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BEFORE THE  
ILLINOIS POLLUTION CONTROL  
BOARD

-----/

IN THE MATTER OF:  
SENATOR WILLIAM SHAW, RONNIE LEWIS &  
JUDITH EVANS,

Petitioners,

vs

PCB 96-198

THE TRUSTEES OF THE VILLAGE OF  
DOLTON, AND LAND AND LAKES COMPANY,  
AND MAYOR DONALD HART

Respondents.

-----/

REPORT OF PROCEEDINGS taken in the  
above-entitled matter, taken before MS. DEBORAH  
FRANK, Hearing Officer for the Illinois Pollution  
Control Board, commencing on the 19th day of  
December, A.D., 1996 at the Dolton Village Hall,  
14014 Park Avenue, Dolton, IL, at approximately 9:30  
a.m.

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1 PRESENT:

2 MR. EVERETT C. MCLEARY  
3 8527 S. Stony Island Avenue  
4 Chicago, IL 60617  
5 For the Petitioners;

6  
7 DANIEL L. HOULIHAN & ASSOCIATES, LTD.  
8 BY: MR. DANIEL L. HOULIHAN  
9 111 W. Washington St. - 1631  
10 Chicago, IL 60602  
11 For Respondent Land and Lakes Co.;

12  
13 MCKENNA, STORER, ROWE, WHITE & FARRUG  
14 BY: MS. ELIZABETH S. HARVEY  
15 200 N. LaSalle Street - 1083  
16 Chicago, IL 60601  
17 For Respondent Land and Lakes Co.;

18  
19 KUSPER & RAUCCI, CHTD.  
20 BY: MR. DAVID DEYOUNG  
21 30 N. LaSalle Street - 3400  
22 Chicago, IL 60602  
23 For Respondent, Village of Dolton.

24

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1 P-R-O-C-E-E-D-I-N-G-S,  
2 HEARING OFFICER FRANK: Good morning, my  
3 name is Deborah Frank, and I'm the Illinois Pollution  
4 Control Board Hearing Officer for this case. For the  
5 record, I would note that it's 9:35 on December 19th,  
6 1996, and that there are members of the public  
7 present.

8 The proceeding before us today is Senator  
9 Shaw, Ronnie Lewis, and Judith Evans versus the  
10 Trustees of the Village of Dolton and Land and Lakes  
11 Company and Mayor Donald Hart. Before we begin, I'd  
12 like to explain a little bit about the Board's  
13 hearing process. First, you should know that it's  
14 the Board, a seven member panel and not me, that  
15 makes the decision in this case. My job consists of  
16 guiding the hearing transcript and the record in this  
17 case in a orderly manner so it's easier for the Board  
18 to follow. And, I also assess the credibility of  
19 witnesses. At times, I may ask for clarification,  
20 for the record, or ask questions which I believe are  
21 necessary for the Board to fully understand what is  
22 taking place. This is provided for in the Board's  
23 procedural rules. The Petition in this case alleges  
24 that some of the Village's decisions on the 9

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1 criteria used to expand the landfill were against the  
2 manifest weight of the evidence. The parties and the  
3 public are cautioned that the Illinois Environmental  
4 Protection Act specifically states that no new or  
5 additional evidence in support of or in opposition to  
6 any finding, order, determination, or decision of the  
7 appropriate county board or governing body of the  
8 municipality shall be heard by the Pollution Control  
9 Board. What this means is that we cannot take any  
10 new evidence on the siting criteria.

11           The Board's procedural rules in the  
12 Environmental Protection Act states that members of  
13 the public are allowed to speak or submit written  
14 statements at hearing. However, any person doing so  
15 must come up, be sworn in, and may be subject to  
16 cross-examination. Additionally, any statement must  
17 be relevant to this case and the issues currently  
18 before the Board. I will call for statements from  
19 members of the public once we've had opening  
20 statements from the attorneys and they have presented  
21 their case. If there is anyone who wishes to speak  
22 who has to leave early or can only be here at a  
23 certain time, you just need to inform me and we will  
24 make accommodations for you to speak on the record

1 before you have to leave. Are there any questions  
2 about the procedures from the members of the public  
3 before we go ahead and begin?

4 Okay. Will the attorneys then go ahead  
5 and make their appearances on the record?

6 MR. MCLEARY: Forth record, my name is  
7 Everett C. McLeary, M-c-L-e-a-r-y on behalf of the  
8 petitioners.

9 MR. HOULIHAN: For the record, Daniel  
10 Houlihan H-o-u-l-i-h-a-n, and joined on my left is  
11 Elizabeth Harvey. We are the attorneys for the  
12 Respondent in this proceeding, Land and Lakes, who is  
13 also the applicant in this proceeding.

14 HEARING OFFICER FRANK: Mr. DeYoung?

15 MR. DEYOUNG: David DeYoung D-e-Y-o-u-n-g  
16 from Kusper & Raucci. I serve as Village Attorney  
17 for the Village of Dolton.

18 HEARING OFFICER FRANK: Mr. McLeary, did  
19 you have a written appearance that you wish to  
20 provide the Board?

21 MR. MCLEARY: Yes, I do. Let me tender a  
22 copy of a written appearance and also a motion for a  
23 continuance, at this time. I've tendered counsels  
24 copies of the motion for a continuance. I'd like to

1 speak briefly. I was basically brought onto this  
2 case, well, within the last week. The attorney of  
3 record, Arkim Gursel, has taken ill. He has fallen  
4 victim to a stroke and that occurred on November  
5 20th. I understand that notice of these proceedings  
6 were mailed out approximately the 13th of November,  
7 and that the Petitioner in this matter, Senator Shaw,  
8 became aware of his attorney's demise or illness on  
9 about the 29th of December -- I mean, of November,  
10 and attempted to obtain his records to find out just  
11 if there was another attorney from his office who  
12 would be representing him in these proceedings. To  
13 no avail. He found out on the 5th of December that  
14 some other attorney from Gursel's office would be  
15 contacting him, and that someone would be prepared to  
16 appear in his behalf here. It's my understanding  
17 that no one here is present from attorney Gursel's  
18 office, and I would be asking leave to file my  
19 appearance as co-counsel in this matter on behalf of  
20 Senator Shaw and the other petitioners. And, that we  
21 be granted a continuance because the information on  
22 record in the file was basically given to me on  
23 December 14th. And, it's very limited information in  
24 here. I don't have copies of transcripts from the

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1 prior proceedings, and it's very difficult to prepare  
2 for these hearings today's date without that  
3 information. So, we would be requesting a  
4 continuance of this matter for at least 30 days.

5 HEARING OFFICER FRANK: Okay. Your  
6 appearance is accepted and I will make sure that the  
7 Board gets a copy of it. Mr. Houlihan or Ms. Harvey,  
8 did you have a response to the motion?

9 MR. HOULIHAN: We do, Madam Chairman, and  
10 very briefly. First of all, we've had no notice of  
11 this motion except that it was handed to me this  
12 morning, just prior to the commencement of this  
13 proceeding. As the Hearing Officer is aware, we're  
14 operating here under a statutory deadline and wear  
15 not in a position, nor will we agree to, a waiver of  
16 that deadline. I should indicate the same point that  
17 was emphasized by the Hearing Officer, under the  
18 rules that govern us under this statute, this is not  
19 an evidentiary proceeding. So, that no new or  
20 additional evidence either in support of or in  
21 opposition to any finding, order, determination, or  
22 decision can be received in this hearing. So, I  
23 submit that this is not a prejudicial situation as  
24 far as the appellant is concerned. That's our



1 response. We think it would be inappropriate to  
2 continue this, and given the statutory time frame,  
3 which is moving, that governs this appeal.

4 HEARING OFFICER FRANK: Unfortunately,  
5 although I understand your predicament, Mr. McLeary,  
6 the Board has 120 days to make the decision in this  
7 matter. The only person who can waive the right to  
8 have a decision in the 120 days, or the only entity  
9 is the Applicant. The Applicant's attorney has just  
10 stated that they will not provide a waiver of the  
11 decision deadline. That means that the Board has to  
12 make a decision by January 23rd, at their January  
13 23rd Board Meeting to meet that February 5th 120 day  
14 deadline. Without a waiver, there is no way to grant  
15 a 30 day continuance, because the case will be  
16 effectively over before that happened.

17 The Board is here today to hear from  
18 members of the public. This is not an opportunity to  
19 present additional and new evidence, as I have  
20 stated, the Act does not allow for that. So, we do  
21 need to go ahead and proceed. You do have the right  
22 to appeal to the Pollution Control Board any of my  
23 rulings. You may certainly appeal to them and see if  
24 they want to provide you with an opportunity for an

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1 additional hearing closer to the decision deadline.  
2 But, at this time, it's my ruling that we need to  
3 proceed.

4 MR. MCLEARY: If I may, as a point of  
5 inquiry, if, in fact, the rules state that this  
6 hearing is not to solicit any additional evidence,  
7 can you be more specific as to what the purpose of  
8 the rule would be because I would be objecting to any  
9 testimony taken from the public at large because it  
10 could conceivably be additional evidence. And so, is  
11 the purpose of this hearing only to set a briefing  
12 schedule or what would be the purpose?

13 HEARING OFFICER FRANK: The petition by the  
14 attorney that you are now co-counsel with did not  
15 allege any fundamental unfairness in the hearing  
16 process, which means that all they alleged were that  
17 there were criteria that the Village Board did not  
18 correctly review, and that their decision was against  
19 the manifest weight of the evidence. The statute  
20 very specifically says no new or additional evidence.  
21 We will allow, or I will allow testimony from the  
22 public, as required by the Environmental Protection  
23 Act. If the public starts to bring in new or  
24 additional evidence that I believe would be

1 prejudicial, then I will instruct them to, you know,  
2 stop and to not discuss that. But, your objection is  
3 overruled. The members of the public are going to  
4 testify, that's what we're here for. If you want to  
5 call any witnesses, that's up to you. But, you're  
6 constrained by the guidelines of the Environmental  
7 Protection Act.

8 MR. MCLEARY: Am I clear to understand,  
9 then, that the public is free to offer any testimony,  
10 but the testimony will not be considered as evidence,  
11 it will not be given any weight with respect to the  
12 decision given by the Board?

13 HEARING OFFICER FRANK: No, that's not  
14 true.

15 MR. MCLEARY: If the Board is precluded  
16 from soliciting any additional evidence, I'm not  
17 clear as to the purpose of any testimony on the part  
18 of the public.

19 HEARING OFFICER FRANK: The public--

20 MR. MCLEARY: Is this a public relations  
21 hearing?

22 HEARING OFFICER FRANK: We're required by  
23 the Environmental Protection Act to hold this hearing  
24 and to allow the public to speak. Their concerns are

1 taken as evidence and the Board gives it weight and  
2 deference. That's all I can say to you.

3 MR. MCLEARY: Right there, in its face, if  
4 you say their concerns are taken as evidence,  
5 wouldn't that be considered as additional evidence,  
6 which is contrary to the rules?

7 HEARING OFFICER FRANK: It depends on what  
8 they testify to. Until I hear someone speak, I don't  
9 know if they're going to try to give me new  
10 information about landfills or not. They may simply  
11 discuss information that's already in the record. I  
12 don't know because I haven't heard anyone speak yet.  
13 And, I'm going to reserve my ruling on restricting  
14 public testimony until I hear them speak.

15 MR. MCLEARY: May I suggest or request that  
16 if, in fact, it's testimony with respect to  
17 statements or evidence that's already in evidence,  
18 that they direct us as to the page of the transcript  
19 that this testimony was given at the prior hearing,  
20 or that --

21 HEARING OFFICER FRANK: I will not require  
22 that from the public. That's too much of a burden  
23 for them. You may object to any member of the public  
24 who is speaking, although the hearing is basically

1 because your client filed a petition, and that's part  
2 of the petition requirement is to have the hearing.  
3 It's to allow the public to speak.

4 MR. MCLEARY: It's not my intention to be  
5 an obstructionist, but just to make sure that the  
6 proceedings are basically fair and that we had an  
7 opportunity to call witnesses if, in fact, the  
8 Respondent was calling witnesses. But, I'm informed  
9 that he was not intending to call witnesses.

10 HEARING OFFICER FRANK: I'm not denying you  
11 the right to call witnesses, I'm just instructing you  
12 that if you call them, you have to be careful about  
13 what you're questioning them about. Okay, are there  
14 opening statements? Okay, first, it would be from  
15 the Petitioner, so, I don't know, Mr. McLeary, if you  
16 have an opening statement prepared.

17 MR. MCLEARY: Again, Madam Hearing Officer,  
18 we would be again requesting our continuance. But,  
19 since that has already been ruled, we will not be  
20 granted a continuance, I would like to reserve my  
21 opening statement, basically present that in the form  
22 of a brief that will be presented as soon as we set  
23 up a briefing schedule.

24 HEARING OFFICER FRANK: Okay. That's fine.

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1 For the applicant?

2 MR. HOULIHAN: We'll waive any opening  
3 statement.

4 HEARING OFFICER FRANK: Okay. And, Dave,  
5 do you have--

6 MR. DEYOUNG: Yes.

7 OPENING STATEMENT

8 BY MR. DEYOUNG:

9 The Illinois Pollution Control Board order  
10 of November 21, 1996 required the Village to file a  
11 certified copy of the Board of Trustees action of  
12 September 3rd approving the petition of Land and  
13 Lakes expansion. I request leave to file a certified  
14 copy of Resolution 96 R 2255 in stanture.

15 HEARING OFFICER FRANK: Okay.

16 MR. DEYOUNG: I'd like the record to  
17 reflect I'm also tendering a copy to Mr. Houlihan,  
18 Ms. Harvey and to Mr. McLeary. Do you need  
19 additional copies?

20 HEARING OFFICER FRANK: The Board requires  
21 seven copies.

22 MR. DEYOUNG: This is part of the record,  
23 so it should require 3, right?

24 HEARING OFFICER FRANK: The original and 3,

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1 sure. Do you have it?

2 MR. DEYOUNG: Yes.

3 HEARING OFFICER FRANK: I will submit to  
4 the Board, I'm not going to mark this as an exhibit,  
5 as it's part of the record. It will just become part  
6 of the record as filed with the Board, unless there  
7 is an objection.

8 MR. DEYOUNG: The certificate of record  
9 does indicate this item, which was not filed as part  
10 of the record.

11 HEARING OFFICER FRANK: Okay. Please  
12 continue.

13 MR. DEYOUNG: Thank you. On October 17th  
14 of this year, the Pollution Control Board ruled that  
15 the petition that was filed was deficient, and gave  
16 the Petitioners 14 days to file an amended petition.  
17 According to my most recent review of the record,  
18 there was no amended petition filed at any time. So,  
19 I would just like the record to reflect the objection  
20 of the Village to being ordered to go to hearing on a  
21 Petition that the Board previously ruled to be  
22 deficient. I just want to state that objection, for  
23 the record.

24 HEARING OFFICER FRANK: As you know, the

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1 Board, I rule on things and the Board is the next  
2 level up. The Board has dictated that this hearing  
3 will go on, and has made a ruling that we proceed  
4 forward. So, I cannot overrule that, at this point.

5 MR. DEYOUNG: I understand. I just want my  
6 objection to be noted, for the record.

7 HEARING OFFICER FRANK: Okay.

8 MR. DEYOUNG: And just finally, very  
9 shortly, the Village of Dolton, in its public hearing  
10 process, followed the procedures and guidelines that  
11 were set forth in the statute. And, the decision  
12 that they made was based solely, the Village Board  
13 statement was based solely upon the criteria as set  
14 forth in the statute, and reviewing the record that  
15 was conducted during the public hearing.

16 I have no further statement.

17 HEARING OFFICER FRANK: Mr. McLeary?

18 MR. MCLEARY: For the purpose of preserving  
19 the record, we will be objecting to the filing of  
20 this Resolution inasmuch as we have filed a petition  
21 challenging the passing of this Resolution in the  
22 first place. So, we will be filing an objection to  
23 this Resolution being filed, or is this standard  
24 procedure?



1 HEARING OFFICER FRANK: This Resolution is  
2 part of the record. It's standard that the record  
3 below, it's required to be filed by the Board, and  
4 this Resolution is part of that record, which is  
5 required by the Board. It's standard procedure for  
6 this to be included so the Board knows what it's  
7 reviewing. So, your objection is overruled, and it  
8 was already even listed in the exhibit pages, it was  
9 just, I believe, inadvertently left out when the  
10 record was mailed to the Board.

11 MR. MCLEARY: Thank you.

12 HEARING OFFICER FRANK: Okay. Do we have  
13 anything further from the attorneys? Okay.

14 At this time, if there are any interested  
15 members of the public who wish to make a statement on  
16 the record, you can use the microphone at the far end  
17 of the room. You'll need to come up and state your  
18 name, for the court reporter, and she will swear you  
19 in, and then you can make your statement. Is there  
20 anyone who wishes to do so, who volunteers to be  
21 first?

22 MS. KELLIHER: Somebody has got to do it.

23 HEARING OFFICER FRANK: Please state your  
24 name.

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1 MS. KELLIHER: My name is Mary Ann  
2 Kelliher. I have a cold. I don't know how much I  
3 can get out, but I will try.

4 (Witness sworn)

5 MARY ANN KELLIHER,

6 I'm a member of the Calumet Ecological  
7 Association. This organization is very interested in  
8 the way the environment is being treated in our area.  
9 This area is a part of that. The Calumet Ecological  
10 Park includes Lake Calumet and those rivers, that  
11 river, the Calumet River, that is a part of that. We  
12 have had experience in the past with Land and Lakes  
13 in the Calumet Lake area. The Land and Lakes group  
14 has already had a dump, and I understand part of it  
15 in Chicago, part of it in Dolton, just along the  
16 river. So, I mention that to tie it to our concern.  
17 The EPA has just determined that they are going to be  
18 doing studies on clusters. There is a question of  
19 whether or not they will be studying that dump that  
20 is part Dolton and part Chicago. There was an  
21 article in the paper just a couple of days ago  
22 concerning this. My statement from the Calumet  
23 Ecological Park, to the Board, is to consider your  
24 stewardship of the land that your caring for. The

1 people in this community and in Riverdale, we are  
2 stewards of our land and we are encouraging them to  
3 give strong consideration to this. We are,  
4 particularly people of my age, we're turning this  
5 back over to our children and their children's  
6 children, and we don't want to continue with this  
7 dumpage. It's a direct appeal to the Board to give  
8 strong consideration to considering how we can best  
9 use our land that's been given to us. Thank you.

10 HEARING OFFICER FRANK: Thank you. Are  
11 there any questions? Ms. Kelliher, you need to wait  
12 for just a moment. Mr. Houlihan?

13 EXAMINATION

14 BY MR. HOULIHAN:

15 Q. Ms. Kelliher, may I ask you your address,  
16 please?

17 A. Yes, sir. It's 14201 South Stewart,  
18 Riverdale, 60627.

19 Q. And, were you present during the hearing  
20 that was conducted here in the Village of Dolton on  
21 several evenings in the month of June of this year?

22 A. I don't remember the date, but I attended  
23 one.

24 Q. All right. Were you present for the

1 testimony of Mr. Caderna, and specifically his  
2 testimony with respect to the Greenways Plan which is  
3 part of this development?

4 A. Yes, and it was laughable. They're  
5 talking about putting a prairie on top of a dump,  
6 which is the most ridiculous thing. I work also with  
7 the Prairie Restoration Corp --

8 HEARING OFFICER FRANK: Ms. Kelliher, at  
9 this point, you've made your statement. You need to  
10 restrict your comments to the direct question that's  
11 being asked of you.

12 A. Thank you.

13 BY MR. HOULIHAN:

14 Q. So, you disagree with the feasibility of  
15 the end use plan as described by Mr. Caderna?

16 A. Yes, I do.

17 MR. HOULIHAN: I have no further questions  
18 of this witness.

19 HEARING OFFICER FRANK: Mr. McLeary, do you  
20 have any questions?

21 MR. MCLEARY: No.

22 HEARING OFFICER FRANK: Ms. Kelliher, do  
23 you have anything else you wish to put on the record  
24 at this time?

1 MS. KELLIHER: No.

2 HEARING OFFICER FRANK: Thank you for  
3 coming up.

4 Is there anyone else who wishes to  
5 make a statement on the record?

6 Yes, ma'am, please come up. Please  
7 state your name and spell your last name.

8 MS. MCDUFFIE: Sherrie Ann McDuffie,  
9 M-c-D-u-f-f-i-e.

10 (Witness sworn)

11 SHERRIE ANN MCDUFFIE,

12 I'm presently a new resident of Dolton.  
13 We've been in Dolton for about four years now. And,  
14 I'm sure the Board has heard this statement many  
15 times before, but my concern is the health, the  
16 welfare, and the property value of my family and my  
17 home. The odor that we're dealing with is almost  
18 unbearable. There are times when it seeps through  
19 the vents, and you just can't hardly stand it. And,  
20 when we first moved out here, we gave, our  
21 neighborhood gave a block party. And, at that block  
22 party, the Village sent the fire department  
23 representatives and there was a guy that made the  
24 comment about how beautiful our neighborhood was. We

1 life at, I live at 14242 Shepard Drive, and it's a  
2 new development with three brand new homes. And, we  
3 were so excited about moving in because we just knew  
4 that this was going to be an up and growing area.  
5 But, the firemen made a comment that he had looked at  
6 the area several times and considered buying, but  
7 that he decided not to because of the stench that you  
8 could smell in the area. And, I mean--

9 MR. HOULIHAN: Just a technical objection.  
10 Clearly, that's a hearsay statement. And just for  
11 the record, we want to preserve our objection here in  
12 the record.

13 HEARING OFFICER FRANK: Okay. That's fine.  
14 Please continue.

15 MS. MCDUFFIE: And, I fell that we're  
16 already dealing with this stench. And, if you're  
17 going to expand it even more. Then, we're going to  
18 have more of a problem, and I just hope that the  
19 Board will not just consider the immediate profit of  
20 this landfill. But, look at the long rang penalty  
21 that we may receive as property owners in the area.

22 HEARING OFFICER FRANK: Are there any  
23 questions for Ms. McDuffie?

24 MR. MCLEARY: No.

- 1 MR. HOULIHAN: Just a couple of questions.
- 2
- 3 What's your address, Ms. McDuffie?
- 4 A. 14243 Shepard Drive.
- 5 Q. And, where is that in relation to the
- 6 property which is the subject of this proceeding?
- 7 A. I'm not quite sure of the immediate
- 8 location of the landfill, but I believe we're just
- 9 two blocks west of Cottage Grove.
- 10 Q. And, approximately how far south?
- 11 A. From, how far South from Cottage Grove?
- 12 Q. N,o how far south, where is Shepard
- 13 Drive, the site?
- 14 A. It's off of 142nd and Langley.
- 15 Q. It's off of 142nd and Langley?
- 16 A. Right.
- 17 Q. And, a couple of blocks west of Cottage
- 18 Grove?
- 19 A. Right.
- 20 Q. What's your understanding as to what's
- 21 the location of the landfill in question here?
- 22 A. My understanding is that it's north, just
- 23 Northeast of Cottage Grove.
- 24 Q. And, what other street?

1 A. I don't know.

2 Q. Were you here and did you participate in  
3 any of the hearings that were held here in the  
4 Village regarding this application in June of this  
5 year?

6 A. No, and that's why I feel compelled to  
7 make a statement today, because I feel that I'm part  
8 of the reason why it's gotten this far. But, I'm  
9 disabled and it's difficult at times for me to get  
10 out.

11 MR. HOULIHAN: I have no further questions

12 MR. MCLEARY: No.

13 HEARING OFFICER FRANK: Thank you, Ms.  
14 McDuffie. Is there anyone else who wishes to speak?  
15 Sir, please come forward. Please state your name and  
16 spell your last name.

17 A. Thomas Knight, K-n-i-g-h-t.

18 (Witness sworn)

19 THOMAS KNIGHT,

20 I think, I've been out here for about 5  
21 years now, and I think the landfill lends a  
22 stigmatism to our environment. If it's bad now and  
23 it's constantly getting bigger and worse. And,  
24 Senator Shaw wants to offer a solution to this



1 problem, I don't see why we shouldn't go ahead and  
2 deal with it. Several people I've talked to in the  
3 Chicagoland area who have contemplated on selling  
4 their homes considered Dolton, Riverdale, and also  
5 South Holland, you know, for their second home. And  
6 then, it comes up the idea of the landfill. Well,  
7 once they look into that, you know, they want to turn  
8 a deaf ear to the situation.

9 MR. HOULIHAN: Well, again, for the record,  
10 the same technical objection.

11 HEARING OFFICER FRANK: Okay. Please  
12 continue.

13 MR. KNIGHT: So, I mean, you know, you  
14 got half the people out here scared, everybody is  
15 buying bottled water, you know. And me, myself, I  
16 just think that if there is a solution, and it's  
17 offered, then we, as citizens of the community,  
18 should take advantage of it. And, that's how I feel.

19 HEARING OFFICER FRANK: Thank you. Are  
20 there any questions, Mr. McLeary?

21 EXAMINATION

22 BY MR. MCLEARY:

23 Q. Then, it's your position that you're in  
24 opposition to any expansion of the landfill?

1 A. That's absolutely correct.

2 HEARING OFFICER FRANK: Just a moment.

3 Q. May I ask you your address, your  
4 residence?

5 A. 14449 Murray.

6 Q. And where is Murray in relation to  
7 Cottage Grove?

8 A. It's about 4 or 5 blocks from that area.  
9 I know that on certain nights, you can smell the  
10 stench of it, you know.

11 Q. How long have you been in residence at  
12 that location?

13 A. About 5 years, 5 and a half years.

14 Q. And, where did you live prior to that?

15 A. 109th and King Drive in Chicago.

16 Q. And, are there sanitary landfills on the  
17 southeast side of the City of Chicago?

18 A. To my knowledge, yes, there are.

19 Q. And, prior to your coming here, did you  
20 make an inspection of the area to determine what the  
21 existent land use was in proximity to your property?

22 A. Well, I didn't make a thorough inspection  
23 of it, but I'm basically cognizant of the situation.

24 Q. Did you know that at the time that you

1 purchased your home?

2 A. No, I had mixed emotions about it until I  
3 started to talk to people in the community and  
4 started to smell the stench of it, you know. We're  
5 going to turn our homes and our property that we  
6 worked so hard for over to our families and our  
7 children. I think we owe it to them to do something  
8 about it.

9 Q. So, you're telling us that you were  
10 unaware at the time that you purchased your property?

11 A. No, I was not unaware of it.

12 Q. You were aware of it?

13 A. But, I was under the impression that  
14 something was going to be done about it, and it seems  
15 like the problem is getting worse as opposed to  
16 getting better.

17 Q. And, did you attend the hearing that was  
18 held here in the village on any of the several  
19 evenings that it was conducted here in the Village of  
20 Dolton in June?

21 A. I don't recall which one it was, but I  
22 was present at one of them. I was cognizant of  
23 basically what was going on.

24 Q. Did you happen to hear the testimony of

1 Mr. McCann, the real estate evaluation witness, that  
2 this would not depreciate the value of homes in  
3 either the immediate or in the general proximity?

4 A. I heard that, too. But, I also, like I  
5 say, it also, from my standpoint, it also lends a  
6 stigmatism to it. Why would you buy into something  
7 like that when everybody is so involved--

8 HEARING OFFICER FRANK: Mr. Knight, as I  
9 said to Ms. Kelliher, you had your chance to speak.  
10 Now, you must just answer the questions that are  
11 asked of you.

12 A. Yes, ma'am.

13 Q. So, of the four evenings in which there  
14 were hearings held, you were in attendance one  
15 evening?

16 A. I recall, yes, one.

17 MR. HOULIHAN: Nothing further of this  
18 witness.

19 HEARING OFFICER FRANK: Do you have  
20 anything else you wish -- go ahead, Mr. McLeary.

21 MR. MCLEARY: I have a couple of questions,  
22 based on questions that were asked.

23 EXAMINATION

24 BY MR. MCLEARY:

1 Q. You indicated you've been a resident of  
2 Dolton for 5 years?

3 A. That's correct.

4 Q. And, in the 5 years, has the size of the  
5 landfill increased any or has the stench become any  
6 worse?

7 A. To my recollection, yes, it has.

8 Q. So that when you first moved out here,  
9 the situation--

10 A. You could hardly smell it.

11 Q. The situation has deteriorated at that  
12 time, is that correct?

13 A. And, I would talk to any members of the  
14 community I'd say what's that odor? That's  
15 the landfill.

16 MR. HOULIHAN: Again, the same technical  
17 objection.

18 MR. MCLEARY: I'm only asking questions in  
19 response to the questions that he asked.

20 HEARING OFFICER FRANK: Wait for just one  
21 moment. The first thing I need to make clear is that  
22 the court reporter can only record one voice at a  
23 time. So, it's important that we not talk over each  
24 other. The technical objection is noted. It's

1 hearsay, but I'm going to allow it, it's testimony  
2 from the public. And, Mr. McLeary, please go ahead  
3 and ask your question.

4 BY MR. MCLEARY:

5 Q. In addition, it's testimony to clear up  
6 questions that were asked by counsel.

7 So, that in the 5 years you've been here,  
8 the stench has become worse since the time you moved  
9 in?

10 A. In answer to your question, yes, counsel.

11 Q. And, you heard counsel asked you  
12 questions about a Mr. McCann, I believe, who  
13 testified as to the values of property. Did Mr.  
14 McCann at any time indicate that he was interested in  
15 purchasing any property?

16 A. No, he did not.

17 MR. MCLEARY: No further questions.

18 HEARING OFFICER FRANK: Do you have  
19 anything else, Mr. Knight?

20 MR. KNIGHT: No, thank you.

21 HEARING OFFICER FRANK: Thank you. Is  
22 there anyone else who wishes to speak? Please come  
23 up. Please state your name and spell your last name.

24 MR. WILLIAMS: Rev. Anthony Williams,

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1 W-i-l-l-i-a-m-s.

2 (Witness sworn)

3 REV. ANTHONY WILLIAMS,

4 My comment is that I've been a resident of the  
5 Dolton community, homeowner for over 10 years. I've  
6 not been abreast to actually what's going on in terms  
7 of this landfill, but I've been doing a little  
8 homework. I think just north to us, historically  
9 when you look at what's happening to the Algedt  
10 Gardens community, and now the possibilities of  
11 expanding a landfill into the Dolton community, I see  
12 is an issue of environmental racism. 14 years ago  
13 when I moved into this community, there would have  
14 been no talk in terms of a landfill because of the  
15 fact the complexion of the community was somewhat  
16 different. Now, with the fact that Dolton is a  
17 predominantly African American community and you're  
18 talking about putting a landfill into a community  
19 that is predominantly African American, I oppose  
20 that.

21 Also, on the issue of health reasons, when  
22 you talk in terms of just what happened in Algedt  
23 Gardens and other communities where people of color  
24 are living, when you look at the high propensity of

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1 cancer, respiratorial diseases and other diseases  
2 that are caused by this landfill, I think more  
3 consideration needs to be put into this in terms of  
4 where this landfill ought to be placed. So, I oppose  
5 the landfill in the community where I seek to raise  
6 my children.

7 HEARING OFFICER FRANK: Mr. McLeary, do you  
8 have any questions for Rev. Williams?

9 MR. MCLEARY: No.

10 HEARING OFFICER FRANK: Mr. Houlihan?

11 MR. HOULIHAN: I do. What's your address,  
12 Mr. Williams?

13 A. 14926 South Avalon.

14 Q. And, where is that in relation to this  
15 property?

16 A. I'm approximately by Cottage, right by  
17 Cottage Grove.

18 Q. Where do you understand this property to  
19 be?

20 A. I know where the property is at, I'm  
21 talking about the proximity. I'm about maybe about  
22 half a mile.

23 Q. All right. And what's your understanding  
24 as to what's the location of this sanitary landfill?



1           A.       Well, in terms of my understanding, in  
2 terms of the facts that I'm gathering is that I am  
3 opposed to landfill in the community.

4           HEARING OFFICER FRANK: Rev. Williams, that  
5 does not answer the question he asked. He asked  
6 where you believe the landfill to be located.

7           A.       Well, the landfill, regardless of where  
8 it's located, is going to be an environmental--

9           HEARING OFFICER FRANK: Mr. Williams,  
10 that's non-responsive. You need to answer the  
11 question that was asked of you. State your question  
12 again, will you please, sir?

13 BY MR. HOULIHAN:

14          Q.       What's your understanding as to what's the  
15 location of this landfill?

16          A.       Well, I know the landfill is going to be  
17 around some residential homeowners.

18          Q.       Can you be more specific as to where you  
19 understand the landfill to be?

20          A.       It's going to be around some residential  
21 homeowners, it's my understanding - -

22          MR. MCLEARY: I think he's answered the  
23 question to the best of his ability. Can we ask  
24 another question, if he has one?

1 HEARING OFFICER FRANK: That's fine. Can

2 you move on?

3 BY MR. HOULIHAN:

4 Q. What's your understanding as to how long

5 the landfill has been there?

6 A. The landfill has been there, I

7 understand, a number of years now.

8 Q. How many years?

9 A. A number of years now.

10 Q. What's your best estimates as to how many

11 years?

12 A. A number of years, sir.

13 Q. I'm not 2 sure what you mean by a number

14 of years?

15 A. I've come here to voice a concern, not to

16 be on trial, counsel.

17 HEARING OFFICER FRANK: Mr. Williams.

18 A. Yes, ma'am?

19 HEARING OFFICER FRANK: The rules allow for

20 you to come forward and speak. But, part of that

21 ability to come forward and speak is that you are

22 subject to questions by the attorneys.

23 A. Over two years, I know that.

24 HEARING OFFICER FRANK: Okay, thank you.

1           MR. MCLEARY: Madam Chairman, I think that  
2 the questions are in the form of badgering this  
3 citizen who has come forward to testify. He's  
4 answered the question. He said for a number of  
5 years. And then, you know, for you to commit him to  
6 continue to dwell on that one subject. If he has a  
7 question, you know.

8           HEARING OFFICER FRANK: Mr. McLeary, a  
9 number of years can be quantified in numbers and  
10 that's all that was being asked. At this time, the  
11 witness has answered and Mr. Houlihan may continue  
12 with his next question.

13           MR. HOULIHAN: Is it your understanding  
14 that the landfill came into being after you became a  
15 resident here in the Village.

16           A.       Yes, sir.

17           MR. HOULIHAN: I have no further questions.

18           HEARING OFFICER FRANK: Mr. McLeary, do you  
19 have anything else?

20           MR. MCLEARY: Yes.

21   EXAMINATION

22 BY MR. MCLEARY:

23           Q.       Mr. Williams, if I can just get a little  
24 clarification. You've been a resident for 10 years,

1 is that correct?

2 A. Yes, sir, over 10 years.

3 Q. And, during that 10 year period of time,  
4 have you noticed anything different with respect to  
5 the air or the quality of air, to the best of your  
6 ability?

7 A. The air and the water, yes, sir.

8 Q. And, what has that been?

9 A. There is a stench I smell similar to that  
10 around the Algedt Garden area.

11 Q. Has it become progressively worse over  
12 that 10 year period of time?

13 A. Yes, sir.

14 Q. And, it's your understanding that that's  
15 a result of the landfill, is that correct?

16 A. Yes, sir.

17 MR. MCLEARY: I have nothing further.

18 HEARING OFFICER FRANK: Mr. Houlihan?

19 MR. HOULIHAN: Nothing further.

20 HEARING OFFICER FRANK: Okay. Thank you,  
21 Rev. Williams.

22 Is there anyone else who wishes to come  
23 forward? Please state your name and spell your last  
24 name?

1           A.       Larceda Jefferson, J-e-f-f-e-r-s-o-n.

2 L-a-r-c-e-d-a.

3                               (Witness sworn)

4                               LARCEDA JEFFERSON,

5                               HEARING OFFICER FRANK: Please continue.

6                               MS. JEFFERSON: From my knowledge is that  
7 the landfill has been in Dolton for 20 years, and  
8 it's subject to close very soon. And, that's the  
9 reason for this landfill expansion. And, yes, I was  
10 here for all the meetings that were held at the  
11 hearing, but I also notice at that hearing that out  
12 of our board members, only a couple of them even  
13 asked any questions or made any comments concerning  
14 what Mr. Houlihan presented to us, which was a very  
15 nice story, you know, but what I'm here to say is  
16 that why was, from what my understanding was that Mr.  
17 Kusper gave a gag order to all of the Trustees not to  
18 say anything during the hearing. But, how can you  
19 find out anything unless you can ask questions? I  
20 mean, it just seems to me that we were sitting here  
21 just listening to Mr. Houlihan speak, but no one else  
22 was allowed any professional, you know, knowledge to  
23 present to them, including our Trustees who just sat  
24 there and listened. I mean, you know, I can sit and

1 listen and something may sound good, but unless I can  
2 ask a question concerning that, then I don't feel  
3 like it's a fair thing going on. And, I know this  
4 petition doesn't involve fairness, but that's still  
5 the point. The point is that Mr. Kuser put a gag  
6 order on the Trustees, and only a couple of them  
7 asked questions or made any comments concerning what  
8 Mr. Houlihan was speaking on.

9 HEARING OFFICER FRANK: Mr. McLeary, do you  
10 have any questions for this witness?

11 MR. MCLEARY: Yes.

12 EXAMINATION

13 BY MR. MCLEARY:

14 Q. Ms. Jefferson, you indicated that you've  
15 been here for 20 years and that the landfill was in  
16 existence for approximately 20 years.

17 A. I've lived in Dolton 5 or 6 years, but  
18 it's my understanding that the landfill has existed  
19 for 20 years, and that's why it's subject to close,  
20 because it was only given a 20 year contract or  
21 whatever they give them to stay in this area.

22 Q. It's your understanding that it was only  
23 a 20 year grant for the landfill. And, in 20 years,  
24 it would have been totally filled or reached its

1 capacity?

2 A. Exactly.

3 Q. And, that it's your understanding that  
4 the reason that they're trying to expand is because,  
5 I mean, this petition was filed, they want to expand  
6 the landfill?

7 A. For another 20 years.

8 Q. You're in opposition to that?

9 A. Yes, I am.

10 MR. HOULIHAN: Nothing further.

11 MR. MCLEARY: Nothing further.

12 HEARING OFFICER FRANK: Okay. Mr.

13 Houlihan?

14 MR. HOULIHAN: No further questions.

15 HEARING OFFICER FRANK: Do you have  
16 anything else?

17 MS. JEFFERSON: Yes, I do have something  
18 else to say because I think that this landfill is  
19 exactly what the lady preceding me said, Ms.  
20 McDuffie, it's just another way to put something in  
21 our laps, you know, this community. It's changing as  
22 the Reverened said, and it's time for us to start  
23 standing up and thinking about what's going to happen  
24 to our children. You know, we don't want to hand our

1 children another dump for another 20 years. We've  
2 been here whatever amount of years smelling the dump.  
3 We don't want our children to smell the dump for  
4 another 20 years. The story that they presented us  
5 was well, nice, and good. And, it smelled good and  
6 it sounded good, but it was just speculation. They  
7 don't know how much traffic is going to come through  
8 here. They don't know how much the property value  
9 that's going to change because of that. They can't  
10 speculate that. That's just pure conjecture, as you  
11 say. And, I just wanted to go on record that I,  
12 Larceda Jefferson, do oppose this landfill expansion.

13 HEARING OFFICER FRANK: Is there anything  
14 else?

15 MR. MCLEARY: No.

16 HEARING OFFICER FRANK: Thank you, Ms.  
17 Jefferson. Is there anyone else who wishes to speak  
18 at this time? Sir, please come forward.

19 MR. THOMAS: William C. Thomas,  
20 T-h-o-m-a-s.

21 (Witness sworn)

22 WILLIAM C. THOMAS,

23 Ms. Chairman, I rise in opposition to  
24 the proposed extension of the landfill. I moved out



1 here 27 years ago. Had no intention of having a  
2 landfill in my front yard. My address is 933 East  
3 142nd Street. And, yes, I do know the location of  
4 the landfill. It's in my front yard. I smell it on  
5 a daily basis. I'm opposed to the landfill for three  
6 reasons. Number one, the odor that has been referred  
7 to. Number 2, the increased truck traffic that it  
8 will have in front of my street, in front of my home.  
9 I mean, I can feel the traffic jumping coming through  
10 with the trucks and sometimes it almost shakes you  
11 out of the bed. That's where it stands today. Where  
12 will it be tomorrow?

13 My other opposition is the property values.  
14 You move out for the purpose of at least increasing  
15 the value, not decreasing it by some act that's  
16 unfair and unsafe, and particularly the ones that we  
17 have no control over. We elected a group of people  
18 to advocate for us and, believe me, they are not  
19 advocating. This landfill should not, should not be  
20 allowed to increase. Thank you.

21 HEARING OFFICER FRANK: Mr. McLeary, do you  
22 have any questions?

23 MR. MCLEARY: No questions.

24 HEARING OFFICER FRANK: Mr. Houlihan?

1 MR. HOULIHAN: No questions.

2 HEARING OFFICER FRANK: Thank you, Mr.  
3 Thomas. Is there anybody else who wishes to speak?  
4 Please come forward. State your name and spell your  
5 last name, please?

6 MR. LIBBY: Robert Libby, spelling  
7 L-i-b-b-y.

8 (Witness sworn)

9 ROBERT LIBBY,  
10 The subject of the landfill is really a  
11 rough one, and it's hard to deal with. It has very  
12 negative connotations. If it did not have, you  
13 wouldn't have a group like this coming in and  
14 questioning and, for the, mostly giving negative  
15 discussions on it. My feelings are that I have been  
16 a resident in Dolton for 40 years. I'm opposed to  
17 expansion of the landfill. I think that it denotes  
18 and it detracts from the character of the Village. I  
19 think that it adds nothing, and it certainly has  
20 environmental questions about it. And, I just wanted  
21 to go on record as being opposed.

22 HEARING OFFICER FRANK: Okay. Mr. McLeary,  
23 anything?

24 MR. MCLEARY: No questions.

1 HEARING OFFICER FRANK: Mr. Houlihan?

2 MR. HOULIHAN: No questions.

3 HEARING OFFICER FRANK: Thank you, Mr.

4 Libby. Please state your name and spell your last  
5 name?

6 A. My name is Virgie Hudson, H-u-d-s-o-n,  
7 V-i-r-g-i-e.

8 (Witness sworn)

9 VIRGIE HUDSON,

10 I just wanted to state one thing, that I  
11 do oppose the landfill. I've been out here since  
12 1990 and for the first few years, I would get a  
13 little stench, but as the years go by, I get a lot of  
14 stench. I'm concerned about my health. I'm  
15 concerned about others health, the water, and my  
16 property value going down. I'm a senior citizen now.  
17 I cannot move again. I don't intend to move again  
18 unless it's necessary. I live at 14239 South Drexel,  
19 which is very close. And, as I go down the  
20 expressway, I say how much higher can this thing go?  
21 And, I thought it was into it, now you talking about  
22 putting another one in. I think it's so unfair, and  
23 I don't think you're thinking about the people, but  
24 you're thinking about--I don't know what it is

1 they're thinking about, but I know we're not, it's  
2 not for our benefit. Now, I have a son that's 's  
3 graduating. He's in chemistry, and he works for the  
4 environmental department. And, I talk to him a lot  
5 about this. And I'm telling you, it's a danger to  
6 our health.

7 HEARING OFFICER FRANK: Are there any  
8 questions, Mr. McLeary, or Mr. Houlihan?

9 MR. MCLEARY: No.

10 MR. HOULIHAN: No questions.

11 HEARING OFFICER FRANK: Okay. Thank you,  
12 Ms. Hudson.

13 MR. KNIGHT: Can I ask a question? I'm  
14 not a politician, got nothing to do with that. I'm a  
15 resident that lives in Dolton. I take care of my  
16 property to the best of my ability. All I want to  
17 ask is why would anybody who lives in Dolton, okay,  
18 and not making money from the landfill would want a  
19 landfill here in the first place. I mean, why? I  
20 mean, we moved out of Chicago, okay, to come here to  
21 a better environment, to duck some bullets in a  
22 drive-by. So, that won't kill us, now the landfill  
23 will.

24 HEARING OFFICER FRANK: Mr. Knight, thank

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1 you. Is there anyone else who wishes to come  
2 forward?

3 MR. MCLEARY: I have one question I'd like  
4 to ask of a person who testified earlier, if I may.

5 HEARING OFFICER FRANK: At this point, why  
6 don't we allow everybody who wants to come up to come  
7 up and if you need to recall someone, we can do that.

8 MR. MCLEARY: Thank you.

9 MR CLAYTON: My name is Donald L. Clayton.  
10 I live at 688 East 144th Place, Dolton, Illinois.

11 HEARING OFFICER FRANK: Okay. You need to  
12 be sworn before you begin your testimony.

13 (Witness sworn)

14 DONALD L. CLAYTON,

15 I've lived in this Village for 50 years.  
16 When I moved here, the population was 8700 people.  
17 90 percent of everybody knew everybody by their first  
18 name. To that day to this very day, the Village  
19 boards from 50 years ago to this day has had no  
20 input, no say so, no rights, no voting powers, no say  
21 so of whether they could accept or deny landfills in  
22 this area. From 138th and Cottage Grove clear over  
23 to the Edison inlet, to Lake Michigan, the State of  
24 Illinois, the legislature, dictate policy and mandate

1 what the village boards, not only in this Village,  
2 but every other village along that water right-of-way  
3 can say or do. If we had all voted one way or the  
4 other, the appeal court and the State of Illinois  
5 legislature would have said your rights are  
6 overridden because the criteria, of which there are  
7 9, and the Village Board had no part in saying  
8 whether it was good or not good for the municipality  
9 would have to be accepted, come whatever come with  
10 it. The hazards, the environmental input, the  
11 sicknesses, and whatever comes with it, comes with  
12 it. But, whether it's this Village Board or Burnham  
13 or all the way to the lake outlet, these are just  
14 voted people, like she said, and the State of  
15 Illinois tells them when you can open your mouth and  
16 what you can say. That's exactly what we did. The  
17 attorney advised us, because I, along with another  
18 trustee, begged to ask questions. And I, like I  
19 said, I've been here 50 years, and I'm probably the  
20 oldest resident in the room that lives in the  
21 Village. I never liked them. But, we still have no  
22 control over them. And, whether the Board changes  
23 and changes and changes, until we make changes to the  
24 people who dictate the mandates that you have to

1 operate under, you're going to keep on accepting  
2 them. So, what I'm saying is let's put the  
3 responsibility of why it's being allowed and who is  
4 making it--and, I agree with the lady, if you go down  
5 northbound on the 394 and that 18 wheeler looks like  
6 an ant. We didn't do that. We had no say so. The  
7 State of Illinois didn't come say the people of  
8 Hegwisch or Burnham, do you think you'll enjoy this?  
9 No. The law, the State of Illinois, the legislature,  
10 the people who are down there dictating policy say  
11 these are your guidelines, there is 9 of them. You  
12 vote for them or deny them one at a time. These  
13 people came, and by the criteria set by those state  
14 legislators, this is what you're going to operate by.  
15 We sit there and listen to it. I'm not a specialist  
16 in any of the 9 criterias, other than health. And, I  
17 like to live and breathe like everybody else. But,  
18 the state says the 9 criteria was met, and the vote  
19 was taken. The State is the responsible party for  
20 everything, and this don't go back 20 years, I can go  
21 back 50 years. Nobody has been moaning and groaning,  
22 and I've lived here all them years, and every time  
23 somebody would say I don't like that chemical waste,  
24 CID, whatever they decided to build, they've built.

1 And, if you want to argue and don't like it, move.  
2 Or, if you want to lay there and die, die. Breath.  
3 But they're going to build it. But, let's hold the  
4 responsible parties responsible for what is being.  
5 These don't build overnight. They were here 50 years  
6 ago when I first moved in. A lot smaller, but now  
7 they're a half mile to the sky. And, I never in all  
8 my years, and even my few years here on the board  
9 have ever been approached by the State of Illinois or  
10 anybody else in the legislature and say, what do you  
11 think. Would you like to have a voting power on  
12 whether you'd like to build this dump any higher or  
13 slow this one down on the Chicago side? They never  
14 give me a right to say anything.

15 HEARING OFFICER FRANK: Mr. Clayton?

16 MR. CLAYTON: Yes, ma'am.

17 HEARING OFFICER FRANK: I believe you've  
18 made your point. Do you have anything specific you  
19 wish to say about this particular case?

20 MR. CLAYTON: No, just God Bless Dolton  
21 for the rest of its years.

22 HEARING OFFICER FRANK: Wait just a moment,  
23 Mr. McLeary has a question.

24 EXAMINATION



1 BY MR. MCLEARY:

2 Q. I have a question. You indicated that  
3 the decision to make a landfill -- well, let me  
4 strike that -- would I be correct in understanding  
5 you to say that the decision to place that landfill  
6 there was the responsibility of the state  
7 legislature?

8 A. No, I'm saying is that the landfill, in  
9 its present existence, and all other landfills, not  
10 just close, just this one, let's say because of  
11 proximity, we're all worried about the one on 138th  
12 and Cottage Grove. Let's worry about all of them  
13 because these are probably more dangerous to us than  
14 the other one depending, on which way the wind is  
15 blowing. They are higher, which means they cover a  
16 larger area. The problem is that the regulation and  
17 operational procedures, the guidelines are all set  
18 forth by the State of Illinois legislative mandates.

19 Q. Now, in those guidelines, doesn't it  
20 require public hearings as to the public input as to  
21 expansions of landfills?

22 A. Oh, yes.

23 Q. Okay. And, there were hearings held, is  
24 that correct?

1 A. Yes, sir.

2 Q. And, would it be fair to say that the  
3 majority of folks who appeared and testified at that  
4 hearing were in opposition to that landfill?

5 MR. HOULIHAN: Objection, that's  
6 immaterial.

7 MR. MCLEARY: I'm trying to get  
8 clarification.

9 HEARING OFFICER FRANK: Mr. McLeary, that's  
10 part of the record before the Board, and the Board  
11 can read through the record of the hearing below and  
12 determine that for itself. We don't need this  
13 witness to--

14 MR. MCLEARY: I think that the whole  
15 purpose of this proceeding today, if you can't  
16 solicit any new testimony, we can basically talk  
17 about the testimony that's already been put in the  
18 record. I'd just like to get clarification of  
19 something that's in the record. That is, that the  
20 majority of people who appeared and testified before  
21 were in opposition to that landfill.

22 HEARING OFFICER FRANK: Mr. McLeary, you've  
23 already testified on the record that you haven't read  
24 the record.

1                   MR. MCLEARY:    That's correct.  And I'm  
2 going by information that's been presented by people  
3 who have testified.  And, I think this gentleman has  
4 testified that the folks who testified at the  
5 hearings, the public hearings before were in  
6 opposition to it.  And, I think that's the purpose of  
7 today's hearing, is to not solicit any new evidence,  
8 but to basically restate the evidence that's already  
9 been submitted.  I have not seen the transcript of  
10 the prior proceedings.  And anything that, any  
11 statements that I make today is based upon  
12 information that I've gathered from listening to the  
13 testimony of the people today.

14                   HEARING OFFICER FRANK:  Okay.  Mr. McLeary,  
15 Mr. Clayton's opinion as to whether people were more  
16 against or more in favor of the landfill isn't  
17 relevant.  That's for the Board to decide and the  
18 Board to look at.

19                   MR. MCLEARY:  But, I think that it's  
20 relevant, if I may--

21                   HEARING OFFICER FRANK:  Mr. McLeary, you're  
22 overruled.  You may move onto another question.

23 BY MR. MCLEARY:

24           Q.        Did you vote as to whether or not the

1 landfill should be expanded?

2 A. Yes, I did.

3 Q. And, did you vote in favor of the  
4 expansion?

5 A. I voted no.

6 Q. Okay. And you voted no because the  
7 information given to you or that you had acquired  
8 from the residents or a number of things--

9 MR. HOULIHAN: Objection that's clearly a  
10 leading question.

11 MR. MCLEARY: Let me rephrase the question.

12 HEARING OFFICER FRANK: Please do.

13 BY MR. MCLEARY:

14 Q. Why did you vote no?

15 MR. HOULIHAN: Again, it's immaterial.

16 MR. MCLEARY: That's not a leading  
17 question, it's a question--

18 MR. HOULIHAN: I think that's a self  
19 serving statement as to why ever he voted no.

20 MR. MCLEARY: Well, I think that any  
21 statements, the questions that you might ask are  
22 self-serving to your client.

23 HEARING OFFICER FRANK: Let's go off the  
24 record for just a moment.

1 (WHEREUPON, a short recess was taken)

2 HEARING OFFICER FRANK: Mr. Houlihan, what  
3 was your objection to Mr. McLeary's question?

4 MR. HOULIHAN: I'll stipulate that he voted  
5 no in this proceeding. But, the reasons he voted no,  
6 other than what he's already expressed, are  
7 immaterial.

8 HEARING OFFICER FRANK: Okay. Mr. McLeary,  
9 what's your response?

10 MR. MCLEARY: Well, I think that the  
11 reasons he voted no, he has a right to express those.  
12 The whole purpose of a public hearing is for a person  
13 to come forth and give their opinion for, in a  
14 attempt to sway you to or sway the Board to either  
15 expand or not expand the landfill. And, I think that  
16 is the purpose of a public hearing, is to let a  
17 person do that. And, the reasons he voted no should  
18 be heard.

19 MR. HOULIHAN: He's already stated all his  
20 reasons for voting no in the record at the time that  
21 he voted. So, this is unnecessary. It simply is  
22 redundant to what this witness has already testified  
23 to.

24 MR. MCLEARY: Well, I would concur with

1 that if, in fact, my initial motion or request had  
2 been adhered to in the beginning, and that was if  
3 people were to testify today, and it was in reference  
4 to any statements that were made at the original  
5 proceedings, that they could identify in the  
6 transcript what page and line that testimony was  
7 given. That was overruled and said we would not  
8 allow that. Now, if you don't allow him to state his  
9 reasons, we don't know if it's part of the record or  
10 not.

11 HEARING OFFICER FRANK: Because we do not  
12 have the record here before us, I'm going to let Mr.  
13 Clayton summarize his reasons. But, give a summary  
14 description of what your reasons were, with the  
15 understanding that his reasons are the reasons that  
16 are stated in the record.

17 MR. CLAYTON: Going back 50 years, and like  
18 I said, watching one small dump, nothing to the  
19 north, no expressway, no dumps, no nothing, the  
20 village, the only village dump was on 142nd and  
21 Cottage Grove where there is a hot dog stand, that  
22 was the village dump when I moved here. From that  
23 day to this day, an acceleration of growth and  
24 whatever else comes with acceleration of big cities

1 comes death of your friends.

2 HEARING OFFICER FRANK: Mr. Clayton, please  
3 summarize your reasons for voting no.

4 MR. CLAYTON: I'm giving you my reasons.  
5 My reason is that with this large landfill and this  
6 request for this new expansion, from that day to this  
7 day, the problems that come with it have been  
8 accelerated and accelerated. And, in my way, I  
9 thought in reality if we could at least slow it down  
10 from its present building point and stop spreading  
11 whatever it is spreading, environmental or hazardous,  
12 health or whatever, that in one small way, even  
13 though in reality, it's too late, I'm sorry, it's  
14 built. We're going to live with it. We have, I'll  
15 call them the mounds of death and you're not going to  
16 change them. They're not going to haul away.

17 HEARING OFFICER FRANK: Mr. Clayton, that's  
18 not summarizing.

19 MR. CLAYTON: That's the way I feel.

20 HEARING OFFICER FRANK: I understand that,  
21 but you're past the question at this point.

22 MR. CLAYTON: That's my question, why I  
23 voted, I have grown to a point psychologically where  
24 I feel defeated.

1 HEARING OFFICER FRANK: Okay. Mr. McLeary,

2 do you have further questions for this witness?

3 MR. MCLEARY: No.

4 HEARING OFFICER FRANK: Mr. Houlihan?

5 MR. HOULIHAN: No further questions.

6 HEARING OFFICER FRANK: Okay, thank you,

7 Mr. Clayton.

8 MR. CLAYTON: You're welcome.

9 HEARING OFFICER FRANK: Is there anyone  
10 further, anyone else who wishes to speak? Yes?

11 JAMES G. JEFFERSON,

12 Good morning, my name is James G.

13 Jefferson, I live 14445 Van Buren.

14 (Witness sworn)

15 According to the criteria that were set  
16 forth in the hearings, there was traffic. We've  
17 heard, and it's part of the record the criterias that  
18 they set forth, which is a very beautiful  
19 presentation. The numbers go back to 1993 as far as  
20 the real estate value. Those numbers, if I'm  
21 correct, were taken on a survey, 1993, 1995. All  
22 these numbers and the criteria, then they came up  
23 with the health and safety, which is part of why  
24 we're here with the environmental. Now, we've heard



1 by one of our very good Trustees, his opinions. He  
2 blames it on the state legislature. But, as a  
3 community, there are many people that signed  
4 petitions, presented theirs, we were not allowed and  
5 given the time, if I understand correctly, the Board  
6 was given this material sometime prior in March. The  
7 books were passed out, the petitions were set out,  
8 whatever, prior to us hearing about it.

9 HEARING OFFICER FRANK: Are you talking  
10 about the Pollution Control Board?

11 MR. JEFFERSON: Not the Pollution  
12 Control Board.

13 HEARING OFFICER FRANK: The Village Board.

14 MR. JEFFERSON: The Village Board.

15 HEARING OFFICER FRANK: Okay.

16 MR. JEFFERSON: They were presented  
17 evidence, petition for the landfill expansion. Now,  
18 we want to say, as Mr. Clayton has elaborated, we  
19 want to blame the state legislature. We, as a  
20 Village of Dolton, could have stopped the  
21 legislators, made them think about it. If they set  
22 these rules down, they could have very well easily,  
23 unaniously said no, let it proceed from there. Our  
24 Village did not, prior to this decision about having

1 a hearing today, allocate any funds to bring  
2 witnesses on the community's behalf, but yet and  
3 still, now that we are involved in this hearing, we  
4 can set dollars aside for that. And, I don't, I'm  
5 not going to stand here and try to counter everything  
6 Mr. Clayton said about the legislature, but we can  
7 stop, we vote for these people, we voted for him and  
8 all the rest of those that sit up there.

9 HEARING OFFICER FRANK: Okay. Are there  
10 any questions, Mr. McLeary?

11 EXAMINATION

12 BY MR. MCLEARY:

13 Q. You made reference to the fact that  
14 there were petitions or something. Can you expand  
15 upon that for me?

16 A. Yes. There were petitions presented to  
17 the Board on behalf of the Citizens of Dolton  
18 opposing the landfill.

19 Q. Do you know approximately how many  
20 signatures or what became of that petition? Was it  
21 passed onto this board?

22 A. I believe it was passed onto the Board.  
23 The number, I can only estimate at this time,  
24 somewhere maybe--

1 HEARING OFFICER FRANK: Mr. Jefferson, were  
2 those petitions part of the record in the hearing  
3 before the Village.

4 MR. JEFFERSON: Yes, ma'am.

5 HEARING OFFICER FRANK: Mr. Houlihan, do  
6 you have any questions?

7 MR. HOULIHAN: No, I'll withdraw my  
8 objection, then, as long as he's answered that part  
9 of the question.

10 HEARING OFFICER FRANK: Okay. Do you have  
11 anything else, Mr. Jefferson?

12 MR. MCLEARY: No further questions, no.

13 HEARING OFFICER FRANK: Thank you. Is  
14 there anyone else who wishes to speak?

15 KATHERINE DOWELL,

16 Good morning. My name is Katherine  
17 Dowell, D-o-w-e-l-l.

18 (Witness sworn)

19 I'm a concerned neighbor of Dolton.  
20 I've only been living here a year and a half. I  
21 moved here from Maryland. I was unaware that they  
22 had a landfill. I would have had a different idea.  
23 I may have went to another area. And, my chief  
24 concern is that I really am opposing the expansion of

1 the landfill because its really a health hazard, and  
2 we have to think, I'm a senior citizen also, and I  
3 think we've paid our dues. For my understanding,  
4 this has been here approximately 20 years, to my  
5 knowledge, and it's time, you know, to move onto  
6 another area. Thank you.

7 HEARING OFFICER FRANK: Any questions, Mr.  
8 McLeary?

9 MR. MCLEARY: No questions.

10 HEARING OFFICER FRANK: Mr. Houlihan?

11 MR. HOULIHAN: No questions.

12 HEARING OFFICER FRANK: Thank you. Does  
13 anybody else wish to speak?

14 EMMA COX,

15 Good morning, my name is Emma Cox,  
16 C-o-x. I live at 14445 Kimbark.

17 (Witness sworn)

18 I've been living in Dolton for  
19 over 10 years, about 11 years almost, and I have not  
20 been to the meetings. I don't know too much about  
21 what's going on at the meetings, but I do know if you  
22 open your window at night, fumes comes in your  
23 window. You have to close your window. The fumes  
24 are very bad, especially in the summer. I did not

1 think--I'm against continuing this landfill. I just

2 want you to know that.

3 HEARING OFFICER FRANK: Any questions?

4 MR. MCLEARY: No questions.

5 MR. HOULIHAN: No questions.

6 HEARING OFFICER FRANK: Thank you. Okay.

7 Sir?

8 BURTON R. HERZOG,

9 My name is Burton R. Herzog,

10 H-e-r-z-o-g. I reside at 644 Ann Street, Dolton,

11 Illinois.

12 (Witness sworn)

13 Okay. First, I am a Trustee here in the

14 Village. I did vote and participate in the hearings

15 that Land and Lakes filed with the expansion of the

16 landfill. A couple of points that I think that, as

17 long as this is an appeal, needs to be pointed out is

18 that I've heard objections to water. It needs to be

19 noted that we are supplied water by the City of

20 Chicago. The water is tested on a regular basis

21 here, and I believe there's a number of samples drawn

22 every two weeks in compliance with all state

23 regulatory. So, as far as quality of water, that's

24 monitored.

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1           Also, everybody keeps talking about the  
2 problem with landfill. The issue of solid waste  
3 management is nothing new. And, to take it from a  
4 landfill and to burn it is not the solution. And,  
5 that was the only solution that was ever thrown out  
6 there. The true answer is waste minimization. And,  
7 if anybody that's here today would have taken the  
8 time and a little bit more interest to come, they  
9 would have started hearing more about the villages  
10 attempt to work with a program that would minimize  
11 waste. And, I have to tell you, and it's in the  
12 record, the Village Board meeting, I believe it was  
13 either January or February of last year, when a  
14 proposal was put out to entertain going into budget  
15 hearings, a recycling program. And, at this time,  
16 I'm going to tell you what the recycling program is  
17 and where it came from. The recycling program,  
18 ladies and gentlemen, was a conduit that Land and  
19 Lakes used through our disposal company, which is  
20 Homewood Disposal. And yes, we realize it, nobody  
21 wants a landfill anywhere. Nor do we want  
22 incinerators anywhere either, because we're not sure  
23 of the side effects of that. So, incineration is not  
24 the answer. And, it also, I'd like it to be noted as

1 the state researches things as well, that the Robbins  
2 Incinerator right now is accepting trash. What are  
3 they doing with it? They are putting it through an  
4 automated recycling system, and I would suspect,  
5 taking it to landfill. So, all these communities  
6 that participated in this program, you know, what's  
7 the real result? Are you going to burn it and  
8 pollute the air, or are they going to continue to do  
9 what they're telling you that they're not going to  
10 do, which is use landfills. The issue isn't whether  
11 landfills are here or not. And, unfortunately, I'll  
12 note it, too, because I don't want to be long because  
13 I, too, am a candidate, as Mr. Jefferson is, as Mr.  
14 Shaw is, for spring elections that are coming up.  
15 It's not a political issue, and it's a real issue.  
16 And, anybody that's truly concerned about it would  
17 come forth. We do have our own water pollution  
18 committee in town. We do have all sorts of programs  
19 and entertaining things and taking into consideration  
20 the economics.

21                   And, on the point of property values, I  
22 don't think anybody that has any type of marketing  
23 background or anything, that there has been a very  
24 steady increase in property values here. The

1 landfill has been here much, much longer. I don't  
2 think that even the growth of the big CID facility to  
3 the east of the expressway has seen a crises. That's  
4 all I have to say.

5 HEARING OFFICER FRANK: Mr. McLeary?

6 EXAMINATION

7 BY MR. MCLEARY:

8 Q. You indicated you're a trustee. In  
9 terms of your voting in the decision to whether or  
10 not to vote for it, you took into consideration the  
11 air, the water, and the property values and that kind  
12 of thing, is that correct?

13 A. Yes, I did.

14 Q. And, those things led you to vote in  
15 favor of the expansion?

16 A. I felt that the applicant met the  
17 criteria as set forth by the state, yes.

18 Q. Did you, at any time, take into  
19 consideration the will of the people as to their  
20 desire to not have an expansion of the landfill?

21 A. Very much so.

22 Q. And, were you, you were probably at those  
23 hearings that were conducted, is that correct?

24 A. I attended one.



1 Q. Okay. But, you--the public hearings?

2 A. Yes.

3 Q. And, at the public hearing you  
4 attended, would it be fair to say that the concern of  
5 the will of the people who made presentations at that  
6 meeting was that they were not in favor of the  
7 landfill?

8 A. Yes, I look at it this way, too, that  
9 there was roughly 24,000 people that weren't here.

10 Q. Okay. Then, at the prior ones, you were  
11 one of those 24,000 that didn't attend those other  
12 hearings also, right?

13 A. No.

14 Q. And, did you ever contact those other  
15 24,000 people?

16 A. Sure, I'm out in the community all the  
17 time.

18 Q. And, you knocked on 24,000 people and  
19 they told you --

20 A. During and after.

21 Q. And, they told you that they were in  
22 favor?

23 A. No, they understand that solid waste  
24 management is a real problem. And, by not extending

1 the landfill--

2 MR. HOULIHAN: Let the witness finish the  
3 answer.

4 MR. MCLEARY: He didn't answer the question.

5 HEARING OFFICER FRANK: Mr. McLeary and Mr.  
6 Herzog, please be careful not to talk over each other  
7 so our court reporter can record you.

8 BY MR. MCLEARY:

9 Q. So, it's your understanding that the will  
10 of the people was that they wanted the landfill, the  
11 expansion, is that correct?

12 A. There was nothing to show me anything  
13 other than that.

14 Q. Okay. You were not persuaded by the  
15 folks who testified at the public hearing, so that  
16 they didn't want to expand the landfill?

17 A. I never did see any real alternatives.  
18 Where do we send our garbage?

19 MR. MCLEARY: There is not a question  
20 pending.

21 HEARING OFFICER FRANK: Please just answer  
22 the questions that are asked of you.

23 A. I'm sorry.

24 BY MR. MCLEARY:

1 Q. When you voted, did you take into  
2 consideration the will of the people?

3 A. Sure.

4 Q. And, that included alternatives?

5 A. Sure.

6 Q. Were alternatives ever put to the people?

7 A. Sure.

8 Q. And, even though alternatives were put to  
9 the people, they expressed a desire not to have a  
10 landfill?

11 A. That's not true.

12 Q. Well, you just indicated that the people  
13 you heard testify at the one hearing you did attend--

14 A. You're asking me in regards to my follow-  
15 up, me?

16 HEARING OFFICER FRANK: Mr. McLeary, your  
17 question was unclear. Could you please--

18 I'd ask the members of the audience to  
19 please be quiet so we can conduct the hearing in a  
20 professional manner.

21 Mr. McLeary did you have another  
22 question?

23 MR. MCLEARY: If I may, one second.

24 BY MR. MCLEARY:

1 Q. So, the people you talked to were in  
2 favor of the landfill?

3 A. The people I talked to were open to  
4 intelligent conversation as to the avenues of solid  
5 waste management, yes.

6 Q. Intelligent conversation, can you explain  
7 that to me?

8 A. Sure. Anybody who really wants to sit  
9 down and talk about now, in the future, of how to  
10 handle solid waste, it was very easy to sit down and  
11 talk about it. And yes, it had a direct implication  
12 on the expansion of the landfill because it's not the  
13 expansion of the landfill as much as it is what goes  
14 into the landfill.

15 Q. So, you're saying that those who are in  
16 opposition to the landfill did not make an  
17 intelligent decision to be that way?

18 HEARING OFFICER FRANK: Mr. McLeary, you're  
19 badgering the witness now.

20 MR. MCLEARY: I'm trying to understand, you  
21 know, I don't understand when he indicated decision,  
22 decision or intelligent questions, maybe my question  
23 was not --

24 HEARING OFFICER FRANK: Mr. McLeary, the

1 will of the people is not one of the 9 criteria. So,  
2 if you could move onto something--

3 MR. MCLEARY: I understand the will of the  
4 people is not one of the 9 criteria, but I think that  
5 those parties entrusted to make that decision must  
6 take into consideration the will of the people.

7 HEARING OFFICER FRANK: And, you can make  
8 that argument in your brief. Please continue with  
9 any questions.

10 MR. MCLEARY: Then, I have no further  
11 questions of this gentleman.

12 HEARING OFFICER FRANK: Mr. Houlihan, do  
13 you have any questions?

14 MR. HOULIHAN: I have no further questions.

15 HEARING OFFICER FRANK: Yes, Mr. DeYoung?

16 MR. DEYOUNG: I have a question for the  
17 witness.

18 EXAMINATION

19 BY MR. DEYOUNG:

20 Q. Trustee Herzog, is it your testimony that  
21 the criteria that you used to make your vote on the  
22 landfill were the 9 criteria as set forth in our  
23 state statutes?

24 A. Yes, sir.

1 MR. DEYOUNG: Nothing further.

2 HEARING OFFICER FRANK: Is there anything  
3 else? Okay, thank you Mr. Herzog.

4 MR. HERZOG: Do I get one more comment?

5 HEARING OFFICER FRANK: Certainly.

6 MR. HERZOG: I also want it to be reflected  
7 in the record that on 130th and the Calumet  
8 Expressway is a large Metropolitan Water Reclamation  
9 District Center. And that over the years, a lot of  
10 the odors that have been reported, that our fire  
11 department have followed up on has been not a result  
12 of odors coming from the landfill as much as there is  
13 industry, as well as the sanitary district facility  
14 in the area as well.

15 HEARING OFFICER FRANK: Is there anything  
16 further? Any questions? Okay, thank you. Is there  
17 anyone else who wishes to make a statement? Mr.  
18 Shaw?

19 STATE SENATOR WILLIAM SHAW,  
20 I'm State Senator William Shaw.

21 (Witness sworn)

22 And, forgive me for having a cold.

23 HEARING OFFICER FRANK: It's all right.

24 SENATOR SHAW: I think maybe that landfill

1 brought this flu I got.

2 AUDIENCE MEMBER: It did.

3 MR. SHAW: But, certainly, I think that  
4 the, they talked about petitions and all of that, and  
5 this is a part of the record, and you had some  
6 question about it. I did present those signatures to  
7 the Board at the hearing here that we had earlier  
8 this year.

9 HEARING OFFICER FRANK: Okay. Then, they  
10 will be in the record before the Pollution Control  
11 Board.

12 SENATOR SHAW: And, those people were in  
13 opposition to the landfill. And, the Board was made  
14 well aware of that. And, their signature was on  
15 those petitions. And, not only that, we mailed them  
16 to the people, and the people thought enough to  
17 return them by mail to me. And, I know there was  
18 great opposition to it. And, over the whole petition  
19 drive, there were some 3000 or 3500 petitions that  
20 were circulated in the community. I think we served  
21 the Board with somewhere around, between 900 and 1000  
22 or maybe 1500.

23 MR. HOULIHAN: Objection, this is really  
24 speaks for itself. Whatever he served the Board or

1 whatever he filed for the record, to go in now and  
2 start citing these kind of numbers one, is not  
3 relevant to this proceeding, and I would ask that it  
4 be stricken.

5 HEARING OFFICER FRANK: Okay. The  
6 Pollution Control Board has the petitions before it.  
7 I will not strike what you have stated because the  
8 evidence is in the record before the Pollution  
9 Control Board. If your numbers are not quite  
10 accurate, they have the accurate numbers. But, if  
11 you could please just continue and give whatever  
12 statement you're here to make.

13 SENATOR SHAW: Okay. The other part of  
14 this is the people. It's not only a landfill for the  
15 Village of Dolton here. I think that an awful lot of  
16 people, residents of Dolton, could understand if it  
17 was just for Dolton. But, we're going to have  
18 garbage coming from as far away as, my understanding,  
19 as DuPage County coming in here. And, I think that  
20 the traffic, and the depreciation of property, and  
21 the need for the landfill, and one of the previous  
22 witnesses talked about the Robbins piece. There is  
23 an operation, the incinerator out there, it's  
24 licensed by the State of Illinois, it's been licensed



1 by the EPA, both the federal, and the state, and the  
2 village. And, I would like to think that our state  
3 departments have common sense enough not to license  
4 an operation like the incinerator that's going to  
5 kill people. And, it's a state of the art equipment.  
6 The people of Robbins want the incinerator there, and  
7 certainly one of the 9 criteria dealing with this is  
8 Robbins Incinerator is about 5 miles away. And, we  
9 could have very easily contracted with them to take  
10 our waste. That was not done. And, I believe that  
11 if the Board looked at the criteria as it relates to  
12 need in this matter, I believe that they will find a  
13 state of the art equipment that their fellow state  
14 employees and agencies has licensed. And, I believe  
15 that the Pollution and Control Board had some say in  
16 that operation, too. Maybe or maybe not, in terms of  
17 the, I know you did in terms of the building of it  
18 and so forth. But, I don't believe that you would  
19 have licensed or ok'd that if it was going to kill  
20 people. And, certainly, it's clear that the need is  
21 not there as it relates to this landfill. And, I  
22 just wanted to make that a part of the record here.

23                   And, the last thing I wanted to do  
24 today was get up here and testify because of the

1 political climate out here. I didn't want to do  
2 that.

3 HEARING OFFICER FRANK: Okay. Are there  
4 any questions? Mr. McLeary?

5 MR. MCLEARY: No.

6 HEARING OFFICER FRANK: Mr. Houlihan?

7 MR. HOULIHAN: No.

8 HEARING OFFICER FRANK: Thank you, Senator  
9 Shaw. Is this anyone else who wishes to speak?

10 MR. THOMAS: I have a point of  
11 clarification.

12 HEARING OFFICER FRANK: Mr. Jefferson, is  
13 that correct?

14 MR. JEFFERSON: No, no.

15 MR. THOMAS: Mr. Thomas.

16 HEARING OFFICER FRANK: I just needed to  
17 make that clear, for the record.

18 MR. THOMAS: Sure. Point of  
19 clarification. Trustee Herzog had mentioned that  
20 there were occasions that the odors were determined  
21 by the fire department that it came from another  
22 source other than the dump. I would assume there  
23 would be records of that. I'd like to have that  
24 record included in the Board, and back to the

1 Pollution Control Board, if that's the case.

2 HEARING OFFICER FRANK: We cannot accept  
3 any new evidence. So, we would not be allowed to  
4 accept that information.

5 MR. THOMAS: Okay. Then, I would suggest  
6 his statement be stricken from the record.

7 HEARING OFFICER FRANK: Okay. The Board  
8 will take into account whether or not its new  
9 information or not. If there is nothing to back it  
10 up, then the Pollution Control Board will give it  
11 whatever weight they deem appropriate. Thank you.

12 Is there anyone else who wishes to  
13 speak?

14 Mr. McLeary, did you have someone you  
15 wish to re-call?

16 MR. MCLEARY: No.

17 HEARING OFFICER FRANK: Is there anyone  
18 else who wishes to speak? Please come up, sir.

19 DENNIS BURNS,  
20 My name is Dennis Burns. I live at 14606  
21 Lincoln.

22 (Witness sworn)

23 Q. Now, I'm opposed to the landfill being  
24 expanded, okay. Personally, okay, but the reasons,

1 okay, I think as citizens, these are all citizens  
2 like I am. We need two questions answered, which  
3 have never been answered really, okay. And, if I ask  
4 these questions, will I get an answer today?.

5 HEARING OFFICER FRANK: You cannot, first  
6 of all, I'm not a witness, so you cannot ask me  
7 questions. You may put questions on the record as  
8 something for the Board to consider in their decision  
9 making process, but there is no one here to answer  
10 your question.

11 MR. BURNS: Well, okay. I'll ask  
12 questions, then. Who would have the last say so  
13 whether they expand the landfill or not? And plus,  
14 if we, the citizens, and I know the citizens who are  
15 against the landfill, we're against the landfill. If  
16 we, the citizens, told our Board to fight this thing,  
17 if we fought it again and again would we ever win?  
18 And, I know that answer, no. Thank you.

19 HEARING OFFICER FRANK: Is there anyone  
20 else? Yes.

21 STATE SENATOR WILLIAM SHAW,  
22 I think it has to be clear here that the  
23 Board had an opportunity, they didn't have to okay  
24 this application. Those of us who serve in state

1 government and the state legislature, we gave the  
2 local authority governing body, which is this Village  
3 Council here, Trustees, we left it up to them to make  
4 the decision for the local residents here. We don't  
5 want to operate government out of Springfield. I  
6 think that needs to be cleared up. But, what  
7 happened here is that the local village officials  
8 made the determination that they wanted, they  
9 accepted the application back in March, voted it out  
10 for a hearing, appointed a hearing officer, which  
11 they did not have to do. They could have denied the  
12 application from the outset. They didn't have to  
13 deal with the application, and I think they're  
14 skirting that issue.

15 MR. HOULIHAN: Objection, that's a complete  
16 misstatement of what the applicable law is. And,  
17 this gentleman, who is a state legislator, ought to  
18 know it. But, this Board was required to hold a  
19 public hearing on this application. And, to get up  
20 here and say that they did not have to do it is  
21 absolutely, blatantly wrong. Before he gets up and  
22 makes these kind of statements, he's obviously a  
23 candidate for Mayor here, he should have the courtesy  
24 not to disparage what this Village did because they

1 had to do it, pursuant to the governing statutes.

2 HEARING OFFICER FRANK: Okay.

3 MR. MCLEARY: Can I respond?

4 HEARING OFFICER FRANK: Wait, hold on just  
5 a moment. I need to say something, and that is that  
6 the Pollution Control Board is charged with  
7 understanding the Environmental Protection Act.  
8 Their sole purpose is appeals under the Environmental  
9 Protection Act. So, we do not need an explanation on  
10 the record as to what the statute says or how the  
11 statute works. If you wish to discuss with your  
12 constituents later how that applies, you may do that  
13 off the record. But, there is no reason to go into  
14 that now.

15 SENATOR SHAW: This is a part of the  
16 original record, Madam Hearing Officer.

17 HEARING OFFICER FRANK: Okay. Then, it  
18 will be in the record before the Pollution Control  
19 Board. But, the statute stands on its own. And, how  
20 the statute applies is not something we need to have  
21 an argument about here.

22 SENATOR SHAW: You're absolutely right, but  
23 the learned counsel over there is wrong, and he knows  
24 he's wrong.

1 HEARING OFFICER FRANK: Senator Shaw,  
2 please, if you have a statement you wish to make  
3 unrelated to how the law works, feel free.

4 MR. MCLEARY: May I respond to his  
5 objection before we proceed on it?

6 HEARING OFFICER FRANK: Mr. McLeary?

7 MR. MCLEARY: I think that counsel  
8 indicated that it was not the responsibility of the  
9 Board, that they did not have the authority to deny  
10 the application. I think that the Board did have  
11 that authority to--

12 MR. HOULIHAN: Objection, that's a  
13 misstatement.

14 MR. MCLEARY: May I complete my statement?

15 HEARING OFFICER FRANK: No, as I said  
16 earlier, the Pollution Control Board is well aware of  
17 the law and how the Environmental Protection Act  
18 works. Disagreements between counsel are not  
19 relevant because it's not relevant to this  
20 proceeding. If you want to make an argument in your  
21 brief as to how the Village Board should have acted,  
22 feel free to do that. But, we do not need to have a  
23 lecture on how the Environmental Protection Act  
24 works.

1           MR. MCLEARY: I was not referring to your  
2 board, I was referring to the initial board that  
3 conducted the hearing.

4           HEARING OFFICER FRANK: And, they are  
5 governed by, the hearing is governed by a process  
6 that's set up in the Environmental Protection Act.  
7 So, let's continue. Senator Shaw, did you have  
8 something you wish to say?

9           SENATOR SHAW: The only other thing that I  
10 wanted to say is the fact that I've spent 14 years in  
11 this community, and certainly representing people.  
12 And, I've always been concerned about what the  
13 citizens want. And, it was clear to me that the  
14 citizens said that they did not want this landfill.  
15 And, I would ask the Board, for you to take back to  
16 the Board, the will of the citizens of this community  
17 and the neighboring communities that, in great  
18 numbers, overwhelming numbers, that the citizens of  
19 this community do not want another 20 years of  
20 landfill in this community.

21           HEARING OFFICER FRANK: Thank you. Are  
22 there any questions for Senator Shaw?

23           MR. MCLEARY: No questions.

24           HEARING OFFICER FRANK: Yes, ma'am. Please



1 come up and restate your name. Are you Ms. McDuffie?

2 SHERRIE ANN MCDUFFIE

3 MS. MCDUFFIE: Yes, I am. What my  
4 understanding, I'm not a lawyer and I'm not a  
5 politician. My understanding is that the Board had a  
6 set of criteria that they had to look at in regard to  
7 the proposal to expand. And, that set of criteria  
8 that is established by the state excludes the  
9 residents feelings and opinions and concerns.  
10 Therefore, the Board made a decision, based on the  
11 state's standards of exception. And now, we're  
12 asked, and all along you have a hearing going on  
13 that's constantly asking the residents to express how  
14 they feel. Why are we asked to express how we feel  
15 if the Board is not going to use our feelings as a  
16 way to measure whether or not this proposal should be  
17 passed? Do you understand what I'm saying? I mean,  
18 there seems to be, there seems not to be an  
19 understanding, first of all, as to how to pass the  
20 proposal. And then, second of all, it seems to be a  
21 false impression that the residents concerns mean  
22 anything. So, we need clarification on that. Either  
23 we mean something or we don't. Either the Board uses  
24 our feelings and our concerns to measure whether or

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1 not that proposal gets passed, or they don't. Let us  
2 know. Explain.

3 HEARING OFFICER FRANK: Thank you. Is  
4 there anyone else who wishes to speak?

5 JUDITH EVANS,

6 My name is Judith Evans, E-v-a-n-s.

7 (Witness sworn)

8 I'd like to make several statements here.

9 One is on the health issue that was presented by Land  
10 and Lakes. I feel that this Board here never checked  
11 into any one issue regarding the Land and Lakes  
12 issue. We heard what they presented. They had years  
13 to prepare their testimony to present to this Board,  
14 which our board did not take any issues at hand.

15 We had people speak on property value,  
16 which is another issue and criteria for the hearing,  
17 if I'm not mistaken. And I know, personally, from  
18 daily activity, that property values have dropped in  
19 that area. The issue of traffic is another problem  
20 which was also presented by them that was  
21 inconclusive as to how many trucks and how much  
22 traffic would increase in this area. I live at 14224  
23 Ellis, which is about a half mile from the actual  
24 landfill that, the existing landfill. The expansion

1 is going to go maybe a mile down from where it is,  
2 which is going to reach a park which is being  
3 upgraded daily by the Dolton Park District. It's a  
4 problem as far as property values. I see them  
5 changing. I have known property transfers on my  
6 block, the last two homes lost almost \$15,000 in  
7 property value. And, it can be checked through the  
8 local real estate companies and through the papers  
9 that report on property values changing. My house  
10 now shakes and rattles. The windows and the  
11 foundation shakes and rattles from the numerous  
12 trucks that are exiting off of the Calumet Expressway  
13 at 142nd Street. So, 10 years from now, or 5 years  
14 from now, or a year from now, when I prepare to sell  
15 my home, I will not get what my next door neighbor  
16 got, I will not get what the lady across the street  
17 got, and the four properties are identical in nature.  
18 So, therefore, as far as what was presented to this  
19 board and was not investigated by the Village Board  
20 is highly inappropriate, and the expansion should be  
21 denied based on that.

22 HEARING OFFICER FRANK: Mr. McLeary, do you  
23 have any--

24 MR. MCLEARY: No questions.

1 HEARING OFFICER FRANK: Mr. Houlihan?

2 MR. HOULIHAN: Just a couple of questions.  
3 What's your understanding, is it Ms. or Mrs. Evans?

4 A. Mrs.

5 Q. All right. Mrs. Evans, as far as what  
6 the south boundary of the landfill--

7 A. Pardon me?

8 Q. What's the southern boundary of the  
9 landfill?

10 A. I'm not familiar what you mean. I know  
11 it goes from 138th Street and it's going to go all  
12 the way down to Dante Avenue.

13 Q. And, what's the land use which is  
14 immediately east of this property?

15 A. It's, for right now, it's Safety Clean  
16 over in that area.

17 Q. Isn't Safety Clean to the west on Cottage  
18 Grove?

19 A. I'm not good with directions, I have no  
20 clue. All I know, it's all an industrial area.

21 Q. So, that the area in which the landfill  
22 is situated is currently a heavy industrial area, is  
23 that correct?

24 A. Somewhat.

1 Q. All right. And, isn't the land use to  
2 the east, the immediate east land use, isn't that the  
3 marina, is that your understanding?

4 A. Again, I'm not good with directions. If  
5 you could draw it, I could tell you what you're  
6 speaking of.

7 Q. Do you know what the marina is, do you  
8 know --

9 A. Yes, I do.

10 Q. And, you were present during the hearing  
11 here in the village in June?

12 A. Yes, every night.

13 Q. And, you were here when it was placed  
14 into evidence, the letter of support for this  
15 expansion from the marina?

16 A. Yes, I was.

17 Q. Were you here also when the letters --

18 A. But, I don't recall what was in that  
19 letter.

20 Q. But, you do remember that the marina, as  
21 the most approximate property owner, did testify or  
22 did submit a letter in support of this application?

23 A. I don't remember the contents of that  
24 letter. I just remember the mention of a letter.

1 HEARING OFFICER FRANK: Mr. Houlihan, the  
2 letter is in the record.

3 MR. HOULIHAN: Okay. I have no further  
4 questions of this witness.

5 HEARING OFFICER FRANK: Mr. McLeary?

6 MR. MCLEARY: I do.

7 EXAMINATION

8 BY MR. MCLEARY:

9 Q. Do you know whether or not anybody lives  
10 at that marina?

11 A. No, I don't. I know it's not filled most  
12 of the time, neither. I do drive by there on a  
13 regular basis, and there's not much activity there.

14 Q. But, it's not a residence at that marina,  
15 is that correct?

16 A. No.

17 Q. And, so that would just be one business  
18 there and not used on a daily basis by anyone's  
19 living and sleeping at that location, is that  
20 correct?

21 A. Not to my knowledge.

22 MR. MCLEARY: I have no other questions.

23 HEARING OFFICER FRANK: Mr. Houlihan?

24 MR. HOULIHAN: Nothing further.

1 HEARING OFFICER FRANK: Okay, thank you.  
2 We're going to go off the record and take a 10 minute  
3 break so we can discuss briefing schedules.

4 (OFF THE RECORD)

5 HEARING OFFICER FRANK: We're going back on  
6 the record to set the briefing schedule. As I've  
7 noted before, the Board's decision in this case will  
8 probably be rendered at its board meeting on January  
9 23rd. Even though the case is officially due on  
10 February 5th, there is no board meeting prior to that  
11 date, except for the January 23rd board meeting.  
12 Based on that, the parties have agreed to the  
13 following schedule: They are going to file  
14 simultaneous briefs on January 2nd, no later than  
15 4:30 in the afternoon. The parties have also agreed  
16 that they will serve each other no later than 4:30 in  
17 the afternoon. That may be by fax, Federal Express,  
18 hand delivery, or regular mail. But, the opposing  
19 party must have the brief by 4:30 on January 2nd.  
20 The parties have agreed that they will file  
21 simultaneous responsive briefs. If they choose to  
22 file any response brief, on January 6th, this brief  
23 is due to the Pollution Control Board no later than  
24 10:00 o'clock in the morning. The parties may mail

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1 it to each other or get it to each other however you  
2 wish because, at that point, there won't be another  
3 response.

4 HEARING OFFICER FRANK: So, you know, I'd  
5 like you to get it as quickly as you can. But, it  
6 doesn't have to be in their hand at 10:00 o'clock.  
7 But, it does have to be in the Board's hands by 10:00  
8 o'clock on January 6th. And, that can occur however  
9 you choose to get the brief there. And, the  
10 Pollution Control Board's offices are, for filing are  
11 the Chicago office. I'm also setting a public  
12 comment period. If anyone from the public wishes to  
13 submit anything in writing, they must do so by  
14 January 2nd at 4:30. This would allow both sides an  
15 opportunity to respond to any public comments in  
16 their response briefs. Public comments are not  
17 accepted by fax. So, if you want to send a public  
18 comment, you must do so by putting it in the mail and  
19 getting it to the Board's offices.

20 MS. HARVEY: Madam Hearing Officer, for  
21 the record, the public comments will be filed at the  
22 Pollution Control Board, not at the Village of  
23 Dolton.

24 HEARING OFFICER FRANK: Yes, they will be

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1 filed with the Pollution Control Board. The address  
2 is 100 West Randolph Street, Suite 11-500, Chicago,  
3 Illinois, 60601. And, you can send them attention to  
4 Adeleen Hogan, H-o-g-a-n. And, if anybody has any  
5 questions about filing, you can talk to me afterwards  
6 and I'll be happy to answer them.

7 Is there anything else from the attorneys?

8 MR. DEYOUNG: Yes. The public comments,  
9 are they also to be served upon all parties of  
10 records?

11 HEARING OFFICER FRANK: It's my  
12 understanding that the Board copies them and gets  
13 them out to the parties. If you're concerned in time  
14 for your January 6th brief, you may want to come down  
15 to the Chicago office and look at the file because  
16 you may not receive them.

17 Is there anything else?

18 MR. HOULIHAN: Just briefly, for the  
19 record, we are here in a Respondent's posture as the  
20 Appealee in this proceeding. We're not calling  
21 witnesses in this proceeding. I gather what we were  
22 doing was relying on the record. And, we will  
23 advance our arguments in the briefs that will be  
24 submitted to the Board.

1 HEARING OFFICER FRANK: Do either party, I  
2 should have asked this. Do either one of you want to  
3 make a closing statement, or do you want to reserve  
4 that for your brief?

5 MR. HOULIHAN: I would just as soon reserve  
6 it for the brief.

7 HEARING OFFICER FRANK: Mr. McLeary?

8 MR. MCLEARY: That will be our position  
9 also.

10 HEARING OFFICER FRANK: Mr. DeYoung?

11 MR. DEYOUNG: Yes.

12 HEARING OFFICER FRANK: Is there anything  
13 else we need to cover, then? Okay.

14 Thank you all for coming, and you  
15 should know probably January 23rd. Thank you.

16 (WHEREUPON, the hearing was adjourned at  
17 approximately 11:25)

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CERTIFICATION

I, VERNETTA MCCREE, A Certified Shorthand Reporter doing business in the State of Illinois, certify that I reported in shorthand the testimony taken in the above-entitled matter, and that this constitutes a true and accurate transcription of my shorthand notes so taken as aforesaid.

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VERNETTA MCCREE  
CSR #084-001830

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