
8 November 8th, 1999, for other documentation work  
9 that was required from questions that arose for  
10 closure with Illinois EPA.

11 Q. So this was in response to questions raised  
12 by Illinois EPA?

13 A. Correct.

14 Q. Again, did you review this statement before  
15 it went out to the client?

16 A. Yes, I did.

17 Q. And given your understanding of the charges  
18 in the industry and the services provided by  
19 Benchmark Environmental, is this a fair, reasonable  
20 and customary charge for the services provided?

21 A. Yes, it is.

22 MR. BOSCH: Okay. At this time, I would move  
23 for the admission of Plaintiff's Exhibits 1 through  
24 4. I've tendered five, but I'm not moving for its

L.A. REPORTING (312) 419-9292

54

1 admission at this point in time.

2 HEARING OFFICER HALLORAN: Mr. Wright?

3 MR. WRIGHT: No objection.

4 HEARING OFFICER HALLORAN: Okay. Exhibit --  
5 Complainant's Exhibits 1 through 4 will be admitted.  
6 We'll go over the exhibits at the end of the  
7 hearing.

8 BY MR. BOSCH:

9 Q. In your opinion, sir, was the source of the  
10 contamination and the plume that we discussed that's  
11 shown at page 1360 on Exhibit 2 caused by dry  
12 cleaning fluid?

13 A. No doubt.

14 Q. And the source of the dry cleaning fluid  
15 would have been the dry cleaners located at or about  
16 the boring at C-3 and -- I'm sorry, C-3 and C-6?

17 MR. WRIGHT: Objection, lack of foundation.

18 HEARING OFFICER HALLORAN: Mr. Bosch?

19 MR. BOSCH: I'll rephrase the question.

20 BY MR. BOSCH:

21 Q. Was there a dry cleaners located in the  
22 building at or around the site where the C-3 boring  
23 was?

24 A. Yes, it was.

L.A. REPORTING (312) 419-9292

55

1 Q. And is it your opinion that the dry



2 cleaners located at that location would have been  
3 the source of the contamination that's shown where  
4 the plume is shown here?

5 A. Yes, it is.

6 MR. WRIGHT: Objection, lack of foundation.

7 MR. BOSCH: I don't think there's a lack of  
8 foundation.

9 HEARING OFFICER HALLORAN: What's the objection  
10 for the lack of foundation?

11 MR. WRIGHT: I simply don't think that there  
12 has been sufficient testimony or other evidence to  
13 support an opinion in this regard.

14 HEARING OFFICER HALLORAN: Let's read the  
15 question back, Terry.

16 (Whereupon, the requested  
17 portion of the record  
18 was read accordingly.)

19 HEARING OFFICER HALLORAN: Is there a question  
20 before that location?

21 MR. BOSCH: Yes. Well, let me just ask it  
22 again so we're really clear.

23 HEARING OFFICER HALLORAN: Let's rephrase this  
24 question.

1 BY MR. BOSCH:

2 Q. Was there a dry cleaners located in the  
3 building at or about where the C-3 boring was made  
4 at any time?

5 A. Yes, there was.

6 Q. And that would have been -- as we found or  
7 saw earlier, the location of that would have been  
8 329/331 South Bartlett, Streamwood, Illinois,  
9 correct?

10 MR. WRIGHT: Objection, leading question and I  
11 think that mischaracterizes the testimony.

12 MR. BOSCH: If we want to do that, I think  
13 we've gone through this extensively, but fine, let's  
14 go ahead and find the map we went to before.

15 HEARING OFFICER HALLORAN: What page are you  
16 on, sir?

17 MR. BOSCH: Let's go to 1515 of Exhibit No. 2.

18 BY MR. BOSCH:

19 Q. Okay. Do you see that exhibit, sir?

20 A. Yes, I do.

21 Q. Okay. Now, there is a deterioration of  
22 asphalt indicated there so I'm not going to rely on  
23 your prior testimony, lay it all down for us right  
24 now, where it says 329 and 331, okay, how, if at

1 all, does that area shown there where it says  
2 deteriorated asphalt at 331 and 329 correlate at all  
3 with the plume that's shown behind 13 -- the  
4 building on 1360?

5 A. The boring that's designated as B-2 on 1515  
6 would be in the midst of, on page 1360, in the midst  
7 of boring C-3 and C-1 as shown.

8 Q. Okay. So that B-2 that's indicated on 1515  
9 is the same B-2 as indicated on 1360?

10 A. Correct.

11 Q. Now, is it -- did your investigation turn  
12 out, I'll lay the foundation very clearly, if there  
13 ever existed a dry cleaners in the location of 329  
14 and 331 South Bartlett?

15 MR. WRIGHT: Objection, it's 329 or 331, which  
16 is it?

17 MR. BOSCH: It shows both.

18 BY THE WITNESS:

19 A. Our investigation --

20 HEARING OFFICER HALLORAN: Excuse me, could you  
21 rephrase it?

22 BY MR. BOSCH:

23 Q. Okay. Do you see on 1515 the soil with the  
24 deteriorated asphalt, do you see that?

1 A. Yes.

2 Q. The store front that's depicted immediately  
3 to the west of that, was there ever, in any of those  
4 store fronts, a dry cleaners located in any of those  
5 store fronts?

6 A. There was one due west of that location.

7 Q. Okay. And is it your opinion, sir, that  
8 the plume that is shown on 1360 and the  
9 contamination that's outlined there found its source  
10 to be the dry cleaners that was located in the  
11 building that we just discussed?

12 A. Yes.

13 MR. BOSCH: No further questions.

14 HEARING OFFICER HALLORAN: Thank you,  
15 Mr. Bosch. Mr. Wright, any cross?

16 MR. WRIGHT: Yes.

17 C R O S S - E X A M I N A T I O N

18 by Mr. Wright

19 Q. Sir, your documents contain or refer to  
20 a number of photos, do you have the original  
21 photographs with you?

22 A. No, not in my presence.

23 Q. Do you have those original photographs in  
24 your office?

1 A. Yes.

2 Q. None of them are in the exhibits that are  
3 being submitted into evidence, is that correct, none  
4 of the original photos?

5 A. Correct.

6 Q. Do you recall who took those photographs?

7 A. One of my staff.

8 Q. Do you recall which one?

9 A. No, I don't.

10 Q. I'd like to just ask a couple questions --  
11 a few questions about your statement of  
12 qualifications, I believe it's been identified as  
13 Complainant's Exhibit No. 1.

14 As I understood your testimony, sir, you  
15 are the president of Benchmark, is that correct?

16 A. That is correct.

17 Q. You've been the president for six years?

18 A. Yes.

19 Q. And is that the same length of time that  
20 you've been with Benchmark?

21 A. Yes.

22 Q. Were you the founder of Benchmark or one of  
23 them?

24 A. I was one.

1 Q. Okay. And your duties as president, as I  
2 understood your testimony, are oversight and  
3 management and maintaining a public relations  
4 atmosphere with your clients, is that correct?

5 A. True.

6 Q. And those have been your duties during your  
7 tenure as president of Benchmark?

8 A. Along with also getting involved at certain  
9 times in going out and doing actual project  
10 management.

11 Q. The project manager in this project was  
12 Walter Karla, is that correct?

13 A. Correct.

14 Q. Karla would be spelled, K-a-r-l-a?

15 A. Correct.

16 Q. He was the project manager throughout the  
17 project, correct?

18 A. Correct. Let me rephrase that, Phase I was  
19 conducted under Frank Jiran, who was the project  
20 manager for Phase I environmental assessment, the  
21 rest of the work was done subsequently under Walter  
22 Karla.

23 Q. And as to Phase I, the actual on-site  
24 reconnaissance was performed by Jiran and Sean

1 Beinecke, is that correct?

2 A. I would need to review the report.

3 Q. I'm sorry?

4 A. I would need to review the report.

5 Q. The report would indicate who performed  
6 that on-site reconnaissance?

7 A. Correct.

8 Q. You did not?

9 A. No.

10 Q. The Phase II investigation was also  
11 conducted by Shawn Beinecke, correct?

12 A. I would need to refresh my memory on that.

13 Q. By referring to the Phase II report?

14 A. Correct.

15 Q. Your firm also conducted a preliminary  
16 remedial investigation, correct?

17 A. Yes, we did.

18 Q. Do you recall the date of that  
19 investigation?

20 A. You're talking about Phase II or the --

21 Q. No. I'm talking about the preliminary  
22 remedial investigation.

23 A. Okay. Not the exact date, no.

24 Q. Okay. The report detailing the preliminary

L.A. REPORTING (312) 419-9292

62

1 remedial investigation was submitted by Kasey Fung,  
2 F-u-n-g. She was an environmental engineer with  
3 Benchmark, is that correct?

4 A. Give me a break, I'm getting old here.  
5 I'm thinking. I don't recall if she was an engineer  
6 or geologist or hydrogeologist at the time.

7 Q. She's no longer with the firm?

8 A. No.

9 Q. And when your firm, that being Benchmark,  
10 submits a report that would indicate that it is  
11 being submitted by a particular individual, that  
12 would indicate that the person making the submission  
13 did the field work, is that correct?

14 A. As one of the people that was involved with  
15 the field work.

16 Q. If there was more than one person that was  
17 doing the field work, his or her name would also be  
18 listed as the person submitting the report, is that  
19 correct?

20 A. Not always.

21 Q. Would it be your custom to submit reports  
22 in that regard?



23           A. Normally, the people involved would have  
24 their names. The one submitting the report is the

L.A. REPORTING (312) 419-9292

63

1 one writing the report that was familiar as a  
2 technician or an extra person, one of the people on  
3 the job, then the person that would sign off on the  
4 cover sheet would be the senior person involved with  
5 that phase or that project.

6           Q. Your firm -- and when I refer to your firm,  
7 I'm referring to Benchmark, is that acceptable?

8           A. Correct.

9           Q. When your firm -- strike that.

10                   Benchmark also conducted a further  
11 remedial investigation in relation to this project,  
12 is that correct?

13           A. Yes, we did.

14           Q. Do you recall when that investigation was  
15 undertaken?

16           A. That was done subsequently to the first in  
17 the early part of 1998.

18           Q. Do you recall who submitted the report  
19 detailing the further remedial investigation?

20           A. The report was submitted or written by  
21 Dawn Redding, but it was submitted and overseen by

22 Walter Karla.

23 Q. Let's go to the remedial action plan, I  
24 think you have a copy of that in front of you.

L.A. REPORTING (312) 419-9292

64

1 The remedial action plan was submitted by  
2 Dawn Redding, is that correct?

3 A. Correct.

4 Q. She is or was a geologist with Benchmark?

5 A. Correct.

6 Q. Is she still employed by Benchmark?

7 A. No, she is not.

8 Q. And Walter Karla was still the project  
9 manager at the time the remedial action plan was  
10 submitted, is that correct?

11 A. Correct.

12 Q. And the document that has been identified  
13 as Complainant's Exhibit No. 2, that being the IEPA  
14 site remediation program submittal format, was also  
15 submitted by Dawn Redding, correct?

16 A. A point of clarification, submittal, in our  
17 terminology, strictly means written by and that's  
18 correct.

19 Q. That report was written by Dawn Redding?

20 A. Correct.

21 Q. Do you recall who did the field work in  
22 connection with the Phase II investigation?

23 A. Walter Karla. And I don't know who would  
24 have been his assistant.

L.A. REPORTING (312) 419-9292

65

1 Q. Do you recall who did the field work in  
2 connection with the preliminary remedial  
3 investigation?

4 A. Walter Karla with another person as his  
5 assistant.

6 Q. That other person would have been Kasey  
7 Fung?

8 A. Possibly.

9 Q. Do you recall who conducted the field work  
10 with respect to the further remedial investigation?

11 A. Walter Karla with another assistant.

12 Q. And that other assistant would have been  
13 Kasey Fung?

14 A. Possibly.

15 Q. Do you recall who performed the field work  
16 in connection with the remedial action plan?

17 A. Walter Karla with another assistant.

18 Q. That would have been Dawn Redding?

19 A. Possibly.

20 Q. The fact that Dawn Redding prepared the  
21 remedial action plan, does that indicate to you  
22 that she was the person assisting Mr. Karla?

23 A. No. She was just the person that was  
24 writing the report.

L.A. REPORTING (312) 419-9292

66

1 Q. She may not have been in the field?

2 A. Possibly, possibly not. We take extensive  
3 field notes so any person with technical competence  
4 can take them and incorporate them into a report.

5 Q. And generally, those extensive field notes  
6 are, in fact, incorporated into your reports?

7 A. They're utilized to format the report.

8 Q. Have they been incorporated into the  
9 reports that are being submitted into evidence  
10 today?

11 A. In one shape, way or form.

12 Q. I'm sorry?

13 A. In one shape, way or form. They're  
14 dissected and put into appropriate positions.

15 THE COURT REPORTER: Mr. Hearing Officer, can I  
16 change my paper?

17 HEARING OFFICER HALLORAN: Yes. Off the  
18 record.

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

21 BY MR. WRIGHT:

22 Q. Sir, on this project, Benchmark's client,  
23 with respect to the Phase I investigation, was the  
24 Bronson Gore Bank, correct?

L.A. REPORTING (312) 419-9292

67

1 A. Correct.

2 Q. And Benchmark's client, with respect to  
3 Phase II of the project, was the Bronson Gore Bank,  
4 correct?

5 A. Correct.

6 Q. Benchmark's client with respect to the  
7 preliminary remedial investigation was the Bronson  
8 Gore Bank, correct, or do you recall?

9 A. Yeah, I can't recall that.

10 Q. Phase I of Benchmark's investigation  
11 recommended two soil borings behind each of the  
12 cleaners, do you recall that?

13 A. Yes, I do.

14 Q. How many borings were, in fact, taken  
15 behind each of the cleaners?

16 A. From my recollection, one behind each.

17 Q. The further remedial investigation

18 recommended a coring inside one of the cleaners, do  
19 you recall that?

20 A. No, I don't.

21 Q. That coring was not done, correct?

22 A. That, I don't recall.

23 Q. If it was done, the reports would indicate  
24 that, correct?

L.A. REPORTING (312) 419-9292

68

1 A. Correct.

2 Q. In Phase II -- or the Phase II report,  
3 there's a statement that the B-2 soil sample --  
4 strike that.

5 I'd like you to look at Benchmark's figure  
6 two from the investigation, I believe it's been  
7 identified as page 1515.

8 A. Okay.

9 Q. Do you have that in front of you?

10 A. Yes, I do.

11 Q. That indicates general locations of two  
12 borings, correct?

13 A. Correct.

14 Q. B-1 and B-2?

15 A. Correct.

16 Q. Do you recall how many soil samples were

17 analyzed at the laboratory from each of those  
18 borings?

19 A. Two samples.

20 Q. Two samples from each boring?

21 A. No. One from each, I'm sorry.

22 Q. One from each.

23 And what pages would you look at to  
24 determine that?

L.A. REPORTING (312) 419-9292

69

1 A. From the report, page 1508, from the  
2 laboratory analysis of 1516, 1517, 1518, 1519 and  
3 most assuredly the chain of custody, 1520.

4 Q. Okay. Looking at page 1508, under the  
5 column that is entitled B-2 there is a heading that  
6 reads five feet BSG, correct?

7 A. Correct.

8 Q. That would indicate five feet below surface  
9 grade, correct?

10 A. Correct.

11 Q. In other words, five feet below ground  
12 surface?

13 A. Correct.

14 Q. And would you show me where you would  
15 determine that, in fact, that sample was taken from

16 five feet below surface grade?

17 A. Utilizing soil boring logs on page 1521 and  
18 1522, one of the tools that's utilized in the field  
19 to determine where samples are procured is --  
20 there's different types of meters available, we use  
21 a photo called a photoionization detector and the  
22 utilizing of a meter of such gives us a rough idea  
23 of the volatile content of the soil that we're  
24 measuring, which we're interested in in this case.

L.A. REPORTING (312) 419-9292

70

1 So thereby the samples as they're taken every couple  
2 of feet with our geoprobe or drill rig is screened  
3 and the sample that's taken with the highest  
4 elevated PID meter reading is the one that's then  
5 submitted to the laboratory for analysis.

6 In this case, looking at page 1522, boring  
7 B-2 showed that the sample between three to five  
8 feet and five to seven feet illustrated the same  
9 meter reading of 35, which is the elevated reading  
10 for that boring. So it was taken at the interface  
11 of five feet.

12 Q. Now, the reports also refer to various  
13 groundwater samples that were taken?

14 A. From my recollection, I don't know if



15 groundwater was taken. Wells were installed. I  
16 don't know if any samples were procured.

17 Q. If groundwater samples were taken and were  
18 analyzed, that would be indicated in the reports,  
19 correct?

20 A. Correct.

21 Q. And have you been involved in  
22 investigations in which groundwater samples are  
23 taken from soil borings and sent to a lab for  
24 analysis?

L.A. REPORTING (312) 419-9292

71

1 A. Yes.

2 Q. And that could have happened in this case?

3 A. It's possible.

4 Q. As you recall -- strike that.

5 Were there groundwater monitoring wells  
6 installed?

7 A. I stated so.

8 Q. Do you recall how many?

9 A. Three or four.

10 Q. It's your recollection that those were dry?

11 A. Correct. I saw that personally.

12 Q. And what do you mean by that when you say  
13 they are dry, no water produced at all?

14           A.  Either water of a very, very minimal amount  
15  where if you go and extract that water and allow the  
16  well to sit for a period of a day, two days and no  
17  other water enters back into that, then that would  
18  be considered a dry well.

19           Q.  If groundwater samples were taken from the  
20  soil borings, would you be able to tell from the  
21  reports at what level or what depth from the borings  
22  they were taken?

23           A.  It would be speculative on a boring.

24           Q.  Why is that?

L.A.  REPORTING  (312) 419-9292

72

1           A.  For instance, if you do a boring in an area  
2  like a shopping center where you have asphalt  
3  parking, you have gravel underneath the asphalt for  
4  a bed, and you do a boring, storm water could be  
5  traveling underneath the asphalt and just through  
6  osmosis or hydrostatic pressure coming through the  
7  gravel because of the boring having less static  
8  pressure would come into the bore hole, you would  
9  take a sample and you could be down eight feet, but  
10  you can't assume that water came from eight feet.

11           Q.  Sir, I'd like to direct your attention to  
12  figure one of your report and I show that at page

13 1063 from the Bates stamps, but that's probably not  
14 in the exhibit. I believe it would be part of your  
15 Phase I report.

16 A. To clarify, you mean page 1476?

17 Q. Yes. In that drawing, there is a diagram  
18 portraying the shopping center, correct?

19 A. Correct.

20 Q. With various tenants, correct?

21 A. Correct.

22 Q. And to the east of the shopping center  
23 there is a designation of alley staining, correct?

24 A. Designation of alley, a subdesignation of

L.A. REPORTING (312) 419-9292

73

1 an outline saying staining.

2 Q. Okay. Let's separate the two then.

3 The space that exists to the east of the  
4 shopping center and to the west of the fence line,  
5 you would characterize as an alley, is that correct?

6 A. That's correct.

7 Q. Is that a paved alley?

8 A. Yes, it was.

9 Q. And this figure one indicates that there  
10 was staining at that location indicated in figure  
11 one, is that correct?

12 A. Yes.

13 Q. You described the contaminant as perc, is  
14 that correct?

15 A. Correct.

16 Q. Is that a lay person's description of the  
17 contaminant?

18 A. It's a trade name used.

19 Q. What is that full trade name, if you know?

20 A. Perchloroethylene or another chemical name  
21 of it is tetrachloroethene.

22 Q. Tetrachloroethene?

23 A. Ethene.

24 Q. Ethene, there would be a difference, would

L.A. REPORTING (312) 419-9292

74

1 there not?

2 A. Tetrachloroethene.

3 Q. Is that with an E or A?

4 A. An E.

5 Q. So what a layperson would or might call  
6 perc is in its formal name tetrachloroethene?

7 A. Or perchloroethylene.

8 Q. Is there a difference?

9 A. No. They're the same compound, just  
10 another compound name for it.

11 Q. Is there also a chemical known as  
12 tetrachloroethylene, if you know?

13 A. I'd have to reference that.

14 Q. Is there also a chemical by the name of  
15 tetrachloroethane?

16 A. Yes.

17 Q. Is that different than tetrachloroethene?

18 A. There and thane are different.

19 Q. Is one a by-product of the other?

20 A. I'd have to look in the chemical book.

21 Q. I'd like to direct your attention to the  
22 remedial program submittal format -- strike that.

23 I'll move on. There's a statement in the  
24 Phase I report that the Village of Streamwood --

L.A. REPORTING (312) 419-9292

75

1 strike that.

2 Do you recall when this shopping center  
3 was constructed?

4 A. No, I don't.

5 Q. There is a statement in the Phase I report  
6 that the Village of Streamwood recommended the  
7 demolition of the building within three years after  
8 its construction, are you aware of that?

9 A. Not exactly.

10 Q. There's another statement in the Phase I  
11 that Packer Engineering was investigating the  
12 structural engineering of the building at some point  
13 in time, are you familiar with that investigation?

14 A. Not exactly, no.

15 Q. Have you ever met Bob Dunham before today's  
16 hearing?

17 A. I haven't really met him still.

18 Q. You've never spoken to him?

19 A. No.

20 Q. What are some of the by-products of  
21 tetrachloroethylene -- or excuse me, I believe I  
22 misstated that, what are some of the by-products of  
23 tetrachloroethene?

24 A. Or what are some of the by-products of

L.A. REPORTING (312) 419-9292

76

1 perc.

2 Q. Fine.

3 A. Combined product or by-products, you have a  
4 compound -- perc is a petroleum based compound so  
5 it's not uncommon to find some other related  
6 petroleum compounds within it, by-products of  
7 breakdown, one is vinyl chloride.

8 Q. Are there any other by-products?

9           A. There are others, but not of a concern in  
10 this investigation.

11           Q. According to the Phase II report there were  
12 benzenes, toluenes, naphthalenes and xylenes detected  
13 in B-1, do you recall that?

14           A. Yes, I do.

15           Q. None of those are by-products of perc?

16           A. They're petroleum related compounds, but  
17 not by-products.

18           Q. Do you have any information or opinions as  
19 to the source of those materials detected in B-1?

20           A. No.

21           Q. Sir, at one point in your earlier testimony  
22 in response to questions from your counsel,  
23 Mr. Bosch, you referred to information obtained from  
24 the Village of Streamwood with respect to one of the

L.A. REPORTING (312) 419-9292

77

1 drains, do you recall that testimony?

2           A. Yes, I do.

3           Q. That information is reflected in the  
4 reports, correct?

5           A. This is correct.

6           Q. I'd like to direct your attention to page  
7 1360.

8 A. Okay.

9 Q. And I'd like to know if -- strike that.

10 In this diagram, the building is shown  
11 along what would be the western edge of the diagram,  
12 correct?

13 A. Correct.

14 Q. And that diagram of the building that  
15 appears on page 1360 doesn't indicate where any of  
16 the various stores were located within the building,  
17 correct?

18 A. Meaning no notation is on this diagram?

19 Q. Correct.

20 A. Correct.

21 Q. Okay. Would you show me other documents in  
22 your report that would correlate the location of C-3  
23 relative to the various stores in the building?

24 A. Well, for that I refer you back to the

L.A. REPORTING (312) 419-9292

78

1 Phase II drawing, figure two, 1515, which  
2 illustrates the location of boring B-2 in reference  
3 to the addresses of 329 to 331, thereby correlating  
4 the location of B-2 on drawing 1360 to the reference  
5 location of C-3.

6 Q. Are there any other documents or drawings



7 in your reports that would correlate those  
8 locations?

9 A. I would have to breeze through these  
10 reports to locate them and pull them out, but that  
11 being said, the field note documentations that we  
12 keep in our files would show the measurements and  
13 locations explicitly.

14 Q. Are those notes contained within these  
15 reports?

16 A. No, they're not. These reports are  
17 summaries of field notes, as I said before.  
18 You do have one diagram on page 1357 that shows  
19 distances from our field notes to establish boring  
20 locations in reference to the structure, does that  
21 answer your question?

22 Q. No. But I am familiar with that one.

23 A. Okay.

24 MR. WRIGHT: I have no further questions.

L.A. REPORTING (312) 419-9292

79

1 HEARING OFFICER HALLORAN: Thank you,  
2 Mr. Wright. Off the record for a minute.

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

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

6 by Mr. Bosch

7 Q. Mr. Liniewicz, do you have any reason to  
8 believe that the information contained in Exhibit 2  
9 is not true, accurate or correct?

10 A. Which is Exhibit 2?

11 Q. Exhibit No. 2 is the IEPA site remediation  
12 program.

13 A. No.

14 Q. The same question with respect to Exhibit  
15 No. 3, the remedial plan, do you have reason to  
16 believe that the information contained therein is  
17 not true, accurate or correct?

18 A. No.

19 Q. With respect to the further remedial  
20 investigation, which is not yet an exhibit here, do  
21 you have any reason to believe that the information  
22 there is not true, accurate or correct?

23 A. No.

24 Q. And finally with respect to the further

L.A. REPORTING (312) 419-9292

80

1 remedial investigation, which is again not an  
2 exhibit that's been given to you, do you have any  
3 reason to believe that the information there is not  
4 true, accurate or correct?

5 A. No.

6 Q. I just want to go back very quickly to two  
7 exhibits which are -- sorry, two pages, 1515 of  
8 Exhibit 2 and then the exhibit -- sorry, the map at  
9 1360.

10 A. Okay.

11 Q. 1360, if I remember your testimony  
12 correctly, shows the outline of the plume --

13 A. Correct.

14 Q. -- the contamination, and you indicated  
15 that the plume moved from the east to the northeast  
16 -- I'm sorry. How did you indicate --

17 A. East and northeast.

18 Q. East and northeast.

19 Now, with respect to that, keeping that in  
20 mind with respect to 1360, did the plume move away  
21 from or towards the boring that's shown as B-1 on  
22 1515?

23 A. Away from.

24 Q. Having now gone through the

L.A. REPORTING (312) 419-9292

81

1 cross-examination of counsel for the respondent  
2 here, have any of your opinions in this matter  
3 changed?

4 A. No.

5 MR. BOSCH: I have no further questions

6 HEARING OFFICER HALLORAN: Thank you,

7 Mr. Bosch. Any recross, Mr. Wright?

8 MR. WRIGHT: No.

9 HEARING OFFICER HALLORAN: Okay. Thank you. I  
10 think we're going to take a 60-minute lunch break  
11 and we'll be back here at 12:35, is that fine with  
12 everyone?

13 MR. BOSCH: Yes.

14 MR. WRIGHT: Yes.

15 HEARING OFFICER HALLORAN: Okay. Thank you  
16 very much.

17 MR. BOSCH: Thank you.

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

22 HEARING OFFICER HALLORAN: We're back.

23 It's approximately 12:44. We just took a lunch  
24 break. Prior to the lunch break, we had

L.A. REPORTING (312) 419-9292

82

1 complainant's expert witness finish up his testimony  
2 and we thank him, as well as the Board, for his

3 testimony. I believe we have another witness  
4 Mr. Bosch will be calling.

5 MR. BOSCH: Yes. Actually, I have two  
6 witnesses. The next witness I would like to call is  
7 Robert Dunham.

8 HEARING OFFICER HALLORAN: Mr. Dunham, have a  
9 seat and the court reporter will swear you in.

10 (Witness sworn.)

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

12 by Mr. Bosch

13 Q. Would you state your name, please?

14 A. Robert Dunham.

15 Q. Mr. Dunham, do you work in the dry cleaning  
16 business?

17 A. Yes, I do.

18 Q. And could you tell me very briefly when you  
19 first started working in the dry cleaning business  
20 and give me a history of your employment in that  
21 area?

22 A. Well, I started working for another  
23 gentleman way back in 1966, '67, and I pretty much  
24 worked on a part-time basis for that person and

L.A. REPORTING (312) 419-9292

83

1 another one, Bill Rosdil, until 1978, '79.

2 Q. Okay.

3 A. And then I purchased my own cleaners.

4 Q. Let's stop there and just work up to the  
5 1978, '79 time frame.

6 You said you worked for one person, can  
7 you tell me where that dry cleaners was located?

8 A. 329 South Bartlett Road.

9 Q. Is that in the Streamwood Shopping Center?

10 A. That's correct.

11 Q. And what was the name of the dry cleaners  
12 at that time?

13 A. Streamwood Village -- it was the Streamwood  
14 Village Cleaners, Inc.

15 Q. From the '60s up to 1978?

16 A. Right.

17 Q. Okay. Was it a One Hour Martinizing  
18 franchise?

19 A. The franchise was a One Hour Martinizing.

20 Q. During that basically 1965, '66 time frame  
21 to, say, about 1978, did you have any ownership  
22 interest in the business?

23 A. No.

24 Q. Can you describe for us what you did for

1 the business?

2 A. I basically went in early in the morning  
3 and got it started, you know, I would get the  
4 machines going and spot clothes and run a couple  
5 loads.

6 Q. Run a couple loads, would that include  
7 running the dry cleaning machines, is that what that  
8 means?

9 A. That would be correct.

10 Q. Had you had any experience in the dry  
11 cleaning business prior to that time?

12 A. No, I --

13 MR. WRIGHT: Prior to which time?

14 BY MR. BOSCH:

15 Q. I'm sorry. Prior to 1965.

16 A. No, I did not.

17 BY MR. BOSCH:

18 Q. By the time you purchased your first dry  
19 cleaners in the 1978 time frame, do you feel that  
20 you had come to know or have learned the business  
21 of dry cleaning fairly well?

22 A. Yes.

23 Q. And that experience would have been  
24 obtained through your working at the dry cleaners

1 that had been located at 329 South Bartlett, right?

2 A. Right.

3 Q. Did there come a point in time that you  
4 acquired the dry cleaners that was located at 329  
5 South Bartlett?

6 A. Well, what was going on was I was a barber  
7 and a partner with another gentleman that owned the  
8 cleaners and --

9 Q. What was his name?

10 A. His name was Bill Rosdil, and what we had  
11 done was the shopping center at that particular time  
12 was kind of going downhill, it was -- we were losing  
13 our tenants. So in '78 I decided to -- I can see  
14 the handwriting on the wall and I decided to buy my  
15 own dry cleaners in Crystal Lake, Illinois and at  
16 that point, left. The owner was then interested in  
17 having me take over the cleaners. I did so on a  
18 basis in '79 that if the shopping center became a  
19 viable operation, that I would pay him and that's  
20 how I  
21 got involved in on an ownership basis.

22 Q. Let's focus in on that 1979 time frame when  
23 you took over the dry cleaners. What was the name  
24 that you operated it under once you acquired it?



1 A. Well, we basically --

2 Q. At least initially.

3 A. Yeah. Initially, it remained the same as  
4 far as the operations out there. The One Hour  
5 Martinizing was dropped. Bill had dropped the  
6 franchise because of the costs and so it was being  
7 operated out there. When I started taking over and  
8 started making a payroll from out of there, I was  
9 making the payroll out of Vogue Cleaners and it  
10 became a division of Vogue Cleaners, Inc.

11 Q. So the cleaners located at 329 South  
12 Bartlett became a division of Vogue Cleaners, Inc.?

13 A. More or less, yes, as a way of separating  
14 it right.

15 Q. And Vogue Cleaners was initially  
16 established when you purchased the dry cleaners in  
17 Crystal Lake or at some other time?

18 A. What I did was purchase an existing  
19 corporation from a man by the name of Russell  
20 Stewart.

21 Q. And that --

22 A. And the name of that corporation was the  
23 Crystal Lake Vogue Cleaners, Inc.

24 Q. Was there a purchase and sale agreement, a

1 written document?

2 A. Yes, there was.

3 Q. For the sale of the Crystal Lake facility?

4 A. That's correct.

5 Q. Was there a written document evidencing the  
6 purchase or sale or acquisition of Vogue Cleaners at  
7 329 South Bartlett?

8 A. No.

9 Q. Did there come a point in time between --  
10 did there ever come a point in time where you paid  
11 the prior owners any money for the cleaners located  
12 at 329 South Bartlett?

13 A. No.

14 Q. Was there any written document that  
15 evidenced what you were getting when you took over  
16 the dry cleaners that had been located at 329 South  
17 Bartlett?

18 A. No. It just was an oral understanding.

19 Q. Did you -- was it -- I'm just trying to  
20 understand the transaction. Was it a situation  
21 where the cleaners continued its operations as it  
22 had before except now you, through Vogue Cleaners,  
23 Inc., were running it?

24 A. That's correct.

1 Q. Was there any discussion that there would  
2 be any division of the existing assets at the 329  
3 location when you took over the operations of that  
4 facility?

5 A. Well, we did it on the basis that if it  
6 became a viable operation, that I would pay him for  
7 it.

8 Q. Right. I understand that, from a cash flow  
9 and income basis, but with respect to any of the  
10 personal property that was located at that cleaners  
11 at the time you took over, did you take all of the  
12 personal -- I'm sorry, not you personally, did Vogue  
13 Cleaners, Inc., take all the personal property that  
14 had been located at the facility?

15 A. No. It would still belong to Bill and  
16 basically he wanted to just get out of it, he  
17 couldn't sell it, he was interested in whether or  
18 not I would take it over and I said I would if it  
19 became a viable operation, if the -- you see, at the  
20 time in the '80s, the very early '80s, they were  
21 talking about -- we had lost a lot of our tenants,  
22 the grocery store had moved out, the Ben Franklin  
23 store had moved out, we were losing our tenants and  
24 our business was practically nothing and the idea of

1 the whole thing was that we were being promised that  
2 they were going to remodel -- there was rumors that  
3 they were going to -- someone's going to buy the  
4 shopping center and maybe even add on to the center  
5 and bring in new tenants, when then, it might become  
6 a viable business and at that time if it did, then  
7 he would be paid for the machinery and such that was  
8 in there.

9 Q. I'm sorry. The man's name again was?

10 A. Bill Rosdil, R-o-s-d-i-l.

11 Q. And with respect to your agreement with  
12 Mr. Rosdil in 1979, did Mr. Rosdil have any  
13 interest, ownership interest, in the cleaners?

14 A. He's the one that put the money and bought  
15 it originally --

16 Q. He bought it originally, but who owned the  
17 cleaners after 1979, was it Vogue Cleaners, Inc.?

18 A. Well, basically it was Bill Rosdil.

19 Q. And you operated it?

20 A. Right.

21 Q. And you continued to operate it?

22 A. Exactly.

23 Q. And did Mr. Rosdil own it the entire time?

24 A. Well, he's the one that originally, when it

1 was purchased, put the money down and bought the  
2 cleaners and operated it. I helped him out because  
3 I knew the business and he did not. He was a former  
4 -- or was a partner of mine in the barber shop. We  
5 operated a barber shop next door to the dry  
6 cleaners, okay, and how we got involved in the dry  
7 cleaning business because it was right next door.

8 Q. So in 1979 did you take over the operations  
9 of the cleaners?

10 A. More or less, yeah. He still helped out.  
11 He did, you know, some of the morning operations and  
12 such.

13 Q. Almost like you did when you worked for One  
14 Hour Martinizing?

15 A. Exactly.

16 Q. And who made the -- did the Vogue Cleaners  
17 located at 329 South Bartlett eventually close?

18 A. Yes.

19 Q. Who made the decision to do that?

20 A. Well, there was nothing left.

21 Q. Was that your decision?

22 A. Yeah. I mean, it was basically -- the  
23 reason we had kept it open was I bringing work out

24 from Crystal Lake, which was -- we had some -- I had

L.A. REPORTING (312) 419-9292

91

1 expanded in the Crystal Lake area and we had a very  
2 good business operation going and so basically I was  
3 bringing excess clothes that were already cleaned  
4 out there to be pressed, but most of my work that I  
5 brought out there was alterations. She was an  
6 alterations lady.

7 Q. So my question to you, when the Vogue  
8 Cleaners at 329 South Bartlett closed, that was  
9 ultimately your decision?

10 A. Yeah, pretty much so.

11 Q. And any payroll after you obtained the  
12 cleaners in 1979, was that payroll run through Vogue  
13 Cleaners, Inc.?

14 A. At that particular time -- we started doing  
15 that around 1982 pretty much.

16 Q. And were all bookkeeping functions --

17 A. Exactly.

18 Q. -- taken through Vogue Cleaners, Inc.?

19 A. Prior to that, all of the bookkeeping was  
20 handled by GBS for Streamwood Cleaners and Bill took  
21 care of that.

22 Q. So in 1982 it became all --

23           A. All we were doing was just the payroll and  
24 there was a couple utility bills and that was about

L.A. REPORTING (312) 419-9292

92

1 it.

2           Q. Okay. Were there employees located at  
3 Vogue Cleaners in 1979 at the Streamwood location?

4           A. Not from Vogue Cleaners, no. They weren't  
5 on the payroll yet.

6           Q. Well, after you acquired the business in  
7 '79.

8           MR. WRIGHT: I'm going to object, it's more in  
9 the nature of clarification, we're using the word  
10 you and yet we've heard the reference to Vogue  
11 Cleaners, Inc.

12           MR. BOSCH: Fair enough. I'll try to keep the  
13 distinction.

14           HEARING OFFICER HALLORAN: Thank you,  
15 Mr. Bosch.

16 BY MR. BOSCH:

17           Q. Vogue Cleaners obtained the location at 329  
18 South Bartlett in 1979, is that correct?

19           A. Vogue Cleaners, Inc. really had no money or  
20 did it ever buy anything. It was an oral agreement  
21 that we would eventually take it over if it became a

22 viable operation.

23 Q. Who operated the facility?

24 A. We had a manager out there.

L.A. REPORTING (312) 419-9292

93

1 Q. Okay. And was the manager paid?

2 A. Yes, she was.

3 Q. And whose payroll was she on?

4 A. She was on the -- at that time she was on  
5 the Streamwood Village Cleaners payroll.

6 Q. And how long did she remain on that  
7 payroll?

8 A. Until about '82, '83, somewhere in there  
9 when we -- you know, I'm not exactly sure, you know,  
10 when we put her on ours.

11 Q. When you said we put her on ours, she  
12 became put on --

13 THE COURT REPORTER: Excuse me. Could you wait  
14 until he finishes the questions?

15 THE WITNESS: I'm sorry.

16 BY MR. BOSCH:

17 Q. She became an employee on the payroll of  
18 Vogue Cleaners, Inc., is that correct, eventually?

19 A. Eventually, yes.

20 Q. Okay. My wife has silk blouses and she



21 used over time or gone to different dry cleaners and  
22 sometimes they come back after using a particular  
23 dry cleaner with kind of a yellow tint, is there a  
24 reason why some dry cleaners end up getting,

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94

1 particularly womens' silk blouses, yellowed and  
2 others always seem to be able to keep them white?  
3 Is there something in the process?

4 A. Yeah. Well, the solvent itself has got to  
5 be in the proper condition in order to do a proper  
6 cleaning.

7 Q. The dry cleaning solvent?

8 A. That's correct.

9 Q. Do dry cleaners change the solvent every so  
10 often?

11 A. Well, in the regular operation of most dry  
12 cleaners, the solvent goes through a constant  
13 redistillation and a constant filtration process and  
14 if that's not properly maintained, you will get  
15 excess volatiles in the solvent itself which can  
16 then become or, you know, focusing on the white silk  
17 blouse, I take it you're talking about a white silk  
18 blouse?

19 Q. A women's white silk, yeah, or light cream

20 color type.

21 A. Right. They can yellow from the standpoint  
22 or darken because the solvent doesn't have the  
23 clarity that it should.

24 Q. Do cleaners change their solvents then when

L.A. REPORTING (312) 419-9292

95

1 they begin to get dirty like that?

2 A. No. In most cases what cleaners do is they  
3 distill it, they do add to it, and they also run it  
4 through a filtering process.

5 Q. What was the address of the barber shop?

6 A. 331 South Bartlett Road.

7 Q. And that was right next to the dry  
8 cleaners?

9 A. That's correct, the front part was.

10 Q. And when you say the front part, was the --  
11 did the barber shop go all the way through to the  
12 rear of the building?

13 A. No, it did not.

14 Q. What was behind the barber shop, behind  
15 331?

16 A. A sheet metal and air conditioning and  
17 heating place.

18 Q. How long did the dry cleaners operate in

19 the Streamwood Shopping Center? When did it close  
20 down?

21 A. Well, basically we quit operating in about  
22 '84. We did not close the location because we were  
23 bringing out work from that point on, until '89 I  
24 think it was.

L.A. REPORTING (312) 419-9292

96

1 Q. And at this point -- while you were working  
2 -- after 1979, were you familiar with a chemical  
3 commonly called perc?

4 A. Yes, I was.

5 Q. Okay. And what did you understand it to  
6 be?

7 A. I understood it to be a synthetic solvent  
8 that was predominately one used in the industry.

9 Q. And what's it contained in, what particular  
10 product or products that were used in the industry?

11 A. For short we called it perc.

12 Q. Is it in a starch that you use to starch  
13 shirts with? Was it in dry cleaning fluid? Was it  
14 in some sort of spot remover? What was it found in?

15 A. It generally came to you by truck and it  
16 was stored in the machine.

17 Q. Okay. The machine being -- perc was found

18 in the dry cleaning fluid, is that what you  
19 understand it was or not?

20 A. Perc is the dry cleaning fluid.

21 Q. Now, was it stored on-site at 329 South  
22 Bartlett?

23 A. That's correct.

24 Q. And did you have it stored in a drum or

L.A. REPORTING (312) 419-9292

97

1 some other container?

2 A. We originally had it stored in a, for the  
3 purposes of addition to the machine, in a tank in  
4 the back of the store.

5 Q. And how large was that tank?

6 A. That tank was around 100 -- in the  
7 neighborhood of 110 gallons, something to that  
8 nature.

9 Q. And was there a need to periodically  
10 refill that tank?

11 A. Yes, there was.

12 Q. And what causes the need for refilling?

13 A. In those days, we had what we called a  
14 transfer machine and what you would do is you would  
15 clean the clothes much like you do at home in a  
16 regular washing machine and a washer and then you

17 would transfer them to a dryer which would reclean  
18 the solvent and in those days in that switch  
19 process, you would lose some solvent.

20 Q. Were there filters involved in the cleaning  
21 of the solvent as well that you were referring to?

22 A. Yes, there was.

23 Q. And how were those filters cleaned?

24 A. Basically, there was two types of filters

L.A. REPORTING (312) 419-9292

98

1 that were used in that location. For a couple years  
2 we used cartridges and prior to that we used the  
3 filtering system that would use diatomaceous earth.

4 Q. And what is that?

5 A. Diatomaceous earth is a crustacean that  
6 becomes a rock that then is ground up and used as a  
7 filtering powder. It's a very good filtering medium  
8 and that would be applied through the pumping  
9 process to filters. They were like a very small  
10 micron-type filter and the powder would go on that  
11 filter and create a cake and it would be the actual  
12 filter medium.

13 Q. And did these filters ever have to be  
14 replaced?

15 A. No. What you would do is you would take

16 the filter medium off, you would run it into a  
17 still, and you would cook it out and it would become  
18 a fine powder.

19 Q. And what would you do with the powder then?

20 A. The powder would be then put into the  
21 garbage. It was just a regular white -- well, it  
22 was a gray, fluffy powder.

23 Q. Is that how it's disposed of today?

24 A. Today, it's disposed of, in most cases,

L.A. REPORTING (312) 419-9292

99

1 through Safety Clean or an organization or a company  
2 that picks it up.

3 Q. Do you just put it in bags and give it to  
4 them or are there special containers that have to  
5 be --

6 A. They have a special container that you  
7 would put it into.

8 Q. And why, to your understanding, is there a  
9 need for a special container for it to be put into?

10 A. If there's any type of residual solvent  
11 left in it, they would try to remove it.

12 Q. And were -- once you -- once Vogue  
13 Cleaners, Inc. acquired the 329 South Bartlett  
14 location --

15 MR. WRIGHT: I'll object to the use of the word  
16 acquired. There's been talk of operation.

17 BY MR. BOSCH:

18 Q. Took over operations of the facility at  
19 329 South Bartlett, do you think that's a fair  
20 characterization of what you did in 1979, 1980?

21 A. Restate it again.

22 Q. Sure. Would it be a fair characterization  
23 to say what Vogue Cleaners, Inc. did in the 1979,  
24 '80, '81 time frame is take over the operations of

L.A. REPORTING (312) 419-9292

100

1 329 South Bartlett?

2 A. Not really, no. It was a combination of  
3 Bill and I working together. He was basically  
4 handling the day-to-day operations along with the  
5 manager and he did a lot of the work in there at  
6 that time. There was just an agreement, oral  
7 agreement, that if I could ever take it over from  
8 him, I would.

9 Q. Did you consider it like a partnership  
10 then?

11 A. More or less, yeah.

12 Q. Okay. Did you spend most of your time in  
13 the '79 to '84 time frame, most of your time at the

14 329 South Bartlett location or elsewhere?

15 A. Elsewhere.

16 Q. Was there a need for solvent -- I'm sorry,  
17 for dry cleaning fluid in the '79 to '84 time frame  
18 to be delivered to the location at 329 South  
19 Bartlett?

20 A. Yes.

21 Q. Were you there for those deliveries?

22 A. No. Most of the time, no.

23 Q. Okay. And likewise from '84 on to whatever  
24 extent there was a need to have dry cleaning fluid

L.A. REPORTING (312) 419-9292

101

1 delivered, were you there?

2 A. We did not have it delivered. We were no  
3 longer using the dry cleaning machines.

4 Q. Was there dry cleaning fluid there when you  
5 ceased operations?

6 A. Yes, there was. There was some residual  
7 amounts left, which we had Hages (phonetic) or  
8 Safety Clean come and pick it up.

9 Q. And while you were employed by One Hour  
10 Martinizing, did you see anyone spill any of the dry  
11 cleaning fluid?

12 A. Not in any large amounts, no.



13 Q. Did you ever see anyone pour any of it down  
14 a drain?

15 A. Absolutely not.

16 Q. Did you ever see anyone pour any out the  
17 back door?

18 A. No.

19 Q. Once you became involved in the dry  
20 cleaners at 329 South Bartlett, did it ever move  
21 its location within the shopping center up until  
22 the time it closed?

23 A. No, it did not.

24 Q. Was there an employee by the name of Jeff

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102

1 Dunham at the Vogue Cleaners in Streamwood?

2 A. No.

3 Q. Maybe I misspoke, do you know of Jeff  
4 Dunham?

5 A. Yes.

6 Q. And who is that?

7 A. That's my son.

8 Q. Okay. He never worked at the Vogue  
9 Cleaners in Streamwood?

10 A. No.

11 Q. Okay. How about Josephine Lawrence

12 (phonetic) --

13 A. Yes.

14 Q. -- did she work in the Vogue Cleaners in  
15 Streamwood?

16 A. Yes.

17 Q. Did she ever handle or have any reason to  
18 use anything involving the dry cleaning fluids?

19 A. Once in a while, yes.

20 Q. Okay. Were you there supervising her when  
21 she would have been using those at all times?

22 A. No.

23 Q. Okay. How about Dolores Lambing  
24 (phonetic)?

L.A. REPORTING (312) 419-9292

103

1 A. Yes.

2 Q. And did Ms. Lambing have any occasion to  
3 use or operate machines using dry cleaning fluid  
4 during her employment?

5 A. She may have, I rather doubt it.

6 Q. Okay. To the extent that she did, would  
7 you have been there to supervise her when she was  
8 using anything that would have involved dry cleaning  
9 fluid?

10 A. No.

11 Q. Were you ever aware of Vogue Cleaners ever  
12 having a leak from its 55 gallon drum -- or it's 100  
13 gallon drum I think your testimony was?

14 A. No.

15 Q. Did you ever have a leak?

16 A. No, not to my knowledge.

17 Q. You heard the testimony of Mr. Liniewicz  
18 today?

19 A. Yes.

20 Q. Do you have any reason to disagree with the  
21 opinion that he gave today?

22 A. Yes, I do.

23 Q. And do you disagree that there was  
24 contamination behind the shopping center at the

L.A. REPORTING (312) 419-9292

104

1 329/331 area?

2 A. No, I don't necessarily disagree, no.

3 Q. Do you have -- do you have any reason to  
4 disagree with him as to what the type of the  
5 contamination was?

6 A. Yes.

7 Q. Okay. And how would you disagree with him?

8 A. Well, some of the elements that were found,  
9 we have -- in the dry cleaning business we have

10 nothing to do with.

11 Q. Okay. With respect to the elements that  
12 were found that have to do with the dry cleaning  
13 business, do you have any reason to believe that  
14 they weren't there -- weren't actually found there?

15 A. I wouldn't -- I don't understand why they  
16 were found there.

17 Q. Do you have --

18 A. You know, in the middle of the driveway in  
19 the back of the shopping center.

20 Q. Do you have any reason to believe they  
21 weren't?

22 A. Not according to his testimony, no.

23 Q. To the extent the filters or any part of  
24 the filters were thrown out, they were thrown into

L.A. REPORTING (312) 419-9292

105

1 the garbage prior to, say, about 1984 or '85, is  
2 that correct?

3 A. That's correct.

4 Q. Where was the garbage located?

5 A. It was located to the left of the back  
6 door. Actually, where they placed the dumpster was  
7 towards the next door. In other words, it was like  
8 half on their side of the store and half on my side.

9 Q. When you say half on your side, would that  
10 be between 329 and 331 or would that be between 329  
11 and 327?

12 A. 329 and 327, that's where the dumpster  
13 always was.

14 MR. BOSCH: I have no further questions.

15 HEARING OFFICER HALLORAN: Mr. Wright?

16 MR. WRIGHT: Yes. I'll follow-up with some now  
17 and call him later as my witness.

18 HEARING OFFICER HALLORAN: Terrific, thank you.

19 C R O S S - E X A M I N A T I O N

20 by Mr. Wright

21 Q. Mr. Dunham, at some point in time you  
22 became employed as a barber, is that correct?

23 A. That's correct.

24 Q. Are you familiar with the Streamwood

L.A. REPORTING (312) 419-9292

106

1 Shopping Center?

2 A. Yes, I am.

3 Q. Is that the shopping center in which the  
4 dry cleaners that we've heard reference to was  
5 located?

6 A. Yes, it is.

7 Q. Were you also a barber in that shopping

8 center?

9 A. Yes, I was.

10 Q. Did that barber shop have a name to it?

11 A. Yes, it did.

12 Q. What was that?

13 A. It was called the Village Barber Shop.

14 Q. And were you an owner of that shop?

15 A. I was one of the owners, yes.

16 Q. With whom?

17 A. Bill Rosdil and Wayne Cranberry (phonetic).

18 Q. That would be the partnership with Bill  
19 Rosdil that you referred to previously, is that it?

20 A. That's correct.

21 Q. When did the Village Barber Shop open for  
22 business?

23 A. It opened in 1965.

24 Q. In response to Mr. Bosch's questions you

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107

1 referred to a dry cleaning store by the name of  
2 Streamwood Village Cleaners?

3 A. That's correct.

4 Q. That was originally a One Hour Martinizing  
5 franchise?

6 A. Exactly. You couldn't -- yes.

7 Q. When did that store open?

8 A. That store opened in 1965.

9 Q. And if I understand your testimony, between  
10 1965 and 1979 you assisted as an employee with that  
11 store known as Streamwood Village Cleaners?

12 A. That's correct.

13 Q. And up until 1979, who was the owner of  
14 that store?

15 A. There was actually four other owners.

16 Q. One of which was Bill Rosdil?

17 A. The original I don't remember, the next one  
18 was Mr. Olson and then a Paul LaDuc and then Bill  
19 Rosdil.

20 Q. In one of your answers to Mr. Bosch's  
21 questions you referred to the process of bringing  
22 out work sometime after 1979. Where would that work  
23 be brought to?

24 A. We didn't have any work that was coming in

L.A. REPORTING (312) 419-9292

108

1 across the counter and in order to keep the two  
2 ladies busy, one was a seamstress, we brought all  
3 the excess work from Crystal Lake Vogue Cleaners out  
4 to her for alterations and for pressing. There were  
5 certain things we brought out to them for pressing

6 that were overruns in our stores.

7 Q. And when did that process occur?

8 A. Basically, almost full-time from '88 until  
9 '89.

10 Q. Was there any dry cleaning being done in  
11 the Streamwood Village Cleaners store between 1984  
12 and 1989?

13 A. No.

14 Q. Mr. Bosch also asked you about deliveries  
15 of perc to that store, do you recall those  
16 questions?

17 A. Yes.

18 Q. Was there perc delivered to the Streamwood  
19 Village Cleaners during the time that you either  
20 worked there or were involved in its operation?

21 A. Yes.

22 Q. How was the perc delivered to the store?

23 A. A truck would pull up in the rear of the  
24 store, unroll a hose, fill up the tank, much like

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109

1 you would your own tank for your car, it had a  
2 regular gasoline type nozzle on it.

3 Q. And is that the process that would occur  
4 throughout the period of time that you either worked



5 in that store or were involved in its operation?

6 A. That's correct.

7 Q. When did you begin assisting as an employee  
8 in the One Hour Martinizing store?

9 A. 1966.

10 Q. Mr. Bosch also asked you about the  
11 disposition of the filters?

12 A. Yes.

13 Q. Was there any process that those filters  
14 were put through before they were disposed of in the  
15 dumpster?

16 A. Yes, there was.

17 Q. What was that?

18 A. We basically had to drain them over the  
19 weekend. We had two banks of filters that were  
20 installed sometime in '78, '79 to make it easier for  
21 the dry cleaning situation going on at that point  
22 because there was just the ladies out there. When  
23 we installed new filters, we would drain one bank  
24 for a very long period of time and operate on the

L.A. REPORTING (312) 419-9292

110

1 next bank of filters, eventually we would pull the  
2 filters out of the bank that was drained. We had a  
3 type of wheelbarrow that we would store them in,

4 there was four filters in each one and we'd put them  
5 in a wheelbarrow and wheel them to the back of the  
6 store.

7 Q. And the filters would be drained in the  
8 wheelbarrows?

9 A. Well, basically what was not -- they would  
10 sometimes sit in the filters for weeks at a time,  
11 you know, draining and then once we pulled them out,  
12 we'd leave them in the wheelbarrow until, you know,  
13 disposal time.

14 Q. For what purpose were they left in the  
15 wheelbarrow?

16 A. Basically, if they had any further drying  
17 out to do, they were dried in open air in the back  
18 of the store.

19 Q. And were the filters dry before they were  
20 disposed in the dumpster?

21 A. They were dry.

22 Q. You referred to -- strike that.

23 Do you recall the distance in feet  
24 approximately that the stores would extend in an

L.A. REPORTING (312) 419-9292

111

1 easterly and westerly direction?

2 A. Yes. They were 100 long.

3 Q. 100 feet?

4 A. That's correct.

5 Q. That would be 100 feet deep?

6 A. The store from the front to the back was  
7 100 foot deep.

8 Q. Do you recall the address of the barber  
9 shop?

10 A. It was 331.

11 Q. South Bartlett Road?

12 A. Correct.

13 Q. Did the barber shop rent -- strike that.

14 Did the barber shop occupy the entire 100  
15 feet depth of that store?

16 A. No.

17 Q. Did it ever occupy the entire 100 feet  
18 depth of that store?

19 A. No.

20 Q. How many feet did it occupy?

21 A. The first 40 feet.

22 Q. When you say the first 40 feet, would that  
23 be the 40 feet to the west?

24 A. It would be the first -- it would be the

L.A. REPORTING (312) 419-9292

112

1 first 40 feet to the west.

2 Q. In other words, at the front of the  
3 shopping center?

4 A. That's exactly right.

5 Q. And who occupied the space to the rear of  
6 the barber shop?

7 A. There was an air conditioning and heating,  
8 sheet metal man that was in there.

9 Q. What was the name of his business?

10 A. If my memory serves me correct, it was  
11 Vaughn's Heating and Air Conditioning.

12 Q. For how long a period of time did that  
13 business occupy that space?

14 A. I would say he operated it all through the  
15 '70s and then left sometime in the early '80s, '83,  
16 somewhere in there, '82, '83.

17 Q. To your knowledge, did that business ever  
18 utilize solvents?

19 MR. BOSCH: I'm going to object to foundation.

20 HEARING OFFICER HALLORAN: I'll allow it.

21 BY THE WITNESS:

22 A. Yes, he did.

23 BY MR. WRIGHT:

24 Q. And what's your knowledge based on?

1           A.  It's basically based on knowing the  
2 gentleman.  You know, he came over and bought some  
3 from us once in a while.  He used it to clean his  
4 metal, his sheet metal work.

5           Q.  Did you or Crystal Lake Vogue Cleaners,  
6 Inc. ever pay any money to Bill Rosdil for the  
7 purchase of the dry cleaners?

8           A.  No.

9           MR. WRIGHT:  I have nothing further.

10          HEARING OFFICER HALLORAN:  Thank you  
11 Mr. Wright.  Any redriect?

12          MR. BOSCH:  Just a couple follow-up questions.

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

14                                   by Mr. Bosch

15          Q.  When you said the gentleman who owned  
16 Vaughn's Heating and Air Conditioning purchased some  
17 solvent from the cleaners, what solvents are you  
18 referring to?

19          A.  He would come over every once in a while  
20 and ask for solvent because he wanted -- he used it  
21 in the metal cleaning.

22          Q.  I'm trying to get the solvent.  Did he buy  
23 dry cleaning fluid from you?

24          A.  Yes.

1 Q. And you sold it to him?

2 A. Yeah.

3 Q. And when you closed the dry cleaners in  
4 Streamwood in 1992, I believe it was?

5 A. No. It closed in '89.

6 Q. In '89, excuse me, did you consider -- you  
7 considered that was your decision, you made that  
8 decision?

9 A. Right. There was no business there so I  
10 just gave up.

11 Q. At that point in time, did you consider  
12 yourself the owner of the facility?

13 A. Well, I guess possession is nine points of  
14 the law, I don't know.

15 Q. You didn't consult anyone when you closed?

16 A. No. Bill, by that time, was very, very  
17 sick, later on he died and his wife was incapable of  
18 taking it over.

19 Q. So the decision was yours and you made it?

20 A. The decision was mine, yes.

21 Q. And you made it?

22 A. Yes.

23 Q. Where was the tank located -- let me back  
24 up a second.

1           You said that you received dry cleaning  
2 fluid deliveries from apparently a tanker type  
3 truck -- a truck with a tank?

4           A. That's correct, sir.

5           Q. And it had a gasoline nozzle that you would  
6 use to fill your car?

7           A. Just like that, yes.

8           Q. So there must -- was there some -- did they  
9 have to actually physically go into the Streamwood  
10 cleaners to get to the opening to give you the  
11 solvent or was there something that came out of the  
12 back of the wall?

13          A. No. They actually had to go physically  
14 with the hose and run it through the door and then  
15 up to the top of the machine.

16          Q. In the top of the machine and then down?

17          A. That's right.

18          Q. Did you see if during the course of any of  
19 that if solvent ever leaked from or was caused to  
20 fall on the floor either in the parking lot or the  
21 floor of the center while you were receiving  
22 shipments or deliveries?

23          A. Back in the early '60s, sometime in that,  
24 '66, '67, I can't tell you when, there was a

1 problem, yes.

2 Q. When you -- I want to make sure I get the  
3 name right, excuse me. When your company began to  
4 operate the dry cleaners at the Streamwood Shopping  
5 Center, you continued to receive solvents the same  
6 way, is that correct, to the extent you received  
7 solvents?

8 A. Up until about '82.

9 Q. Did dry cleaning continue to be done on the  
10 premises between '79 and 1984?

11 A. Yes.

12 Q. The purpose for putting filters in the  
13 wheelbarrows was what again?

14 A. Well, it was two reasons, one, they were  
15 very large, these filters were larger than your  
16 normal filters that say Puritan would use so they  
17 were heavy and the other reason was to let them air  
18 dry.

19 Q. Now, was the process of putting them into  
20 the wheelbarrow and then taking them out and  
21 discarding them something that you did personally?

22 A. Yes.

23 Q. And as the filters would air dry, would  
24 they tend to have solvent collect in the



1 wheelbarrow?

2 A. A little bit, yes.

3 Q. And how did you dispose of the solvent?

4 A. With rags.

5 Q. And the rags went where?

6 A. Back into the dry cleaning machine.

7 MR. BOSCH: I have no further questions.

8 HEARING OFFICER HALLORAN: Mr. Wright?

9 MR. WRIGHT: I have just one follow-up.

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

11 by Mr. Wright

12 Q. Mr. Bosch was asking you about the closing  
13 of the store in 1989 and the fact that you were the  
14 one involved in that decision. Now, are you an  
15 officer of Crystal Lake Vogue Cleaners, Inc.?

16 A. That's correct.

17 Q. Were you in 1989?

18 A. Yes.

19 Q. And what office did you hold in 1989?

20 A. I was the president.

21 Q. And were you making the decision in that  
22 capacity?

23 A. Yes.

24 MR. WRIGHT: Nothing further.

1 HEARING OFFICER HALLORAN: Thank you,  
2 Mr. Wright. Mr. Bosch?

3 MR. BOSCH: No further questions.

4 HEARING OFFICER HALLORAN: Thank you,  
5 Mr. Dunham, you may step down or step over.

6 MR. BOSCH: We have one more witness.

7 HEARING OFFICER HALLORAN: Okay. Terrific.

8 MR. BOSCH: Doug Anderson.

9 HEARING OFFICER HALLORAN: Mr. Anderson, the  
10 court reporter will swear you in.

11 (Witness sworn.)

12 WHEREUPON:

13 DOUGLAS ANDERSON,  
14 called as a witness herein, having been first duly  
15 sworn, deposeth and saith as follows:

16 DIRECT EXAMINATION

17 by Mr. Bosch

18 Q. Please state your name.

19 A. Douglas John Anderson.

20 Q. Are you employed?

21 A. Yes, I am.

22 Q. By whom?

23 A. Architex International.

24 Q. And can you tell me what Architex

L.A. REPORTING (312) 419-9292

119

1 International does?

2 A. Import and wholesale commercial fabrics.

3 Q. And when did you start working for  
4 Architex?

5 A. 1996.

6 Q. Did you come to be familiar with a shopping  
7 center known as the Streamwood Shopping Center?

8 A. Yes.

9 Q. And how have you come to be familiar with  
10 that shopping center?

11 A. One of the owners -- actually, both owners  
12 of Architex are two of the owners of Streamwood  
13 Partners.

14 Q. Who are those two owners of Architex?

15 A. Bernard Keiser, Keith Gordon.

16 Q. What are your duties for Architex?

17 A. I manage the MIS department, the computer  
18 department.

19 Q. And is there -- how did you then -- did  
20 there come a point in time where you became -- that  
21 you did any duties or performed any services for the  
22 Streamwood -- for the owners of the Streamwood

23 Shopping Center?

24 A. Yes.

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120

1 Q. And about when did that start?

2 A. About 1997.

3 Q. And how did that come about?

4 A. Mr. Keiser had handled the duties  
5 previously and he left the country.

6 Q. What duties are you referring to?

7 A. Mostly accounts payable.

8 Q. Did it involve some bookkeeping type of  
9 work as well?

10 A. Yes.

11 Q. And what did -- what was -- were you ever  
12 employed by the owners of ownership of Streamwood  
13 Shopping Center?

14 A. No.

15 Q. What services did you provide to the  
16 partnership that owned Streamwood Shopping Center?

17 A. Primarily accounts payable, I paid bills.

18 Q. Did you review invoices or bills and then  
19 pay them or was that -- or was the review and  
20 checking on bills to make sure they were accurate  
21 something that was done by someone else?

22 A. I also reviewed.

23 Q. Are you familiar with the remediation  
24 process -- I'm sorry. Are you familiar with the

L.A. REPORTING (312) 419-9292

121

1 remediation program that we've been talking about  
2 here today?

3 A. Yes, I am.

4 Q. And what was your involvement in that?

5 A. Once again, overseeing invoices that came  
6 in, reviewing them, and then paying them.

7 Q. Were you familiar with the contracts for  
8 the people who provided services to the partnership  
9 with respect to the remediation process?

10 A. Yes.

11 (Document marked as  
12 Plaintiff's Exhibit No. 7  
13 for identification, 1/30/01.)

14 (Document tendered.)

15 BY MR. BOSCH:

16 Q. I'm going to hand to you what I'm going to  
17 mark as Exhibit 7, tendering a copy to the hearing  
18 officer and to counsel.

19 In the course of your duties in providing  
20 accounts payable and some bookkeeping services to

21 the partnership that owned Streamwood Shopping  
22 Center, did you review various contracts that  
23 affected the shopping center?

24 A. Yes.

L.A. REPORTING (312) 419-9292

122

1 Q. Were you familiar, for instance, with  
2 anyone who provided -- contracts with people who  
3 provided snow removal to the shopping center?

4 A. Yes.

5 Q. People who provided maintenance type of  
6 services?

7 A. Yes.

8 Q. Could you take a moment and look at Exhibit  
9 No. 7 and first tell me if you have ever seen the  
10 exhibit before today?

11 A. Actually, I have not.

12 Q. Okay. Are you familiar with Mr. Keiser's  
13 signature?

14 A. Yes.

15 Q. Okay. Is that his signature on the third  
16 page?

17 A. Yes, that is.

18 Q. Okay. Did -- this was a contract with  
19 whom, how do you pronounce that?

20 A. Tsarpalas.

21 Q. Do you know if Tsarpalas Enterprises  
22 provided any services to the Streamwood Shopping  
23 Center?

24 A. Yes, they did.

L.A. REPORTING (312) 419-9292

123

1 Q. And can you tell me what services they  
2 provided?

3 A. Primary excavations, in this case,  
4 contaminated soil removal.

5 Q. Okay. Is that with respect to the cleanup  
6 that has been the subject of the hearing today?

7 A. Yes.

8 Q. Did you personally receive and review  
9 invoices from them?

10 A. Yes.

11 Q. And was it yours or someone else's decision  
12 to pay those invoices on behalf of the partnership?

13 A. It was my decision.

14 Q. Did you review them to see if they were  
15 accurate and true and correct to the best of your  
16 knowledge?

17 A. Yes, I did.

18 Q. Okay. Did you receive any invoices from an

19 entity called Peoria Disposal?

20 A. Yes.

21 Q. And, to your understanding, what services  
22 did they provide to the shopping center or the  
23 owners?

24 A. That was the removal of contaminated soil.

L.A. REPORTING (312) 419-9292

124

1 Q. In the course of your accounts payable and  
2 the bookkeeping process for the partnership, did you  
3 review -- have a chance to see the contract that was  
4 entered into by the partnership and Peoria Disposal?

5 A. Yes.

6 (Document marked as  
7 Plaintiff's Exhibit No. 8  
8 for identification, 1/30/01.)  
9 (Document tendered.)

10 BY MR. BOSCH:

11 Q. Okay. I'm going to hand you what has been  
12 marked as Exhibit No. 8, take a moment and tell me  
13 if that's the contract you were referring to.

14 A. Yes, it is.

15 Q. And, again, are you familiar with  
16 Mr. Keiser's signature?

17 A. I am.



18 Q. And is that Mr. Keiser's signature on page  
19 nine of nine of the Exhibit No. 8?

20 A. Yes, it is.

21 Q. What is your understanding of Mr. Keiser's  
22 position in the -- what is your understanding of who  
23 owned Streamwood Shopping Center?

24 A. Mr. Keiser is one of the four owners.

L.A. REPORTING (312) 419-9292

125

1 Q. And is it a corporation, a partnership, an  
2 LLC, limited partnership, do you know?

3 A. Streamwood limited partnership.

4 Q. Okay. Do you know -- okay. Is the real  
5 estate held in a land trust?

6 A. I don't know.

7 Q. I'm going to hand to you what's been marked  
8 previously as Exhibit No. 5 in this matter.

9 A. Okay.

10 Q. Could you tell me -- take a look at the  
11 first -- well, look at it quickly, have you seen --  
12 well, let's just look at the first page, can you  
13 tell me what the first page of that exhibit is?

14 A. This is a summary of invoices paid for  
15 Streamwood cleanup.

16 Q. Let's talk about, first of all, everything

17 above the thing that says legal subtotal -- I'm  
18 sorry, cleanup subtotal, from vendor through  
19 cleanup, what is that again?

20 A. This is a summary of all the invoices that  
21 were paid regarding the cleanup.

22 Q. Are the -- what are the documents that are  
23 attached to this exhibit?

24 A. This is a breakdown of each of the

L.A. REPORTING (312) 419-9292

126

1 individual invoices.

2 Q. Each of the invoices received is attached?  
3 You have to answer out loud.

4 A. Yes, it looks like it.

5 Q. Did you personally receive each of those  
6 invoices?

7 A. Not all of them.

8 Q. Well, did you personally review all of them  
9 before paying them?

10 A. Yes.

11 Q. Okay. They may -- they weren't always  
12 necessarily sent to you directly, is that correct?

13 A. That's correct.

14 Q. Who was responsible for paying these  
15 invoices?

16 A. I was.

17 Q. And prior to paying them, did you review  
18 each one?

19 A. I did.

20 Q. And did you review them to see if they were  
21 accurate for the charges that were included in them?

22 A. Yes, I did.

23 Q. Okay. There is a column that says date of  
24 PMT on the first page, what is that?

L.A. REPORTING (312) 419-9292

127

1 A. That's the date that the check was written  
2 to pay the invoice.

3 Q. And there's a next column the amount, is  
4 that an amount for an invoice amount, an amount for  
5 a check amount, or does that represent something  
6 else?

7 A. That is both the check amount and the  
8 amount of the invoices.

9 Q. Were all the invoices paid in full?

10 A. Yes, they were.

11 Q. And what was the total amount of the  
12 invoices paid?

13 A. 83,171.43.

14 Q. There is then, further down on that first

15 page, do you see where it says mortgage interest  
16 from delay of refinancing, do you see that entry?

17 A. Yes, I do.

18 Q. There is a corresponding entry of how much  
19 in terms of dollars and cents.

20 A. \$33,000.

21 Q. Who performed the calculation that came up  
22 with that \$33,000 figure?

23 A. I did along with Ica at the Banco Popular.

24 Q. And how did you come up with the -- how did

L.A. REPORTING (312) 419-9292

128

1 you do the calculation to get to the \$33,000?

2 A. The refinancing would have occurred at one  
3 percentage point less and the amount, the principal  
4 amount, was \$1,100,000.

5 Q. At some point in time the property was  
6 going to be refinanced?

7 A. Correct.

8 Q. And you mentioned a woman, Ica?

9 A. Yes.

10 Q. What bank was she with?

11 A. Now it's called Banco Popular.

12 Q. What was it at that time?

13 A. Bronson Gore Bank.

14 Q. And was there going to be a change in the  
15 interest rate on the loan?

16 A. That's correct, it would have been lower.

17 Q. The new loan would have been lower or  
18 higher?

19 A. The new loan would have been lower.

20 Q. In terms of its interest rate?

21 A. That's correct.

22 Q. And what was the difference?

23 A. One percentage point.

24 Q. And the principal amount of the loan was

L.A. REPORTING (312) 419-9292

129

1 going to be?

2 A. \$1,100,000.

3 Q. And why did you use three years?

4 A. Three years was the length of time between  
5 the proposed refinancing -- actually, the letter of  
6 acceptance and the current date.

7 Q. The current date to date?

8 A. Yes.

9 Q. I'm going to hand to you what's been marked  
10 as Exhibit No. 7 -- I'm sorry, No. 6 and once you  
11 had a chance to look at that, will you tell me, is  
12 that the proposed refinancing that you were

13 referring to?

14 A. Yes, it is.

15 Q. Okay. If you look at the last page, do you  
16 see there are a number of signatures? To the best  
17 of your knowledge, do you know who these people are?

18 A. Yes, I do.

19 Q. Who are they?

20 A. Bernard Keiser.

21 Q. What was his involvement with the property?

22 A. He was one of the four owners.

23 Q. Okay.

24 A. Janet Keiser, his wife.

L.A. REPORTING (312) 419-9292

130

1 Q. Okay.

2 A. Keith A. Gordon.

3 Q. What was his involvement with the property?

4 A. Second of four owners.

5 Q. Oka.

6 A. Roberta Gordon, his wife.

7 Q. Okay. The next is --

8 A. I would take a stab at Norm Lin (phonetic).

9 Q. Do you know Mr. Lin?

10 A. I've spoken with him on the phone.

11 Q. Okay. And what is your understanding of

12 Mr. Lin's involvement with the property?

13 A. The third of four owners.

14 Q. And then let's go to -- there's a Ila  
15 (phonetic) Lin, she is?

16 A. His wife.

17 Q. Then the next one?

18 A. Gary Levingstein.

19 Q. And what is your understanding of his  
20 involvement with the property?

21 A. The fourth of four owners.

22 Q. If you look at the first page of this you  
23 see on the third line down it refers to a \$1,500,000  
24 loan. Did there come a point in time when the

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131

1 partners decided to take a smaller loan?

2 A. Yes.

3 Q. And what was that reduced amount?

4 A. \$1,100,000.

5 Q. Was there a reason why the property  
6 couldn't be refinanced in 1997 or 1998?

7 A. The soil was contaminated.

8 Q. Would the bank refinance while the  
9 contamination remained?

10 MR. WRIGHT: Objection, I think we're getting

11 into hearsay or its a lack of foundation.

12 HEARING OFFICER HALLORAN: Mr. Bosch?

13 MR. BOSCH: I'll rephrase the question.

14 BY MR. BOSCH:

15 Q. Is the property being refinanced currently?

16 A. I don't know.

17 Q. Is it in the process of being -- is it on  
18 the market for sale?

19 A. Possibly, yes.

20 Q. Okay. Were you -- did you have  
21 responsibility for dealing with Bronson Gore Bank on  
22 behalf of the partnership in some capacity at all?

23 A. Yes.

24 Q. Okay. And did there come a point in time

L.A. REPORTING (312) 419-9292

132

1 that you learned why -- did there come a point in  
2 time that you learned that the Bronson Gore Bank  
3 would no longer refinance?

4 A. Yes.

5 Q. And what was the reason for the no longer  
6 refinance?

7 MR. WRIGHT: Objection, hearsay.

8 HEARING OFFICER HALLORAN: Mr. Bosch?

9 MR. BOSCH: I'll rephrase it then.



10 BY MR. BOSCH:

11 Q. Did the refinancing occur?

12 A. It did not.

13 Q. Okay. Why was the -- why did the  
14 partnership make the decision to clean up the  
15 property?

16 A. So that they could refinance it.

17 Q. The invoices that are attached to Exhibit  
18 No. 5, to the best of your knowledge, were they  
19 fair, reasonable and accurate, the charges shown on  
20 each of the invoices?

21 A. Yes, they were.

22 MR. BOSCH: At this time, I move for the  
23 admission of Exhibits 5, 6, and 8.

24 HEARING OFFICER HALLORAN: Five, 6 and 8.

L.A. REPORTING (312) 419-9292

133

1 MR. BOSCH: Yes. Mr. Wright, any objection?

2 MR. WRIGHT: No.

3 HEARING OFFICER HALLORAN: Okay. Those  
4 exhibits will be admitted, Exhibits 5, 6 and 8. Did  
5 you say seven as well?

6 MR. BOSCH: No. Seven I'm not moving for the  
7 admission of.

8 HEARING OFFICER HALLORAN: Five, 6 and 8.

9 MR. BOSCH: If I may have just a moment, I  
10 think --

11 MR. WRIGHT: Can we take break?

12 HEARING OFFICER HALLORAN: Yes. Off the  
13 record.

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

18 HEARING OFFICER HALLORAN: We took about a  
19 five-minute recess. Mr. Anderson, I want to remind  
20 you that you are still under oath. Thank you.

21 MR. BOSCH: No further questions.

22 HEARING OFFICER HALLORAN: Thank you,  
23 Mr. Bosch. Mr. Wright?

24 MR. WRIGHT: Yes.

L.A. REPORTING (312) 419-9292

134

1 C R O S S - E X A M I N A T I O N

2 by Mr. Wright

3 Q. Mr. Anderson, in your testimony earlier you  
4 referred to a Bernard Keiser, correct?

5 A. Correct.

6 Q. And he is, to your knowledge, one of the  
7 owners of Architex International?

8 A. That's correct.

9 Q. Architex International is your employer,  
10 correct?

11 A. That's right.

12 Q. And Bernard Keiser is your supervisor or  
13 one of your supervisors at that company?

14 A. Yes.

15 Q. Mr. Keiser left the country in November of  
16 1998, correct?

17 A. That's correct.

18 Q. And after he left -- after he left the  
19 country, you took on the responsibility of paying  
20 some of the bills and doing various administrative  
21 duties for the Streamwood partnership, is that  
22 correct?

23 A. That's correct.

24 Q. Mr. Bosch was asking you some questions

L.A. REPORTING (312) 419-9292

135

1 about a refinancing of the property, correct?

2 A. Correct.

3 Q. That would be a refinancing of the property  
4 on which the Streamwood Village Shopping Center was  
5 located?

6 A. Right.

7 Q. And he directed your attention to an  
8 exhibit identified as Complainant's Exhibit No. 6,  
9 do you have that in front of you?

10 MR. BOSCH: They're not numbered unfortunately.

11 BY MR. WRIGHT:

12 Q. That would be the Bronson Gore Bank  
13 document dated May 12 of 1997?

14 A. Yes, I do.

15 Q. Do you have that in front of you?

16 A. I do.

17 Q. Okay. As you testified, the transaction  
18 that is described in that document was to be a  
19 refinancing, correct?

20 A. Correct.

21 Q. Which, of course, would indicate by its  
22 very nature that there was already an existing  
23 mortgage from the partnership to Bronson Gore Bank,  
24 correct?

L.A. REPORTING (312) 419-9292

136

1 A. Correct.

2 Q. Do you know the date of that mortgage?

3 A. The original mortgage?

4 Q. Yes.

5 A. I do not.

6

7

(Document marked as

8

Respondent's Exhibit No. 3

9

for identification, 1/30/01.)

10

(Document tendered.)

11

BY MR. WRIGHT:

12

Q. I'm going to show you, Mr. Anderson, a

13

document that has been marked as Respondent's

14

Exhibit No. 3. You've not seen that document

15

before?

16

A. I have not.

17

Q. Did you ever make any inquiry as to what

18

the original date of the mortgage was between the

19

partnership and the Bronson Gore Bank?

20

A. No.

21

Q. You don't have any information as to what,

22

if any, investigation the bank may have undertaken

23

before the original mortgage was entered into, do

24

you?

L.A. REPORTING (312) 419-9292

137

1

A. I do not.

2

MR. WRIGHT: I have nothing further.

3

HEARING OFFICER HALLORAN: Thank you,

4

Mr. Wright. Mr. Bosch?

5 MR. BOSCH: I have no further questions.

6 HEARING OFFICER HALLORAN: Thank you,

7 Mr. Anderson, you may step down.

8 THE WITNESS: Thank you.

9 HEARING OFFICER HALLORAN: Anything more the  
10 complainant has to offer as --

11 MR. BOSCH: Before I rest, I apologize, we've  
12 talked about adding or supplementing the record  
13 preliminary review --

14 HEARING OFFICER HALLORAN: Do you want to go  
15 off the record and take care of the housekeeping?

16 MR. BOSCH: Sure, that's fine.

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

19 HEARING OFFICER HALLORAN: We are back on the  
20 record. We were just going over some exhibits to  
21 get them in order. I believe Mr. Bosch was going to  
22 rest in his case in chief.

23 MR. BOSCH: We do, we rest.

24 HEARING OFFICER HALLORAN: Very well.

L.A. REPORTING (312) 419-9292

138

1 Mr. Wright?

2 MR. WRIGHT: I would call Mr. Dunham.

3 HEARING OFFICER HALLORAN: I'd like to remind

4 you, Mr. Dunham, you still are under oath.

5 THE WITNESS: Yes, sir.

6 HEARING OFFICER HALLORAN: Thank you.

7

8 DIRECT EXAMINATION

9 by Mr. Wright

10 Q. Would you state your name, please?

11 A. Robert Dunham.

12 Q. Spell your last name for the record,  
13 please.

14 A. It's spelled D-u-n-h-a-m.

15 Q. Mr. Dunham, you previously testified in  
16 this proceeding?

17 A. Yes.

18 Q. And during that testimony you referred to  
19 the Streamwood Shopping Center?

20 A. That's correct.

21 Q. And a dry cleaning store located in that  
22 shopping center by the name of the Streamwood  
23 Village Cleaners?

24 A. Correct.

L.A. REPORTING (312) 419-9292

139

1 Q. Was there also another dry cleaning store  
2 located in that same shopping center?

3 A. Yes, there was.

4 Q. What was the name of that dry cleaning  
5 store?

6 A. Norge Town.

7 Q. Previously you testified that you started  
8 your business as a barber in the shopping center in  
9 1965, is that it?

10 A. Yes.

11 Q. When did the Norge Town dry cleaning store  
12 open?

13 A. Shortly thereafter.

14 Q. Shortly after you opened the barber shop?

15 A. That's correct.

16 Q. In 1965?

17 A. Yes.

18 Q. Did -- strike that.

19 Were you ever an employee of Norge Town?

20 A. No, I was not.

21 Q. Did you ever work at Norge Town in any  
22 capacity?

23 A. No, I did not.

24 Q. Did you ever have any ownership interest in

L.A. REPORTING (312) 419-9292



2           A.  No.

3           Q.  Did you ever operate Norge Town in any way?

4           A.  No, I did not.

5           Q.  Did Crystal Lake Vogue Cleaners, Inc. ever  
6 operate Norge Town?

7           A.  No.

8           Q.  Did Crystal Lake Vogue Cleaners, Inc. ever  
9 have any ownership interest in the Norge Town store?

10          A.  No, it did not.

11          Q.  How long did the Norge Town store remain  
12 open for business?

13          A.  Until the '80s, early '80s.

14          Q.  Were you ever in the store, the Norge Town  
15 store?

16          A.  Yes, I was.

17          Q.  For what reason?

18          A.  Oh, we had a couple meetings there, social,  
19 that type of thing.

20          Q.  Did you ever observe the operation of that  
21 store?

22          A.  Yes, I did.

23          Q.  Was there any dry cleaning that took place  
24 in that store?

1           A. Yes, there was.

2           Q. Did the store use perc?

3           A. Yes, it did.

4           Q. Did they use perc in their dry cleaning  
5 operation?

6           A. Yes, they did.

7           Q. Mr. Dunham, has anybody from Benchmark  
8 Environmental Services, Inc. ever contacted you?

9           A. Not to my knowledge.

10          Q. Has anyone from that firm ever spoken to  
11 you?

12          A. No.

13          Q. Previously you testified that Crystal Lake  
14 Vogue Cleaners, Inc. was involved in the operation  
15 of Streamwood Village Cleaners for a period of time,  
16 is that correct?

17          A. For a period of time, yes.

18          Q. Beginning in approximately 1979, is that  
19 your testimony?

20          A. Actually, it was basically a little bit  
21 later than that, but in '79 -- in 1979, '78, that's  
22 when I moved out of the shopping center myself and  
23 bought another dry cleaners in Crystal Lake.

24          Q. At any time, did you ever pour perc down

1 any drain located at the Streamwood Village  
2 Cleaners?

3 A. No, I did not.

4 Q. To your knowledge, did any person ever  
5 associated with that business ever pour perc down a  
6 drain located in the Streamwood Village Cleaners?

7 A. Not to my knowledge, no.

8 Q. At any time that you were involved on  
9 behalf of Crystal Lake Vogue Cleaners, Inc. in the  
10 operation of the Streamwood Village Cleaners, would  
11 it ever have been the policy of the store that  
12 employees should pour perc down a drain?

13 A. No.

14 Q. Was there a drain in the store?

15 A. Yes, there was.

16 Q. Where was that drain located?

17 A. It was located at the rear of the store  
18 just next to the bathroom along the wall right in  
19 the corner between the bathroom wall and the wall.

20 Q. That would be the southern wall of the  
21 store?

22 A. That would be the southern wall of the  
23 store at the eastern end.

24 Q. Where was the bathroom located?

1           A. The bathroom was located on the southern  
2 wall and on the east end of the store.

3           Q. In other words, in the very southeast  
4 corner of the store?

5           A. That's correct.

6           Q. And the drain was located then to the west  
7 of the bathroom?

8           A. The drain itself was located just to the  
9 west of the bathroom wall.

10          Q. Was the drain accessible to individuals  
11 working in the store?

12          A. No, it was not.

13          Q. Why not?

14          A. Because the drain was basically used as a  
15 drain for the boiler. There was a fairly large pipe  
16 that went into the drain and there was also a piece  
17 of machinery that was located just in front and to  
18 the side of that drain so it was impossible to  
19 really get to it.

20          Q. What was that piece of equipment?

21          A. It was an air compressor.

22          Q. At any time did you ever pour perc --  
23 strike that.

24                    You referred to a bathroom that was

1 located in the store?

2 A. Yes.

3 Q. I assume there was a toilet located in the  
4 bathroom?

5 A. There was.

6 Q. Was there also a sink?

7 A. Yes.

8 Q. Did you ever pour perc down the toilet?

9 A. No, I did not.

10 Q. To your knowledge, did anybody who ever  
11 worked at that store pour perc down the toilet?

12 A. No.

13 Q. Would it ever have been the policy at any  
14 time Crystal Lake Vogue Cleaners, Inc. was involved  
15 in the operation of that store that employees should  
16 pour perc down the toilet?

17 A. There would never be a reason for doing it.

18 Q. Did you, at any time, ever pour perc down  
19 the sink?

20 A. No.

21 Q. To your knowledge, did any employee that  
22 ever worked at that store pour perc down the sink  
23 that was located in the bathroom?

24 A. No.

1 Q. Would it ever have been a policy of Crystal  
2 Lake Vogue Cleaners, Inc. during the time that it  
3 was involved in the operation of that store that  
4 employees should pour perc down the sink?

5 A. No.

6 MR. WRIGHT: I have nothing further.

7 HEARING OFFICER HALLORAN: Thank you,  
8 Mr. Wright. Mr. Bosch, any cross?

9 C R O S S - E X A M I N A T I O N  
10 by Mr. Bosch

11 Q. Starting in 1979 until the store closed and  
12 the perc on site was removed, were you there all the  
13 time?

14 A. No.

15 Q. Were you mainly at the Crystal Lake  
16 facility?

17 A. Mainly at the Crystal Lake facility, yes.

18 Q. In the 1979 to 1984 time frame, did -- I'm  
19 not asking for an expert opinion, just you  
20 generally, did you consider the dry cleaning fluid  
21 to be hazardous?

22 MR. WRIGHT: Objection to the extent he's  
23 asking for a legal --

24 MR. BOSCH: Again, that's why I sort of

1 attempted to work that out. I'm not asking for a  
2 legal conclusion. I'm asking just what his own  
3 understanding was at that point in time as a person  
4 in the industry.

5 HEARING OFFICER HALLORAN: I'll allow it,  
6 Mr. Wright.

7 BY THE WITNESS:

8 A. Well, by law we did not consider it to be  
9 hazardous from the standpoint of a carcinogen like  
10 it was, you know, possibly made later, but we didn't  
11 treat it as an element that would be mistreated.  
12 In other words, you didn't pour solvent down a drain  
13 or that type of thing. I mean, it would be foolish  
14 because it's very expensive, you know, to do that.

15 BY MR. BOSCH:

16 Q. You don't deny, though, that the ground  
17 behind 331 and 329 South Bartlett in the Streamwood  
18 Shopping Center was contaminated with dry cleaning  
19 fluid?

20 A. The only knowledge I have that it would be  
21 is from what you have said.

22 Q. Okay. You have no reason to deny it was  
23 there?

24 A. No, there's no reason for me to deny it,

1 no.

2 MR. BOSCH: I have no further questions.

3 HEARING OFFICER HALLORAN: Mr. Wright?

4 MR. WRIGHT: Just a couple follow-up.

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

6 by Mr. Wright

7 Q. As to the last couple of questions asked of  
8 you by Mr. Bosch, any information that you would  
9 have relative to contamination found in the alley  
10 and as to where that contamination was found would  
11 be limited to what's contained in the environmental  
12 reports that have been introduced into evidence  
13 today, is that fair?

14 A. Pertaining to what I said to you before,  
15 yeah, I have an idea why.

16 Q. I'm not asking you for an idea.

17 A. Okay.

18 Q. I'm asking you as to the location of the  
19 contamination and I'm asking you if you have any  
20 information as to the location of that contamination  
21 other than what's contained in the reports?

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

23 Q. And by that I am referring to the reports



24 that have been admitted into evidence earlier in

L.A. REPORTING (312) 419-9292

148

1 this hearing.

2 MR. WRIGHT: I have nothing further.

3 HEARING OFFICER HALLORAN: Thank you,  
4 Mr. Wright.

5 MR. BOSCH: I want to follow-up with one  
6 particular thing.

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

8 by Mr. Bosch

9 Q. Do you have any particular personal  
10 knowledge as to why contamination from dry cleaning  
11 fluid would be found where it was found at the  
12 Streamwood Shopping Center, personal knowledge?

13 A. I do, but it's only hearsay because it's a  
14 situation that involved many years before I took  
15 over.

16 Q. Okay. It's not something you have personal  
17 knowledge?

18 A. Well --

19 Q. You didn't see it happen? You weren't  
20 there when it happened?

21 A. I was only involved in a situation where  
22 there was an argument between the previous owner and

23 a truck driver and that was the -- and I'm not sure  
24 that I should even bring this up.

L.A. REPORTING (312) 419-9292

149

1 Q. Go ahead. Were you there at the  
2 conversation?

3 A. I was only partially there and, in fact, I  
4 was reminded by one of my partners not too long ago  
5 that there was a truck that was delivering solvent  
6 many years ago that had a problem with  
7 their -- something to do with the valves on the  
8 truck and the argument was between the previous  
9 owner, Mr. LaDuc, and why he should be charged for  
10 solvent that didn't go into the tank.

11 MR. BOSCH: Okay. I have no further questions.

12 MR. WRIGHT: I have nothing.

13 HEARING OFFICER HALLORAN: Thank you,  
14 Mr. Dunham, you may step down.

15 THE WITNESS: All right.

16 HEARING OFFICER HALLORAN: Mr. Wright, anything  
17 further in your case in chief?

18 MR. WRIGHT: Only the admission of exhibits.

19 HEARING OFFICER HALLORAN: Respondent's Exhibit  
20 1, Exhibit 2 and Exhibit 3. Mr. Bosch?

21 MR. BOSCH: No objection.

22 HEARING OFFICER HALLORAN: Exhibits 1, 2 and  
23 3, Respondent's, are admitted. Mr. Bosch, any case  
24 in rebuttal?

L.A. REPORTING (312) 419-9292

150

1 MR. BOSCH: No.

2 HEARING OFFICER HALLORAN: Okay. At this point  
3 we would take statements from interested citizens,  
4 but there is no public here nor were they for the  
5 duration of the hearing. With that said,  
6 Mr. Bosch would you like to do a closing?

7 MR. BOSCH: We're going to submit written  
8 proposals, is that correct? That's your intention?

9 HEARING OFFICER HALLORAN: Yeah. We're going  
10 to discuss that in a few minutes.

11 MR. BOSCH: I think frankly anything I say  
12 would be wrapped into that so I don't think there's  
13 really any need to make a closing at the time.

14 HEARING OFFICER HALLORAN: Mr. Wright, would  
15 you like to make a closing?

16 MR. WRIGHT: No.

17 HEARING OFFICER HALLORAN: We'll go off the  
18 record for a little bit to discuss the post-briefing  
19 schedule. Thank you.

20 (Whereupon, a discussion



20 HEARING OFFICER HALLORAN: Complainant's  
21 Exhibit No. 2 was the IEPA site remediation program  
22 submittal format and the site investigation report.  
23 That was admitted, correct?  
24 MR. WRIGHT: Correct.

L.A. REPORTING (312) 419-9292

152

1 MR. BOSCH: Correct.  
2 HEARING OFFICER HALLORAN: Complainant's  
3 Exhibit No. 3, entitled Remedial Action, Remediation  
4 Objectives and Remedial Action Completion Report,  
5 that was admitted, correct?  
6 MR. WRIGHT: Correct.  
7 HEARING OFFICER HALLORAN: Complainant's  
8 Exhibit No. 4, it's a no further remediation letter  
9 from the IEPA, it looks like it was filed in the  
10 Cook County Recorder of Deeds on March 16, 2000,  
11 that was admitted, correct?  
12 MR. WRIGHT: Correct.  
13 HEARING OFFICER HALLORAN: Complainant's  
14 Exhibit No. 5 are a number of pages contained, it  
15 says Streamwood Cleanup Invoices.  
16 MR. BOSCH: Yes.  
17 HEARING OFFICER HALLORAN: Right.  
18 MR. BOSCH: Summary.

19 HEARING OFFICER HALLORAN: Summary of invoices,  
20 right, that was admitted, correct?

21 MR. WRIGHT: Correct.

22 HEARING OFFICER HALLORAN: Complainant's  
23 Exhibit No. 6, it's a Bronson Gore Bank document  
24 letter entitled -- excuse me, dated May 12th, 1997,

L.A. REPORTING (312) 419-9292

153

1 that was admitted?

2 MR. WRIGHT: Yes.

3 HEARING OFFICER HALLORAN: Complainant's  
4 Exhibit 8, it's a Waste Services Agreement, that was  
5 admitted?

6 MR. WRIGHT: Yes.

7 HEARING OFFICER HALLORAN: And I think that's  
8 all we have, right, for the Complainant?

9 MR. BOSCH: That's correct.

10 HEARING OFFICER HALLORAN: Okay. Terrific.  
11 We have Respondent's Exhibit No. 1, which is from  
12 Benchmark Environmental Services, Inc. dated  
13 September 4th, 1997, it's a preliminary remedial  
14 investigation performed at the Streamwood Shopping  
15 Center, that was admitted.

16 Respondent's Exhibit No. 2, it's a  
17 document from Benchmark Environmental Services dated

18 December 10th, 1997, the subject is further remedial  
19 investigation performed at the Streamwood Shopping  
20 Center, that was admitted.

21 Respondent's Exhibit No. 3, which is a  
22 Bronson Gore Bank mortgage recorded on May 22nd,  
23 1990, that was also admitted.

24 MR. WRIGHT: Correct.

L.A. REPORTING (312) 419-9292

154

1 HEARING OFFICER HALLORAN: Okay. With that,  
2 that concludes the hearing and I appreciate you all  
3 for coming and your civility and have a safe trip  
4 home. Thank you.

5 MR. BOSCH: Thank you very much.

6 MR. WRIGHT: Thank you.

7 (Whereupon, no further proceedings  
8 were held in the above-entitled  
9 cause.)

10

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L.A. REPORTING (312) 419-9292

155

1 STATE OF ILLINOIS )  
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I, TERRY A. STRONER, CSR, do  
hereby state that I am a court reporter doing  
business in the City of Chicago, County of Cook, and  
State of Illinois; that I reported by means of  
machine shorthand the proceedings held in the  
foregoing cause, and that the foregoing is a true  
and correct transcript of my shorthand notes so  
taken as aforesaid.



16

\_\_\_\_\_

17

Terry A. Stroner, CSR

18

Notary Public, Cook County, Illinois

19

20 SUBSCRIBED AND SWORN TO  
before me this \_\_\_ day  
21 of \_\_\_\_\_, A.D., 2001.

22

23 \_\_\_\_\_  
Notary Public

24

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