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A P P E A R A N C E S

STATE OF ILLINOIS, OFFICE OF THE ATTORNEY  
GENERAL

BY: Thomas Davis, Esq.  
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On behalf of the People of the State of  
Illinois.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

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On behalf of the Illinois EPA.

HEYL, ROYSTER, VOELKER & ALLEN

BY: William J. Becker, Esq.  
103 North Main Street, Suite 100  
Edwardsville, Illinois 62025  
On behalf of Respondent.

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I N D E X

WITNESS	PAGE NUMBER
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E X H I B I T S

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P R O C E E D I N G S

(March 18, 1997; 9:55 a.m.)

HEARING OFFICER WALLACE: Pursuant to the direction of the Illinois Pollution Control Board, I now call docket PCB 97-111. This is the People of the State of Illinois versus John Prior and Industrial Salvage, Inc.

May I have appearances for the record, please, for the State.

MR. DAVIS: Thomas Davis, Illinois Attorney General's office.

MR. RICHARDSON: Greg Richardson, the Illinois EPA.

HEARING OFFICER WALLACE: And for the respondent?

MR. BECKER: Bill Becker for John Prior. I am with Heyl, Royster, Voelker & Allen.

HEARING OFFICER WALLACE: Thank you. Let the record reflect there are no other appearances at today's hearing.

Just prior to going on the record, Mr. Becker handed the Hearing Officer his entry of appearance with copies also going to the Clerk of the Board. Thank you, Mr. Becker. And also a

1 motion to continue.

2           To bring the record up-to-date, Mr.  
3 Davis, Mr. Becker, and I had a short teleconference  
4 yesterday, the 17th, wherein Mr. Becker indicated  
5 that he had just been retained by Mr. Prior and  
6 requested a continuance. Mr. Davis objected to  
7 that continuance. At that time I orally ruled to  
8 deny the motion to continue, and we are present  
9 here today.

10           In regard to the written motion, Mr.  
11 Davis, do you have any further comments you want to  
12 make on the record on this written motion?

13           MR. DAVIS: Yes. Thank you, Mr. Hearing  
14 Officer.

15           The complaint was filed December 20th,  
16 1996, and in paragraph two of count one it  
17 references what we used to call enforcement notice  
18 letters, and indicates that a letter was issued to  
19 the respondent on November 8, 1996. This is,  
20 obviously, a prefiling notice. Once the complaint  
21 was filed, we complied with the service  
22 requirements of the Pollution Control Board and  
23 served, by certified mail, a copy of the complaint  
24 on Mr. Prior and the corporation. We have proof of

1 that.

2                   And, once again, in accordance with Board  
3 rules on December 30th, 1996, we mailed to the  
4 Board, a copy of the executed certified mail  
5 receipt. This was presumably filed with the Board  
6 either December 31st or perhaps January 2nd of  
7 1997. This indicates, and I realize you may not  
8 have it in front of you, but I would represent that  
9 it indicates that the complaint, by certified mail,  
10 was received by a person who signed as Betty  
11 Prior. I would anticipate that this would be  
12 perhaps the spouse of John Prior.

13                   The date of delivery was December 21st,  
14 1996. I can represent, as an Officer of the Court,  
15 so to speak, that we received no response to the  
16 enforcement notice letter in early November. And  
17 we have received, until just a few days ago, no  
18 contact whatsoever in reaction to the complaint.

19                   Now, that sort of addresses the first few  
20 contentions in the motion to continue. As to the  
21 last contention in paragraph five, I can also  
22 represent, as an Officer of the Court, that I was  
23 counsel in that prior proceeding.

24                   The Board number is PCB 93-248 and, in

1 fact, during the presentation of our evidence I  
2 will be asking the Board to take official notice of  
3 that case. I do know that once the order was  
4 issued by the Board July 7, 1995 an appeal was  
5 timely taken to the Fifth District Appellate  
6 Court.

7 I have been attempting to track the  
8 progress or maybe the lack of progress of that  
9 appeal. It is being handled by an Assistant  
10 Attorney General by the name of Daniel Mulatto  
11 (spelled phonetically) in our Chicago office. So I  
12 am not directly involved, but I am familiar with  
13 the content and substance of the previous  
14 proceeding, and I can represent that the  
15 groundwater violations at issue in this complaint,  
16 97-111 are different, in my view, from 93-248.

17 In fact, the only overlap would be that  
18 both sets of violations did and do threaten and  
19 cause environmental injury. In the previous case  
20 we had proof of surface water contamination. Here  
21 we intend to provide proof of groundwater  
22 contamination. I don't want to say that they are  
23 totally dissimilar, but I do think that the new  
24 complaint has new violations. Once again, we would

1 object to the motion to continue.

2 HEARING OFFICER WALLACE: Mr. Becker,  
3 anything further?

4 MR. BECKER: On behalf of Mr. Prior, with  
5 respect to the motion to continue, with respect to  
6 the enforcement letter I received, the enforcement  
7 letter dated November 8th, 1996, and it was  
8 addressed to Mr. John Prior in care of Industrial  
9 Salvage, in care of Mr. William Becker, Heyl,  
10 Royster, Voelker & Allen in Edwardsville. And,  
11 frankly, when I got it, I looked at it and I  
12 thought John Prior had received a copy.

13 Mr. Prior at that time wasn't, in effect,  
14 hiring us to do anything and, frankly, wasn't  
15 paying us. I thought, well, John has got a copy of  
16 this, he will call us. That's the last I thought  
17 about it until I received a phone call from John  
18 Prior on March 7th indicating that there was some  
19 hearing which, in fact, turns out to be this  
20 hearing, and asking me what I knew about it.

21 At that point in time I went back and got  
22 this and looked at the letter and called up John  
23 and said, well, what is going on. He said he  
24 hadn't received anything. Mr. Prior advises me



1 that contrary to what Mr. Davis has from the  
2 certified mail, that he hadn't received anything, a  
3 copy of a complaint, or anything like that.

4           So on March 14th, I believe it was, I  
5 called the Attorney General's office and asked for  
6 a copy of the complaint, which they provided me on  
7 March 14th, by fax. And that was my first  
8 awareness of the complaint. I can't speak to  
9 whether or not Mrs. Betty Prior, which is John's  
10 wife, signed that or not. All I can tell you is  
11 that at the time I become involved I get a copy of  
12 the complaint on March 14th from the Attorney  
13 General's office, which they provided.

14           You know, simply at that point in time we  
15 were not prepared to address the substantive motion  
16 or the merits in any substantive fashion. That's  
17 the reason for the first part of the motion to  
18 continue. And we talked a little bit about that  
19 yesterday. I really don't have a whole lot more to  
20 say about that. But I think I made a record on  
21 that point.

22           The second part of it is substantively on  
23 the motion to continue. I have read through the  
24 complaint that is filed in this case, PCB 97-111,

1 and I am not prepared to tell the Hearing Officer  
2 that the charges are exactly the same as what was  
3 in the old hearing, Number 93-248. I suspect that  
4 if it is fairly read that you could find some  
5 things that were different, and I am not here to  
6 challenge, in any significant way, all of the  
7 substantive things that are raised. So to that  
8 point, I don't know that I can disagree with Mr.  
9 Davis.

10 I do think, however, that the -- I will  
11 ask that the Hearing Officer take notice of what  
12 happened at the prior hearing. The main thrust of  
13 John Prior's defense at the prior hearing was that  
14 he was not operating the landfill at the time all  
15 of these violations occurred in 93-248. And I  
16 think, simply put, because John was the owner he  
17 was found to be the operator by the Pollution  
18 Control Board, and there are other people involved  
19 that have been buying the property, and some sort  
20 of contract for deed or litigation that ultimately  
21 got John Prior the property back, but I think in  
22 large part you could take the position,  
23 justifiably, that a lot of the violations occurred  
24 when somebody else was actually there physically

1 operating the facility.

2           Whether John is an operator within the  
3 meaning of the statute was questioned, and we put  
4 on a lot of evidence to show that he simply wasn't  
5 there and had no day-to-day involvement with it.  
6 And the Pollution Control Board disagreed with us  
7 on that and held that he was an operator, and  
8 issued their order. That is on appeal. There were  
9 some other things that were involved in the earlier  
10 case. There are allegations that he was operating  
11 a landfill without a permit, and we generally took  
12 the position that he couldn't do anything -- they  
13 wanted us -- the EPA wanted us to take activity and  
14 when we would take activity they would charge us  
15 with then operating a landfill without a permit.  
16 We thought we were sort of in a catch 22  
17 situation.

18           The last order seems to say that he  
19 can -- this is interpreted broadly -- it seems to  
20 say that he can operate the landfill for the  
21 purpose of closing it. Since that order he hasn't  
22 really done anything at the landfill because, one,  
23 the case is on appeal and, two, he does not have  
24 the wherewithal to do it. So that's where that

1 is.

2           With that whole background, I think this  
3 case is going to raise issues about whether or not  
4 the groundwater is contaminated. I am not here to  
5 challenge a lot of that. I think the main issue  
6 will be, like I said earlier, from our point of  
7 view, whether or not he is, in fact, an operator.  
8 That issue is before the Court, as I still  
9 understand it, with respect to the appeal. What  
10 happened is the case went up on appeal, and Mr.  
11 Prior was in bankruptcy. We asked the Appellate  
12 Court to stay the matter, because of the  
13 bankruptcy.

14           In the bankruptcy litigation there was  
15 motions raised to say that any obligation to clean  
16 up the landfill was essentially discharged by the  
17 bankruptcy. I think Tom, on behalf of the Attorney  
18 General's office, took the position that they were  
19 not entitled to penalties or forfeitures for things  
20 that occurred prior to the bankruptcy, but that  
21 the -- it could still enforce the injunctive part  
22 of the orders requiring him to clean it up. The  
23 bankruptcy court went along with the Attorney  
24 General's position and said that he has an

1 obligation to clean it up or didn't so much say  
2 that, but said it was not a debt that could be  
3 discharged in bankruptcy.

4           So I guess the thing is still before --  
5 that was not appealed. It is still before the  
6 Appellate Court. Because of the same kinds of  
7 defenses that he has that are before the Appellate  
8 Court that we would raise today, we think that it  
9 is close enough to the same kind of a proceeding,  
10 and that it should be continued.

11           HEARING OFFICER WALLACE: I am going to  
12 still deny the motion to continue. I understand,  
13 Mr. Becker, that Mr. Prior has placed you in an  
14 awkward situation by waiting until the very last  
15 minute to give you any information. The materials  
16 that I have indicate that Mr. Prior was informed of  
17 the complaint, and notice of this hearing was sent  
18 out by myself on January 31 and the clerk of the  
19 court published notice, I believe, in the Morning  
20 Sentinel in Centralia, also giving notice of this  
21 hearing. By your representations I believe Mr.  
22 Prior was aware of the upcoming hearing and  
23 probably should have taken some steps.

24           MR. BECKER: He was at least aware of it

1 by March 7th, because that is when he called me on  
2 the telephone, I can represent as fact to the  
3 Court. When he received the notice, I don't know.  
4 I am not sure what is in the court file on that.

5 HEARING OFFICER WALLACE: In terms of  
6 staying this matter pending the Appellate Court  
7 action, I would also -- I would deny that and that  
8 aspect may very well be brought up with the full  
9 Board, if you would like. I think that what we  
10 will do today is at least go ahead with Mr. Davis'  
11 witness. Then if you want a continuance at that  
12 time to prepare further defense we will do that.

13 MR. BECKER: Okay.

14 MR. DAVIS: The only thing I could add,  
15 Mr. Hearing Officer, to complete the record, is  
16 that The People held off on filing this complaint.  
17 The evidence, as you will hear, indicates that the  
18 groundwater sampling was done in the summer of  
19 1994, and it took some time to generate a report  
20 and to analyze the information. So we could have  
21 perhaps filed this complaint in the summer of  
22 1995. In essence, we held off for about a year and  
23 a half hoping the Appellate Court would be able to  
24 rule upon some of these issues.

1                   But other than that, I sort of agree with  
2 Mr. Becker regarding his representations on the  
3 bankruptcy case. It wasn't like we weren't busy.  
4 But here we are, December 1996, filing and I concur  
5 with your assessment. We should at least go ahead  
6 and put our evidence on, and then if we do have to  
7 break and resume later that is fine.

8                   HEARING OFFICER WALLACE: All right. Any  
9 other preliminary matters other than the motion to  
10 continue?

11                   MR. BECKER: Not for us, Your Honor.

12                   MR. DAVIS: Nor us.

13                   HEARING OFFICER WALLACE: Do you wish to  
14 make an opening statement, Mr. Davis?

15                   MR. DAVIS: Yes. Thank you. Perhaps we  
16 have already talked about some of what I might say  
17 in an opening. This is not the first time we have  
18 taken Mr. Prior and his company, Industrial  
19 Salvage, before the Board on complaints regarding  
20 these three landfills.

21                   I do, at this time, ask the Board to take  
22 official notice of its own records, that being  
23 specifically the final order dated July 7, 1995, in  
24 the case of The People of the State of Illinois

1 versus John Prior and Industrial Salvage, Inc., PCB  
2 93-248. I am not necessarily asking the Board to  
3 incorporate the record from that proceeding, as far  
4 as evidence and testimony. That record is  
5 adequately summarized within the Board's final  
6 order from July of 1995.

7           What we have before us this morning in  
8 PCB 97-111 fairly characterizes a follow-up  
9 action. At the point in time in August of 1994,  
10 when we had the enforcement hearing in the previous  
11 case, the Agency had just a few weeks earlier done  
12 the groundwater investigation that will be  
13 discussed and testified to in this case. However,  
14 the results of that investigation were not  
15 available, and we didn't plead those types of  
16 allegations regarding groundwater contamination  
17 specifically and we could not, obviously, present  
18 the evidence that we will present today.

19           However, there was some reference to a  
20 concern on the part of the Illinois EPA and the  
21 Attorney General's office. That concern directly  
22 relates to those previous violations regarding lack  
23 of closure, poor site maintenance, violations of  
24 permit requirements, leachate flows, a multitude of



1 problems, gas emissions, for instance, all of which  
2 were indicative of operational problems and total  
3 neglect after the landfill ceased operating toward  
4 closure and post-closure requirements. We will  
5 hear evidence this morning that that included the  
6 failure to do any groundwater monitoring except for  
7 a very short period of time in, I believe, 1992  
8 when Mr. Prior was attempting to get an operating  
9 permit from the Agency.

10           That previous proceeding we focused on  
11 environmental injuries and impacts and further  
12 threats of pollutional discharge. The Board was  
13 apparently convinced by that clear and compelling  
14 evidence, and in its lengthy order from July 7,  
15 1995, the Board at least thought that it was  
16 ordering Mr. Prior to take immediate actions to  
17 correct those problems. The word immediate was  
18 used several times within this order.

19           The expectation has not been fulfilled.  
20 The landfills have remained pretty much as they  
21 were at the point in time when we presented our  
22 evidence in the previous case. The fear that we  
23 may have expressed during the previous proceeding,  
24 and I did not review the transcript, but I think it

1 is fair to say that we had concerns about the  
2 groundwater, and we just didn't have evidence. So,  
3 in essence, here we are now with that evidence.

4           The reasons why it has perhaps taken so  
5 long to get to this point have already been alluded  
6 to by myself and Mr. Becker in our arguments on the  
7 motion to continue. I would only note that it is  
8 the obligation of the owner, that being Mr. Prior  
9 and Industrial Salvage, Inc., to take up when the  
10 operator leaves, abandons the site, and this is  
11 still our legal position, that Mr. Prior and his  
12 company are still responsible for preventing  
13 further impacts to the groundwater and correcting  
14 those impacts which we have documented. That's the  
15 type of relief we are going to be seeking, and  
16 that's what has been plead in the complaint.

17           Mr. Prior and his company are both now  
18 out of bankruptcy, and in our complaint we do  
19 allude to the fact that penalties are warranted  
20 under the statute. In our briefs we can discuss  
21 perhaps the intertwined issues of whether there is  
22 an ability to pay a penalty, whether it would serve  
23 any purpose, and whether it would be justified  
24 under Sections 33 C and 42 H and so forth.

1                   But it is clear that the relief that we  
2                   obtained in the previous proceeding, regardless of  
3                   whether the appeal is pending, that relief was  
4                   revocation of developmental permit. That is only a  
5                   step on the road toward total compliance, and if it  
6                   takes monetary penalties to encourage action on the  
7                   part of Prior and his company, then the Board  
8                   should do that.

9                   We will more fully develop these  
10                  arguments in our briefs, but I didn't want to leave  
11                  anyone with the impression that we are, at this  
12                  time, in 1997, foregoing, as we did back in 1994,  
13                  the ability to seek penalties. That was a tactical  
14                  decision based upon whether or not we might have to  
15                  go into the bankruptcy court and seek a relief from  
16                  the automatic stay and so forth. Those legal  
17                  issues, in my mind, have been resolved. But as a  
18                  tactical decision we asked then in PCB 93-248 that  
19                  the Board focus on compliance measures, corrective  
20                  actions, revocation of permit, and we wouldn't  
21                  bother with penalties. Here we are now asking for  
22                  penalties.

23                  We have one witness from the EPA, and  
24                  there is no need to summarize that testimony. We

1 have one exhibit, and there again, it will speak in  
2 large measure as to the comprehensiveness of the  
3 Agency's investigation, so there is no need to  
4 attempt to summarize that.

5           What we have in the complaint is, in my  
6 view, rather extensive groundwater impacts, in our  
7 view, attributable to the landfills. And the end  
8 result of all of this is that corrective action is  
9 required under Part 620 and the only entities that  
10 we can look to would be John Prior and Industrial  
11 Salvage, the still owners of these sites. Thank  
12 you.

13           HEARING OFFICER WALLACE: Mr. Becker, do  
14 you wish to make an opening statement or reserve  
15 that for later?

16           MR. BECKER: I think that I can probably  
17 save time by reserving it. Essentially, for  
18 today's hearing, it would be our position, and we  
19 would stand on some of the legal arguments we have  
20 already raised, to the extent that Mr. Prior wants  
21 to offer evidence. And like I have told everyone  
22 before, I am not prepared to respond to that  
23 substantively.

24           Having said that, to the extent that I

1 can make this hearing go shorter by agreeing to  
2 summaries or agreeing to the introduction of  
3 exhibits, I am happy to entertain any suggestions  
4 anybody has. I am not going to try to grill the  
5 witness or anything like that, because I don't have  
6 anything at this point to say. I would be wasting  
7 everyone's time.

8 HEARING OFFICER WALLACE: All right.  
9 Well, I think since we have the witness here, we  
10 might as well -- you don't have a written statement  
11 of her testimony?

12 MR. DAVIS: No. We would prefer to play  
13 it out, so to speak. It is good experience for all  
14 of us.

15 HEARING OFFICER WALLACE: So maybe she  
16 should be grilled later then?

17 (Laughter.)

18 MR. DAVIS: Well, we could discuss that  
19 off the record.

20 (Laughter.)

21 MR. BECKER: Off the record.

22 (Discussion off the record.)

23 HEARING OFFICER WALLACE: All right,  
24 then. Let's proceed.

1 Call your first witness, please.

2 MR. DAVIS: Okay. We would call Connie  
3 Letsky.

4 (Whereupon the witness was  
5 sworn by Hearing Officer  
6 Wallace.)

7 MR. DAVIS: We would ask that our exhibit  
8 be marked as Exhibit Number 1.

9 (Whereupon said document was  
10 duly marked for purposes of  
11 identification as People's  
12 Exhibit 1 as of this date.)

13 C O N N I E L E T S K Y,  
14 having been first duly sworn by the Hearing  
15 Officer, saith as follows:

16 DIRECT EXAMINATION

17 BY MR. DAVIS:

18 Q Ma'am, would you state your name and  
19 spell your last name.

20 A Connie Letsky, L-E-T-S-K-Y.

21 Q And by whom are you employed?

22 A The State of Illinois Environmental  
23 Protection Agency.

24 Q How long have you been with the Illinois

1 EPA?

2 A Since June of 1992, so four and a half  
3 years.

4 Q And can you tell us what your present  
5 position is and describe briefly the duties  
6 involved?

7 A My title is Environmental Protection  
8 Specialist, and basically I work for the Field  
9 Operation Service, so I am -- or Field Operation  
10 Section, so that I am an inspector in the field at  
11 various solid waste facilities.

12 Q And within the Bureau of Land are you  
13 assigned to any specific region?

14 A I am assigned to the Collinsville region,  
15 and I believe we cover nine different counties in  
16 southwestern Illinois.

17 Q Connie, can you summarize your education  
18 for us?

19 A I have a Bachelor's Degree in Geology.

20 Q From which institution?

21 A From Bradley University in Peoria.

22 Q A very good school, I understand.

23 A Yes.

24 Q And since joining the Agency in 1992,

1 have you had sort of on-the-job training, if you  
2 will?

3 A Right. Yes. I have gone out with others  
4 when they would be inspecting to observe how they  
5 conduct inspections. We have different training  
6 sessions on conducting inspections.

7 Q Have you had any training, whether at  
8 Bradley University or provided by the State EPA,  
9 regarding groundwater issues?

10 A Yes, I took -- groundwater was in some of  
11 the classes in my studies at Bradley, and I have  
12 done some groundwater training with the Agency, as  
13 well.

14 Q Okay. Connie, have you had occasion to  
15 go to Marion County and inspect the Centralia  
16 landfills?

17 A Yes, on various occasions. Sometimes I  
18 have gone as an observer, and other times the  
19 inspector and project manager.

20 Q Now, by Centralia landfills, do you  
21 understand me to mean what the Agency has  
22 identified as the Prior Black Well, the Prior 1, 2,  
23 3 and 4 and then the Centralia Environmental  
24 Services or Industrial Salvage sites?



1           A     That's exactly what I would mean it to  
2 be, the three sites of the Centralia sites.

3           Q     And would it be fair to say that it is  
4 your understanding that John Prior and/or  
5 Industrial Salvage, Incorporated, would be the  
6 owners of these three sites, collectively or  
7 individually?

8           A     That's how I would understand it from my  
9 file research, yes.

10          Q     Now, what does your file research entail?

11          A     Well, I have gone through all of the  
12 records and I have read the history of the  
13 different permits that have been held at the three  
14 sites. I have read through ownership and  
15 operations, operators, and I have looked through  
16 all the inspection reports, and I have looked  
17 through the supplemental permits for the special  
18 waste streams throughout the history of the site.

19          Q     Is it your understanding that these sites  
20 have had enforcement actions in the past?

21          A     Yes.

22          Q     And is it also your understanding that  
23 there have been permit appeals regarding some of  
24 these sites?

1 A Yes.

2 Q Are the files that you have reviewed, in  
3 your view, voluminous?

4 A Yes.

5 Q Okay.

6 A But then there is three sites, too.

7 Q Certainly. Would it also be fair to say  
8 that the Centralia Prior Black Well and the  
9 Centralia Prior 1, 2, 3 and 4 are rather small  
10 sites and the third one, the Centralia  
11 Environmental Services is a larger site?

12 A That's correct.

13 Q Would it also be fair to say that those  
14 first two had ceased operating, say, in the mid  
15 1980s while the third one, the Centralia  
16 Environmental Services site, had continued  
17 operating up until about 1990?

18 A That's correct.

19 Q Let me focus your attention now on the  
20 time period of June and July of 1994. Did you have  
21 occasion to visit the Centralia Prior landfills?

22 A Yes, I was project manager and conducted  
23 a groundwater inspection at those three facilities.

24 Q Let me show you what we have marked as

1 People's Exhibit Number 1. Have you seen this  
2 document before?

3 A Yes.

4 Q Is it a compilation of various memos, lab  
5 reports, maps and other documents?

6 A That's correct. This is the report  
7 generated from my June and July groundwater  
8 inspection.

9 Q Were you responsible for the generation  
10 of the memos and the reports and the compilation of  
11 the other documents within Exhibit 1?

12 A That's correct. Yes, I was.

13 Q So this is your work product?

14 A Yes.

15 Q Now, as to the groundwater sampling  
16 inspection or investigation, as we have called it,  
17 did others from the Agency accompany you?

18 A Yes, I had other people who serve on the  
19 groundwater -- at that time the groundwater  
20 enforcement unit, accompany me. We assist each  
21 other throughout the different regions.

22 Q Were some of these colleagues of yours  
23 also geologists, as yourself?

24 A That's correct. I believe they all are.

1 Q What was the purpose of this and similar  
2 inspections during 1994?

3 A To sample the groundwater at whatever  
4 facility we are at.

5 Q And did you participate in this type of  
6 an investigation yourself at other landfills?

7 A Yes, throughout the State. I have  
8 assisted at the other regions at various times.

9 Q Did each of these investigations employ  
10 the team approach that you have alluded to here?

11 A That's correct. We do operate as a team.

12 Q And how many -- just roughly, how many  
13 other landfills did the Agency investigate that  
14 summer?

15 A Besides this Centralia site, I believe we  
16 investigated seven others.

17 Q And were these investigations in the  
18 regular course of the Agency's business?

19 A Yes, that's correct. We were focusing in  
20 on Groundwater Regulations and the Groundwater Act.

21 Q Would it be fair to term this as a  
22 compliance investigation?

23 A Yes, it was a compliance inspection.

24 Q Why were these landfills in Centralia

1 selected?

2           A     Because the facilities had not submitted  
3 any monitoring data on their groundwater wells  
4 since 1989 in most cases, except for a few select  
5 wells were monitored for a short time in 1992 and  
6 1993.

7           Q     Would it be fair to say, Connie, that  
8 your team -- well, first of all, did you indicate  
9 you were the project manager?

10          A     Yes, that's correct, for this sampling  
11 site.

12          Q     So, in essence, you were the team leader  
13 for this investigation?

14          A     That's correct.

15          Q     Would it be fair to say that you and your  
16 team utilized existing monitoring wells?

17          A     Yes, we did.

18          Q     How many wells were you able to obtain  
19 samples from, just roughly?

20          A     Oh, let's see here. There should have  
21 been 15 wells. Let's see here. We found 12 and  
22 attempted to sample 11. But one we couldn't get  
23 much from. So we really obtained good samples from  
24 10.

1 Q Okay. Did it appear to you that these  
2 wells, as a group, had been properly maintained?

3 A No, they are not properly maintained.  
4 They are in violation of their permits on -- even  
5 on the -- on their construction, they are not  
6 properly constructed.

7 Q Are there also regulatory and permit  
8 requirements regarding such things as access,  
9 security, keeping them locked, and so forth?

10 A That's correct. There are regulations on  
11 that, and it is written into the site permits on  
12 the maintaining access and keeping them locked and  
13 with protective outer cases, and the wells don't  
14 have that.

15 Q Now, you had mentioned that you had  
16 located 12 of the 16 wells. Am I to understand  
17 that you couldn't find the others?

18 A 12 of the 15.

19 Q Okay, 15.

20 A That's correct. We couldn't even find  
21 the other three, and then the one was overgrown  
22 with poison ivy so densely that we could not  
23 approach it.

24 Q So you didn't feel, as team leader, you

1 could assign one of your colleagues to go to that  
2 well?

3 A That's correct.

4 Q Seriously, as to the three so-called  
5 missing wells, would you agree that these three  
6 wells were required by permits?

7 A Those three wells are required by  
8 permits, and there are an additionally required  
9 three more wells required by the permits that have  
10 never been installed at the site.

11 Q Okay. First of all, as to the so-called  
12 three missing wells, do the permits require that in  
13 the event a well cannot be used that it be  
14 replaced?

15 A That's correct.

16 Q And as to the three additional wells, is  
17 it your testimony that according to records that  
18 you were able to review that these wells had never  
19 actually been installed?

20 A That's correct.

21 Q Now, when a permit requirement cannot be  
22 met, is there an opportunity for the permittee to  
23 attempt to modify the permit?

24 A Yes, that's what should be done, is they

1 would need to send in an application for a change  
2 in permit, a supplemental permit.

3 Q And had this modification ever been  
4 obtained?

5 A No.

6 Q Can you generally describe for us what  
7 you and your team did regarding the 11 wells that  
8 you were able to sample?

9 A What we did?

10 Q Yes. Well, first of all, did you have a  
11 site safety plan?

12 A Oh, okay. Prior to going on the site, I  
13 devised a site safety plan and gave each of these  
14 plans to each of my team members. And, you know,  
15 we have certain procedures that we do follow and  
16 that's what we follow during the -- let's see.  
17 That's what we follow for our safety procedures. I  
18 also submitted to them a sampling and an analysis  
19 plan with the procedures of the sampling methods we  
20 would employ, which are pretty standard that our  
21 unit does, so that we do keep uniformity, and these  
22 are in line with U.S. EPA guidelines.

23 Q Now, page one of Exhibit 1, your initial  
24 memorandum, indicates that you were out there for



1 four days in June and July; is that correct?

2 A Yes, that's correct.

3 Q And would it be fair to say, Connie, that  
4 this level of investigation required a lot of  
5 attention to detail and mobilization efforts before  
6 you actually arrived on site?

7 A Yes. I believe it took me a good  
8 probably four weeks of preparation in obtaining all  
9 of the sampling paraphernalia, sampling bottles,  
10 scheduling vehicles, doing the file research prior  
11 to going out to the sites to see what hazards there  
12 could be, so it did take, you know, quite a bit of  
13 effort before going out on the site.

14 Q Before arriving on site, did you have a  
15 protocol as to your end result, that is, the reason  
16 you were attempting to obtain samples?

17 A Well, we were looking for compliance with  
18 the Groundwater Regulations and Act. That was our  
19 goal.

20 Q Okay. And the regulations that you  
21 referred to, would these be the Part 620  
22 Groundwater Water Quality Standards?

23 A That's correct.

24 Q During your preparation and file review,

1 did you have any reason -- did you discover any  
2 reason to have concern regarding groundwater water  
3 quality?

4 A In my file review, before investigating  
5 the site, I did see that they had exceedences in  
6 the groundwater monitoring reports, in the past.

7 Q And these reports would be required by  
8 permit, once again?

9 A That's correct.

10 Q To be submitted on a quarterly basis, I  
11 understand?

12 A Yes.

13 Q When had those quarterly reports ceased  
14 to be submitted to the Agency?

15 A Right after the facilities received a  
16 compliance inquiry letter from the Agency in 1989.

17 Q During your records review, did you also  
18 identify the sources of industrial wastes that had  
19 gone into the landfill?

20 A Yes, I did.

21 Q Actually, I should have said landfills  
22 plural. All three landfills received industrial  
23 waste?

24 A Yes.

1           Q     In addition to these, what we call  
2 special waste streams, did you also have an  
3 understanding that the landfills had received  
4 household or rather municipal solid wastes?

5           A     Yes, they did.

6           Q     Can you characterize which types of  
7 wastes they received more of?

8           A     Well, I don't know that I could.

9           Q     Okay.

10          A     I wasn't the inspector all those years.

11          Q     Would it be fair to say that as far as  
12 municipal solid waste that there is within that  
13 category what we call household hazardous waste?

14          A     Yes, I would characterize it -- it would  
15 be in the regular municipal solid waste.

16                   HEARING OFFICER WALLACE:  I am sorry.  
17 Household hazard waste is contained in municipal  
18 solid waste, is that what --

19                   THE WITNESS:  Typically it is whatever a  
20 household would generate and just put out with  
21 their normal trash, maybe a small amount of  
22 solvents, paint thinners, in the past probably  
23 motor -- used motor oil, and whatever the household  
24 would have generated and didn't know how else to

1 dispose of it.

2 Q (By Mr. Davis) Getting back, then, to the  
3 sampling, can you describe, in a general fashion,  
4 how you and your team collected samples and what  
5 was done with these samples?

6 A Well, prior to actually sampling the  
7 wells, we would go out and take a reading for the  
8 static piezometric water levels in each well, and  
9 we would also measure the total depth of each  
10 particular well. After we receive that  
11 information, then we would bail out the stagnant  
12 water from each well. In some instances the wells  
13 would go dry for us. Sometimes we couldn't obtain  
14 samples from some particular wells.

15 But under normal conditions if you would  
16 bail out your stagnant water, then we would do our  
17 sampling in filling the particular bottles. I had  
18 the bottles pre-labeled before we went on to the  
19 site and in coolers and so -- then there is a  
20 certain order that the bottles were to be filled in  
21 our sampling protocol, which is all listed in the  
22 sampling analysis plan in this report.

23 Q First of all, focusing on the bailing out  
24 and the purging and so forth, those activities,

1 what was the purpose of that?

2 A The purpose of that is to remove the  
3 stagnant water from the wells and obtain fresh  
4 samples, fresh groundwater.

5 Q Would it be an exaggeration to say your  
6 objective was to get the best possible information  
7 as far as accuracy?

8 A Yes, that's correct.

9 Q As to the actual physical activity of  
10 using the prelabeled bottles and in putting a  
11 sample in those bottles, can you describe for us  
12 how the team functioned, that is, did everyone have  
13 a role to play?

14 A Well, yes, except we would switch roles,  
15 too, because we all know all the jobs, so we would  
16 kind of switch whatever -- switch amongst  
17 ourselves. The team knows that we change gloves,  
18 our latex gloves, you know, before handling  
19 anything new. And between each well the team knows  
20 that we don't reuse items. We have disposable  
21 bailers and disposable cord so that -- and then the  
22 team also knows to put plastic sheeting on the  
23 ground so that if an item is placed on the ground  
24 or dropped then it is not contaminated with

1 something from the ground.

2           But normally if there is two people  
3 working on a well, which is kind of what happens,  
4 then after readings are taken -- after the purging  
5 of the well, then the -- and readings are being  
6 taken at that time for pH and specific  
7 conductivity, and temperature. When those items  
8 are stabilized then that team goes on and samples  
9 the well if there is enough water.

10         Q     Is there a potential for  
11 cross-contamination if you don't follow these  
12 precautions about changing gloves and all of these  
13 other details?

14         A     That is correct.

15         Q     And as the project manager, did you  
16 exercise supervision over the sampling activities?

17         A     Yes, I did.

18         Q     Did you make sure that your colleagues  
19 were following all of the numerous procedures and  
20 methodologies and so forth?

21         A     Yes, I did.

22         Q     You have testified that you were able to  
23 obtain samples from 11 wells; is that correct?

24         A     Some types of samples. I think on one of

1 those 11 all we could get was a reading for pH  
2 because there was such little water available.

3 Q Then regarding the 10 remaining wells,  
4 were you able to collect adequate samples?

5 A Yes.

6 Q Did you collect numerous samples from  
7 each of those remaining 10 wells?

8 A Yes, we did.

9 Q By numerous I really mean multiple  
10 samples.

11 A Oh, yes, uh-huh.

12 Q What was the purpose for collecting more  
13 than one sample from these remaining 10 wells?

14 A Because the sampling bottles that come  
15 from the lab, they are already pre-preserved in  
16 most cases, that each bottle is for a specific test  
17 and it has a certain preservative in the bottle.

18 Q So you just can't test one sample for  
19 everything that you were seeking to investigate?

20 A That's correct. We have to put them in  
21 certain bottles at certain times of sampling.

22 Q As to the information that you were  
23 seeking, would it be fair to say that the Agency  
24 has two separate labs that focus on separate

1 things?

2 A Yes. The Agency has an inorganics lab in  
3 Champaign, and an organics lab in Springfield, and  
4 that's where the samples were sent.

5 Q In sending the samples to the Champaign  
6 and Springfield labs, what sort of procedures did  
7 you follow?

8 A Okay. In sending the samples, the  
9 samples were cooled down with ice and placed in  
10 coolers, separate coolers between Champaign and  
11 Springfield, wherever their destination is. A  
12 chain of custody was filed for each set of samples  
13 from each well. And this chain of custody  
14 accompanied the samples to whatever lab they were  
15 sent.

16 Q And did you and your team follow all of  
17 these applicable requirements and the  
18 transportation part of it, just as you did in the  
19 collection part of it?

20 A Yes, and everything is in the report on  
21 our chain of custody.

22 Q Did the labs run the analytical tests  
23 that you had requested?

24 A Yes, they did.



1 Q And are the results of those tests within  
2 Exhibit 1?

3 A Yes, they are.

4 Q Now, as to the tests, first of all, let's  
5 make it clear. You are not a lab person, and you  
6 don't do these tests; am I correct?

7 A That is correct.

8 Q Okay. Do you have an understanding,  
9 Connie, however, that the lab has its own set of  
10 procedures and methodologies which it must follow  
11 in order to do these tests?

12 A Yes, I understand that, and even prior to  
13 the sampling, in some instances, we would dictate  
14 to them what methods were to be used in the  
15 sampling because sometimes there is two or three  
16 choices and we went -- you know, our team would go  
17 with the more uniform for our groundwater sampling  
18 procedures. We follow the SWA 46 procedures.

19 Q As to the nature of the tests that you  
20 requested, would it be fair to say that this was  
21 based upon your interpretation of all the  
22 preexisting information in the files?

23 A I am sorry? On the tests we requested?

24 Q Well, a better question is why did you

1 request certain tests?

2 A Oh, we requested tests on a number of  
3 different reasons. I made sure that whatever was  
4 on the 620 Regulations, those tests were  
5 conducted. I made sure that whatever was in the  
6 actual permits for the three sites, that those  
7 tests were conducted. And let's see. There was  
8 something else. I don't recall, but if I could  
9 look in the report --

10 Q Would referring to this help refresh your  
11 recollection?

12 A Yes, it would.

13 Q Why don't you take a few minutes and do  
14 that?

15 A Okay. (The witness reviewed People's  
16 Exhibit 1.)

17 Okay. There were also -- besides the 620  
18 Standards to be met, there were the permit  
19 requirements. There is also general perimeters,  
20 and those are all for the inorganics, but then the  
21 Agency laboratory on the organics lab also has like  
22 a standardized set of tests which they run, and  
23 those are the tests that we requested.

24 Q In looking at some of the information in

1 Exhibit 1, is there any way you can describe on the  
2 record where those documents appear? For instance,  
3 are there identified attachments within your  
4 report?

5 A Within my report?

6 Q I guess I am looking at what you called  
7 Attachment 5, Sampling and Analysis Plan. And then  
8 toward the back of that there seems to be a whole  
9 bunch of lists of different categories of  
10 perimeters.

11 A That's right. It would be in the  
12 Sampling and Analysis Plan, which is Attachment 5.  
13 But then within that Attachment 5, there are the  
14 listed perimeters for testing, which are Attachment  
15 16, Attachment 17, Attachment 18, and Attachment  
16 19. Those are all within the main report,  
17 Attachment 5.

18 Q Did the lab perform the requested  
19 analysis?

20 A Yes, they did.

21 Q Have you had a chance to review the  
22 analytical results from the labs?

23 A Yes.

24 Q What portion of Exhibit 1 would this

1 information be contained in?

2 A This one does not have the labels like  
3 that one.

4 Q I see that now. Would it be immediately  
5 following the Attachment 5, the Sample and Analysis  
6 Plan that we were just talking about?

7 A Yes. So it should be the main Attachment  
8 6.

9 Q Okay.

10 A But in this document here it is not  
11 labeled as that. It comes right after the Sampling  
12 and Analysis Plan, which has at the end of it the  
13 permit requirements, and that ends with its own  
14 Attachment 25.

15 MR. DAVIS: Mr. Hearing Officer, let me,  
16 for the convenience of the Board, suggest that we  
17 substitute or rather switch these documents. The  
18 one that I have that is not yet marked does have  
19 little tabs on it, and the one that the witness has  
20 does not.

21 HEARING OFFICER WALLACE: All right. We  
22 will switch exhibits.

23 Q (By Mr. Davis) Connie, have you had  
24 occasion well before today to review all of these

1 various sample report sheets?

2 A Yes, I have reviewed them as they were  
3 coming in as the laboratories were finished with  
4 them in 1994.

5 Q As to these sampling results, would it be  
6 fair to say that each of these 10 wells from which  
7 you obtained samples has its own set of data?

8 A Yes. That is -- they are listed in  
9 Attachment 7.

10 Q Okay. On the basis of the sampling  
11 sheets you have generated further documents that  
12 could be best described as tables, perhaps?

13 A Yes, as Attachment 7, that is what --  
14 that is like a summary of -- that shows especially  
15 the 620 Standards in comparison with the monitoring  
16 well results for each well.

17 Q So in Attachment 7, your tables that you  
18 generated, did you attempt to list the regulatory  
19 standards as well as the actual results well by  
20 well?

21 A Yes, they are there well by well.

22 Q Have you also had occasion to review the  
23 complaint that the Attorney General's office filed  
24 on behalf of the Illinois EPA?

1           A     Yes, I did.

2           Q     On page six of that complaint, would you  
3 agree that there appears a tabulation of  
4 constituents and reported values on a well by well  
5 basis?

6           A     Yes, it is listed as Item 21.

7           Q     Okay.  And have you determined whether or  
8 not the list in the complaint is accurate, that is,  
9 does it comport with the report that you generated?

10          A     Yes, it does.

11          Q     Good.  I was hoping you would say that.

12                   MR. BECKER:  I was, too.

13          Q     (By Mr. Davis)  Would it be fair to say,  
14 Connie, that the -- when the initial sampling  
15 results came in that they required some amount of  
16 interpretation and review and evaluation?

17          A     Well, yes.  I just compared them to the  
18 620 Standards.

19          Q     Okay.

20          A     And sometimes they come in on a different  
21 basis, so I did need to convert them over to the  
22 same type of concentration, which in Table 7, they  
23 are micrograms per liter in most cases.

24          Q     Okay.  In other words, you attempted to

1 translate the data to correlate with the regulatory  
2 standards?

3 A Yes.

4 Q Okay. Do you have any opinions, based  
5 upon the sampling and the results thereof,  
6 regarding whether or not the landfills have had any  
7 impact on the groundwater?

8 A My opinion is that, yes, they would  
9 have. They do have impact on the groundwater.  
10 There are exceedences. There are numerous  
11 exceedences of the 620 Standards. Every single  
12 well sampled has exceedences.

13 Q Can you focus on any particular perimeter  
14 or constituents and give us a sense of the  
15 magnitude of these exceedences?

16 A Particularly in well G1, 16 there is  
17 quite a few exceedences. In the inorganics  
18 perimeters there is exceedences for arsenic,  
19 chlorides, iron, manganese, and nickel.

20 Q Before we compare these actual reported  
21 values with the regulatory standards, let me ask  
22 you about the class one versus class two issue. Do  
23 you have any knowledge as to whether or not the  
24 permittee has made any demonstration regarding the

1 classification of the resource groundwaters?

2 A From my research, the owner of the sites  
3 has not done any intensive research on the class of  
4 the groundwater, so the site is classified as a  
5 class one groundwater source.

6 Q What do you base that position on? Is  
7 this by default required by the regulations?

8 A Yes. It is class one unless the owner  
9 would request and prove to the Agency that there is  
10 reason to be put into class two.

11 Q Okay.

12 A And no request has been made.

13 Q Would it be fair to say that the class  
14 one groundwater water quality standards are more  
15 protective than the class two standards?

16 A That's correct, they are more protective,  
17 more stringent.

18 Q Focusing, as we have, on monitoring well  
19 G1, 16 that you have just talked about, can you  
20 compare the reported value, say, for iron with the  
21 regulatory standard?

22 A The regulatory standard is on iron 5,000  
23 micrograms per liter. And well G1, 16 results were  
24 15,000 micrograms per liter, which is three times



1 the allowable limit.

2 Q Do the same, if you would, on manganese.

3 A Manganese, the limit for class one  
4 groundwater manganese is 150 micrograms per liter,  
5 and the total result for well G1, 16 is 3,500.

6 Q Would it be true, Connie, that iron and  
7 manganese are naturally occurring within Illinois  
8 soils, to a certain extent?

9 A To a certain extent they may be naturally  
10 occurring, but not to this amount.

11 Q And is it your understanding that the  
12 groundwater water quality standards were set by the  
13 Pollution Control Board with regard to what was  
14 naturally occurring within the State?

15 A Yes, that's correct. That's my  
16 understanding.

17 Q Would it be fair to say there are  
18 reported values obtained through your investigation  
19 for iron, for instance, that was much higher than  
20 what you have talked about for well G1, 16?

21 A Yes, there were even -- there was even a  
22 higher iron content in another well. That well was  
23 G1 -- I am sorry. It was G14, S. Its  
24 concentration of iron in micrograms per liter was a

1 result of 60,300 micrograms per liter.

2 Q What would the S signify?

3 A Oh, that's a shallow well. There were  
4 two wells side by side. G14, S for shallow well  
5 and next to it was G14, D which was a deeper well.

6 Q Do you have an opinion as to which type  
7 of well, shallow or deep, that would more closely  
8 reflect the impacts of a release?

9 A Particularly at this site a shallow well  
10 would reflect impact to groundwater sooner than the  
11 deeper wells.

12 Q You also mentioned additional inorganic  
13 constituents. I believe you mentioned sulfate,  
14 chloride, arsenic and nickel, I believe, did you  
15 not?

16 A Yes, for G1, 16.

17 Q Are any of these other constituents  
18 naturally occurring?

19 A They may be naturally occurring, but only  
20 in minor amounts.

21 Q Did all of these other reported values,  
22 as reflected in paragraph 21 on page 6 of the  
23 Complaint, exceed the groundwater water quality  
24 standards?

1           A     Yes.

2           Q     Do you have any opinion, Connie, as to  
3 the likely source of these inorganic constituents?

4           A     The likely source would be the landfills.

5           Q     Do you have any knowledge gained from  
6 your records review as to the types of liners, if  
7 any, that are in place for these three landfills?

8           A     From information in the files none of the  
9 landfills have liners or leachate collection  
10 systems.

11          Q     You mentioned leachate.  Would this be a  
12 potential pathway for release?

13          A     Yes.

14          Q     And what about landfill gas?

15          A     Yes, landfill gas does exist at the  
16 sites.

17          Q     Okay.  As a general manner?

18          A     Right.

19          Q     With regard to inorganics, would leachate  
20 releases be a likely source?

21          A     Yes, it would on inorganics.

22          Q     Now, we have had some reference,  
23 essentially, during my opening statement to a  
24 previous enforcement action.  Did you also have a

1 chance to review those records? I am looking  
2 specifically on the issue of leachate flows.

3 A I may have reviewed them at some time in  
4 the past, but not recently.

5 Q Okay. Let's now address, since we have  
6 explored the inorganics, the remaining categories.  
7 First of all, did the Springfield lab test for  
8 organics?

9 A Yes, they did test for organics.

10 Q Did they test for semi volatiles as well  
11 as volatile organic compounds?

12 A That's correct.

13 Q Based upon your review of those sampling  
14 results, have you identified any problems?

15 A Well, there were no exceedences of the  
16 620 Regulations, but there were some organics  
17 identified in the sample results.

18 Q Okay. Would there be any permit  
19 requirements regarding these types of problems?

20 A No. In their permits -- these were not  
21 identified to be tested in their permits.

22 Q Okay. What does the presence of organic  
23 compounds in the groundwater indicate to you, if  
24 anything?

1           A     That some kind of special waste from the  
2     landfills is being released.

3           Q     Are organic compounds naturally  
4     occurring?

5           A     No.

6           Q     At least of these types?

7           A     Not these kinds, no.

8           Q     What specifically is of concern to you,  
9     what types of compounds?

10          A     Well, originally -- or mostly the -- any  
11     carcinogen would be mostly of concern, but we did  
12     not find any carcinogens. We did -- but we did  
13     identify some other organics of carbon disulfide,  
14     and I think it was -- it was carbon disulfide.

15          Q     Could you spell that, for the record,  
16     please?

17          A     Carbon is C-A-R-B-O-N. Disulfide,  
18     D-I-S-U-L-F-I-D-E.

19          Q     Now, in flipping through the lab reports  
20     within Exhibit 1, I see a reference to phenols.  
21     Would this be an organic compound?

22          A     Yes, those -- that would be miscellaneous  
23     phenols that are organic.

24          Q     Were those types of compounds detected?

1           A     Yes, we did find some miscellaneous  
2 phenols.

3           Q     I am looking now at another page from  
4 what you have. This is in reference to wells G101,  
5 102, 103 and 105. Maybe it would be easier to show  
6 you my copy of Exhibit 1. Does this page indicate  
7 any values reported for any other organic compound?

8           A     Okay. On that particular page it shows  
9 that they found some bis-phthalate and --

10          Q     And could you spell --

11          A     -- ethylhexyl. This could be a lab  
12 contaminant.

13          Q     Okay. Well, then we won't spell it.

14                 HEARING OFFICER WALLACE: She said it.  
15 She has to spell it.

16                 MR. DAVIS: Let's take a break and I will  
17 show this to the reporter.

18                         (Whereupon a short recess was  
19 taken.)

20                 HEARING OFFICER WALLACE: All right.  
21 Please proceed.

22                 MR. DAVIS: Thank you.

23          Q     (By Mr. Davis) Now, as a general matter,  
24 Connie, what, if anything, does the presence of

1 these types of organic compounds indicate to you?

2 A It shows a release of some kind of  
3 organic material from the landfills.

4 Q What would be the source within the  
5 landfill of these types of releases?

6 A Various special wastes that were received  
7 at the site.

8 Q We have heard reference, perhaps not  
9 today, but in other cases as to break down  
10 compounds. What are those?

11 A I am sorry. I don't know.

12 Q Okay. After you completed your work  
13 regarding Exhibit Number 1, did you provide a copy  
14 to John Prior and/or Industrial Salvage, Inc.?

15 A Yes, I mailed a copy to John Prior.

16 Q Would this have been a complete package,  
17 that is, the same thing that we have in front of us  
18 as Exhibit 1?

19 A That's correct.

20 Q Approximately when would that have been  
21 done?

22 A It was probably at the same time I sent  
23 out all of the other copies, which may have been  
24 mailed out around the end of April of 1995.

1 Q Okay.

2 A They all would have gone out together.

3 Q What is the responsibility or obligation  
4 of a permittee, and specifically Prior and his  
5 company, in this situation where we have had  
6 groundwater problems documented?

7 A The ultimate responsibility is to --  
8 well, besides assessing the situation, and then  
9 come up with a plan to clean it up or to stop it  
10 and clean it up.

11 Q As far as assessment, is this a program  
12 requirement for additional investigation by the  
13 permittee?

14 A I would have to look at his permit to  
15 actually see that.

16 Q Okay. As a general matter, is there a  
17 burden on the permittee to generate additional  
18 information?

19 A Yes, and I do know in his permit he was  
20 supposed to be sampling quarterly under this  
21 assessment.

22 Q Have you also, subsequent to your  
23 sampling investigation in the summer of 1994 and  
24 your report completion in April of 1995, had any



1 occasion to review the file to see if any quarterly  
2 reports have been submitted?

3 A I have reviewed the file, even a few  
4 weeks ago, and there was no more information  
5 submitted since my last file search in 1994.

6 Q Okay. Would this also be a violation of  
7 the permit?

8 A That's correct.

9 Q Getting back to the groundwater, having  
10 these types of problems, would there be a necessity  
11 for treatment of this groundwater in order to  
12 assure the use of the groundwater?

13 A Yes, this water would have to be treated.

14 Q As a class one resource groundwater could  
15 this groundwater otherwise be consumed?

16 A No, it could not.

17 Q Okay. But for the contamination?

18 A Oh, right.

19 Q Okay.

20 A Yes.

21 Q So, in other words, could it be consumed  
22 with the contamination?

23 A It could not be consumed with the  
24 contamination.

1           Q     Do the permittees have any obligation to  
2 provide the restoration of the groundwater?

3           A     Yes, and that not only is in the Act, but  
4 also in the permits that they are to correct the  
5 problem.

6           Q     Do you have any opinion, Connie, as to  
7 whether or not water pollution has occurred  
8 regarding these releases of contaminants?

9           A     Groundwater pollution has occurred by the  
10 release of these contaminants.

11          Q     What do you base that opinion on?

12          A     On the evidence that there is exceedences  
13 in the groundwater samples of the 620 Regulations.

14                 MR. DAVIS:  Okay.  Thank you.  I have no  
15 other questions at this time.

16                 HEARING OFFICER WALLACE:  All right.  
17 Cross-examination, Mr. Becker?

18                 MR. BECKER:  No questions.

19                 HEARING OFFICER WALLACE:  Okay.

20                 MR. DAVIS:  We would move Exhibit Number  
21 1, then, into the record.  We would not present any  
22 further testimony at this point in time.  And that  
23 would complete our case in chief.

24                 HEARING OFFICER WALLACE:  All right.  Any

1 objection to People's Exhibit Number 1?

2 MR. BECKER: No.

3 HEARING OFFICER WALLACE: People's  
4 Exhibit Number 1 is admitted into evidence.

5 (Whereupon said document was  
6 admitted into evidence as  
7 People's Exhibit 1 as of this  
8 date.)

9 EXAMINATION

10 BY HEARING OFFICER WALLACE:

11 Q Ms. Letsky, I think you mentioned  
12 something called piezometric?

13 A Yes.

14 Q Could you spell that, please?

15 A P-I-E-Z-O-M-E-T-R-I-C.

16 Q Thank you.

17 MR. BECKER: What is that?

18 THE WITNESS: It is the groundwater --  
19 the naturally occurring groundwater levels.

20 MR. BECKER: Okay.

21 THE WITNESS: It moves, fluctuates.

22 MR. DAVIS: It measures the water table  
23 height?

24 THE WITNESS: Right.

1 Q (By Hearing Officer Wallace) Then there  
2 are in existence 12 wells at these three sites?

3 A We found 12.

4 Q All right. You found 12. There are  
5 supposed to be 18 or 15?

6 A There is -- they should have had 15  
7 already installed and an additional three should  
8 have been installed, but have not been. So there  
9 should be a total of 18.

10 Q With six never having been installed at  
11 all?

12 A I am sorry. With three never having been  
13 installed.

14 Q What about the other three?

15 A We just couldn't find them. We think  
16 that they were installed a long time ago and were  
17 probably destroyed maybe with grass mowing or some  
18 other kind of construction, or there is -- there  
19 could be a number of reasons. Or they could be  
20 overgrown in the woods and we couldn't find them.

21 Q Okay. Of the 12 you found, one you could  
22 not access?

23 A That's correct, because of the dense  
24 poison ivy.

1           Q     That means there was 11 left, and then  
2 one of those 11 was dry?

3           A     Yes, that we never could sample it.

4           Q     Okay. Accounting for the 10 wells that  
5 you obtained samples from?

6           A     Yes.

7           Q     All right. And is there a chart in your  
8 report of the location of all of these wells?

9           A     The chart of the location of the wells is  
10 Attachment 3.

11          Q     All right. Also, is there an attachment  
12 or a map of the location of the three sites?

13          A     It is on Attachment 3 as well as  
14 Attachment 1, and at the very end of the report the  
15 second to the last page in Attachment 9.

16          Q     All three of the sites are physically  
17 located adjacent to each other?

18          A     They are adjacent to each other except  
19 they are split by a railroad track, so only two are  
20 contiguous, and that would be Prior Black Well site  
21 with Prior Area 2 and Prior Area 3. But on the  
22 east side of the tracks is Prior Area 1, Prior Area  
23 4 and then the Centralia Environmental Services  
24 site.

1                   MR. DAVIS: For the record, Mr. Hearing  
2 Officer, it looks like in Attachment 5 of Exhibit 1  
3 there is also Attachments 20 and 21, which show  
4 maps of the sites as well as sampling locations.

5                   HEARING OFFICER WALLACE: All right.  
6 That should be helpful.

7                   All right. Thank you, Ms. Letsky. Let's  
8 go off the record.

9   (Discussion off the record.)

10                   HEARING OFFICER WALLACE: Back on the  
11 record.

12                   In an off-the-record discussion we have  
13 generally agreed that we will continue the hearing  
14 until May 22nd, 1997 at 1:30 in the afternoon. The  
15 location of the hearing will be determined. It is  
16 the Hearing Officer's anticipation that if Mr.  
17 Prior wishes to present testimony we will reconvene  
18 in Centralia. If Mr. Prior does not wish to  
19 contribute any more to the record in the way of  
20 live testimony, then the Hearing Officer would  
21 entertain a motion to cancel the hearing prior to  
22 May 22nd.

23                   It was also represented that there may be  
24 some documents in the file. The Agency will

1 provide those to Mr. Davis and Mr. Becker, and if  
2 there is any stipulation concerning any other  
3 documents or evidence, please bring it to the  
4 attention of the Hearing Officer.

5           Is there anything else, Mr. Davis, you  
6 wish to bring up this morning?

7           MR. DAVIS: No, sir.

8           HEARING OFFICER WALLACE: Mr. Becker?

9           MR. BECKER: No, sir.

10           HEARING OFFICER WALLACE: Admit People's  
11 Exhibit Number 1.

12           There being nothing further, we stand  
13 adjourned. Thank you.

14   (People's Exhibit Number 1  
15   retained by Hearing Officer  
16   Wallace.)

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1 STATE OF ILLINOIS )  
 ) SS  
2 COUNTY OF MONTGOMERY)

3 C E R T I F I C A T E

4 I, DARLENE M. NIEMEYER, a Notary Public  
5 in and for the County of Montgomery, State of  
6 Illinois, DO HEREBY CERTIFY that the foregoing 63  
7 pages comprise a true, complete and correct  
8 transcript of the proceedings held on the 18th of  
9 March A.D., 1997, at the Illinois Pollution Control  
10 Board, 600 South Second Street, Suite 402,  
11 Springfield, Illinois, in the case of The People of  
12 Illinois v. John Prior and Industrial Salvage,  
13 Inc., in proceedings held before the Honorable  
14 Michael L. Wallace, Hearing Officer, and recorded  
15 in machine shorthand by me.

16 IN WITNESS WHEREOF I have hereunto set my  
17 hand and affixed my Notarial Seal this 21st day of  
18 March A.D., 1997.

19

20

21 Notary Public and  
22 Certified Shorthand Reporter and  
Registered Professional Reporter

23 CSR License No. 084-003677  
My Commission Expires: 03-02-99

24