

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

|                               |   |  |
|-------------------------------|---|--|
| TIMBER CREEK HOMES, INC.,     | ) |  |
|                               | ) |  |
| Petitioner                    | ) |  |
|                               | ) |  |
| v.                            | ) | No. PCB 2014-099                           |
|                               | ) |  |
| VILLAGE OF ROUND LAKE PARK,   | ) | (Pollution Control Facility Siting Appeal) |
| ROUND LAKE PARK VILLAGE BOARD | ) |  |
| and GROOT INDUSTRIES, INC.,   | ) |  |
|                               | ) |  |
| Respondents                   | ) |  |

**RESPONDENT GROOT'S DEPOSITION DESIGNATIONS**

NOW COMES Respondent, Groot Industries, Inc. ("Groot"), by its attorneys, and pursuant to Illinois Rule of Evidence 801(d)(2) and Illinois Supreme Court Rule 212(a)(2), hereby submits excerpts from the depositions of the following individuals in connection with TCH's pending appeal of the Round Lake Park Village Board's (the "Village Board) December 12, 2013 approval of the Site Location Application submitted by Groot Industries, Inc. ("Groot") for the siting of Groot's Lake Transfer Station in Round Lake Park, Illinois.

1. Attachment A – Larry Cohn, President, Timber Creek Homes, Inc.
2. Attachment B – Donna Wagner, Village Board Member.
3. Attachment C – Linda Lucassen, Round Lake Park Mayor.
4. Attachment D – Candace Kenyon, Village Board Member.
5. Attachment E – Jean McCue, Village Board Member.

Respectfully submitted,  
Groot Industries, Inc.

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One of its attorneys

**AFFIDAVIT OF SERVICE**

STATE OF ILLINOIS                    )  
  ) SS  
COUNTY OF WINNEBAGO            )

The undersigned certifies that on **May 30, 2014**, a copy of the foregoing **Respondent Groot's Deposition Designations** was served upon the following:

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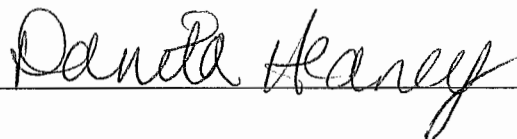
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**ATTACHMENT A**

**RESPONDENTS' DEPOSITION DESIGNATIONS FOR LAWRENCE COHN**

0007

14 Q. Okay. What's your address?

15 A. 24632 North --

16 Q. The other thing I want to tell you is she

17 will type much quicker than you can talk so go ahead

18 and just talk in a normal --

19 A. -- Elm Road, Lake Forest, Illinois.

20 Q. And I didn't actually get this for the

21 record yet, what is your full name?

22 A. My legal name?

23 Q. Yes.

24 A. Lawrence Joel Cohn, with a W.

0008

4 Q. And how far is that address from the site

5 of the proposed transfer station?

6 A. How far is my home address?

7 Q. Yes.

8 A. In miles?

9 Q. However you can determine.

10 A. Half an hour drive. I don't know the

11 mileage.

12 Q. Okay. It's in a whole other town?

13 A. Yes, Lake Forest.

14 Q. It's over 15 miles away; is that right?

15 A. I don't know. I guess so.

0017

14 Q. Did you have any documents responsive to  
15 that deposition request?

16 MR. BLAZER: Answer.

17 BY THE WITNESS:

18 A. No.

19 BY MR. PORTER:

20 Q. So I'm clear, you don't have any  
21 documents that show any alleged bias in the siting  
22 process or procedure in this matter; correct?

23 MR. BLAZER: Objection, asked and answered.

24 Direct the witness not to answer.

0018

1 MR. PORTER: He hasn't answered that question.

2 MR. BLAZER: Yes, he did. You asked him if he  
3 had any documents responsive to any of the  
4 paragraphs, he said no. You're now asking paragraph  
5 by paragraph. It's the same question. I direct him  
6 not to answer.

0027

14 Q. And you mentioned there have been some  
15 price changes. When is the last time you had a price  
16 change in relation to your waste hauling contracts?

17 A. Just recently when we reduced the pick up  
18 from twice a week to once a week, it reduced the  
19 costs substantially.

22 When did this change occur?

23 A. I'd say this last winter.

24 Q. So the winter of 2013?

0028

1 A. Uh-huh.

22 We sent you an interrogatory  
23 previously. In Interrogatory No. 28, we asked you to  
24 identify any and all changes in service agreements

0029

1 between TCH or any of its affiliates including  
2 subsidiaries, parent companies, or business entities  
3 and the same ownership as TCH and any waste company  
4 or transfer station operator since January of 2013.  
5 And your answer was none.

6 A. Well, I didn't change companies, but I  
7 frankly forgot the fact that we switched from a twice

8 a week to once a week, but that's the only change.

11 Q. So your Answer to Interrogatory

12 No. 28 was erroneous; is that correct?

13 MR. BLAZER: He just told you he made a  
14 mistake.

15 BY THE WITNESS:

16 A. I made a mistake. I forgot about that  
17 change. It's been twice a week for 40 some years,  
18 and it just slipped my mind.

0035

12 Q. So you contacted somebody at the  
13 Grayslake Landfill and told them what?

14 A. I told them that I'd like to get in touch  
15 with a higher-up, an executive from Waste Management  
16 about a matter of a proposed transfer station in  
17 Round Lake Park, and could they make that connection  
18 for me. Something, I mean -- I'm -- that's not  
19 literally the words I used, but that was the essence  
20 of it.

21 Q. And what did he say to you after you told  
22 him that?

23 A. I don't recall what his response was.

0037

15 Q. And, to your knowledge, did any of those  
16 approximately 750 people or 247 households attend the  
17 Groot transfer station application hearings?

18 A. Only one that I know of.

19 Q. And who was that?

20 A. Brian Smith.

21 Q. Other than Brian Smith, did any other  
22 residents of your facility offer any public comment?

23 A. Well, nobody else was there that I'm  
24 aware of so, therefore, no.

0038

1 Q. Did you ever have any meetings with the  
2 residents of Timber Creek Homes about the application  
3 of Groot?

4 A. No.

0042

4 Q. You're aware that there were notices  
5 published in the newspapers; correct?

6 A. You mean, the little thing that they put  
7 in the back of the newspaper. I'm aware that it was  
8 done. That's what traditionally is done so that  
9 nobody knows what's going on.

10 Q. Well, actually, isn't it true that you

11 hired counsel and had witnesses at the public hearing  
12 concerning Groot's transfer station application?

17 Q. Isn't it true that you hired counsel to  
18 appear at that hearing?

19 A. Well, I did hear about the whole thing at  
20 some point in time. You mean -- you know, I followed  
21 up by calling someone at the -- at Waste Management.  
22 I mean, I was obviously very concerned. And as a  
23 consequence, I hired an attorney to take care of it  
24 since I couldn't get Waste Management to help me so I  
0043

1 had to do it on my own.

2 Q. And Town & Country -- excuse me -- Timber  
3 Creek Homes had counsel there from the very beginning  
4 of that public hearing; isn't that correct?

5 A. Sure, yes.

6 Q. And as a matter of fact, you called  
7 witnesses -- or strike that.

8 Timber Creek Homes, Incorporated  
9 called witnesses at that hearing; is that right?

10 A. Yes.

11 Q. And you had your counsel conduct  
12 cross-examination of Groot's witnesses; is that  
13 correct?



14 A. Yes.

15 Q. And were there any witnesses that you  
16 wanted to call that the village didn't allow you to  
17 call?

0044

1 Did Timber Creek Homes,  
2 Incorporated, have any witness that it intended to  
3 call that wasn't allowed to speak at the hearing?

4 A. Not that I'm aware of.

0045

7 Q. No one other than yourself and your  
8 attorney attended those hearings on behalf of Timber  
9 Creek Homes, Inc.; correct?

10 A. On behalf of Timber Creek Homes, Inc.,  
11 correct, yes.

12 Q. So -- strike that.

13 Was there any witness that was  
14 offered by Groot that Timber Creek Homes,  
15 Incorporated, was not allowed to cross-examine?

16 A. Not that I know of.

0046

3 Q. So I take it then that at no time before

4 the application was filed did you -- did any board  
5 member ever tell you that they had their mind made up  
6 about Groot's application; right?

7 A. I didn't speak to any of them, and they  
8 didn't speak to me.

9 Q. And at no -- well, strike that.

10 Are you aware of any evidence,  
11 record, document, which would in any way suggest that  
12 the board members had their mind made up before the  
13 application, was even filed?

0048

6 MR. BLAZER: And, again, anything outside the  
7 scope of communications you may have had with your  
8 attorneys.

9 BY THE WITNESS:

10 A. Nothing outside of the scope of  
11 communications with my attorneys.

0049

17 MR. BLAZER: Are you saying that -- have you  
18 seen any documents outside the context of  
19 communications that you had with your attorneys?

20 BY THE WITNESS:

21 A. No.

0051

3 Q. What did you tell anyone about what you  
4 perceived to be fundamental unfairness concerning  
5 this application process?

6 A. That I had heard before the hearing that  
7 some people who knew other people said that the thing  
8 was a done deal long before the hearing, that the  
9 trustees had already decided. It was over and done  
10 with and the hearing was basically just a circus.

11 Q. You personally never heard anyone --  
12 strike that.

13 But you never heard a trustee make  
14 any such statement; correct?

15 A. Correct.

0055

17 BY MR. PORTER:

18 Q. You are now telling me that your belief  
19 that some conspiracy exists revolves around a  
20 recycling center; is that correct?

21 A. I'm telling you that my belief that  
22 there's a conspiracy revolves around a set of  
23 separate actions, one after the other, following a  
24 march step of Groot getting what they want, one thing

0056

1 after another. The second thing being kept  
2 completely secret and indicating to me that there was  
3 something being hidden. Obviously, it was being  
4 hidden and didn't know anything about it. Nobody  
5 knew anything about it. And I absolutely believe  
6 that there was arrangements made prior to everything  
7 and predetermination was --

8 Q. Are you aware an ordinance was passed in  
9 relation to the CCDD facility?

10 A. Yeah, it was passed after -- it was  
11 passed. It was passed.

12 Q. Did you seek any type of review, appeal,  
13 or lawsuit related to that ordinance?

14 A. I figured it was a done deal if they  
15 decided they are going to do it --

16 Q. So the answer is, no, you did not --

17 A. No, I didn't.

18 Q. Seek any type of appeal, review, or  
19 lawsuit related to that ordinance; correct?

20 A. No, that's correct.

0067

6 Q. Does anybody at Timber Creek Homes, Inc.,  
7 have more knowledge of the basis, if any, for this

8 complaint that you've brought in this case?

9 A. I think not, no.

10 Q. And as you sit here today, you're

11 refusing to tell us the basis of your -- of Timber

12 Creek Homes' complaint; correct?

13 MR. BLAZER: He's listening to my directions.

14 He's not refusing to do anything.

15 MR. PORTER: Oh, yeah, he is. He's following

16 your directions.

0070

14 Q. Do you have any personal knowledge

15 with respect to that allegation other than what you

16 might have gained through communications with your

17 attorneys? You answered it before, I'm going to let

18 you answer it one more time. Do you have any

19 personal knowledge other than what you may have

20 learned through communications with your attorneys?

21 BY THE WITNESS:

22 A. Personal knowledge meaning did I hear

23 from a trustee?

24 MR. BLAZER: Or anywhere else. Or anywhere

0071

1 else other than your attorneys?

2 BY THE WITNESS:

3 A. Well, I told you about the rumors.

5 BY THE WITNESS:

6 A. I told you about the rumors, and I did  
7 not have any trustee tell me, Mr. Cohn, it's already  
8 decided. Is that what you're after? I did not have  
9 anyone specifically tell me that.

10 BY MR. PORTER:

11 Q. I'm after whatever evidence you have.  
12 Have you seen any document whatsoever that suggests a  
13 pre-adjudication of the merits? If so, what  
14 document?

20 MR. BLAZER: Have you seen any documents other  
21 than in the context of communications with your  
22 attorneys?

23 BY THE WITNESS:

24 A. A document, no.

0073

13 BY MR. PORTER:

14 Q. Okay. Are you indicating that the only  
15 evidence that you've seen of an alleged  
16 predetermination of the merits are based on meeting  
17 minutes that you've seen?

0074

12 BY THE WITNESS:

13 A. No.

0075

2 BY MR. PORTER:

3 Q. What other evidence, if any, have you  
4 allegedly seen which in any way would suggest to you  
5 that there's been a pre-adjudication of the merits?

6 A. The hearing.

7 Q. The attendance at the hearing?

8 A. Well, at the hearing certain things  
9 happened that were pretty obvious to me that the  
10 village had made a predetermination.

11 Q. Like what?

12 A. Mr. Sechen's questioning of witnesses in  
13 such a fashion that if anyone walked in and didn't  
14 know who he represented, they would think he  
15 represented Groot.

16 Q. Other than that lawyer's questioning of  
17 witnesses, anything else?

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

19 Q. Okay. So now that I have a complete

20 understanding, the only things that you have seen  
21 that you believe evidence a pre-adjudication of the  
22 merits or a bias are the questioning by Mr. Sechen  
23 and meeting minutes; correct?

24 A. That I can recall.

0077

9 Q. All right. Other than the meeting  
10 minutes and Mr. Sechen's questioning of witnesses,  
11 nothing else; correct?

12 A. Just the rumors that some people may have  
13 heard from reliable sources, but I can't verify those  
14 personally because I didn't hear them directly.

15 Q. Well, and you don't know what reliable  
16 sources they heard it from; right?

17 A. No, I'd be speculating it was from a  
18 trustee or someone who knew a trustee or something of  
19 that nature, but I can't give you any specifics.

0079

22 Q. So you've seen no document then;  
23 correct -- strike that.

24 You've seen no document that would



0080

1 in any way suggest to you that the hearing officer  
2 went beyond the scope of his authority; correct?

3 MR. BLAZER: If you know.

4 BY THE WITNESS:

5 A. I wouldn't be qualified to be able to  
6 make that determination. My attorney would be, and  
7 that's who I rely upon.

0084

11 Q. So did they ever tell you they were going  
12 to vote against it?

13 A. Nobody told me what -- how they were  
14 going to vote at all.

15 Q. You're aware that three out of the seven  
16 board members voted against it; correct?

17 A. Yes.

18 Q. Are you aware that those same three board  
19 members voted in favor of some of the other uses of  
20 which you are concerned?

21 A. I was not aware of that.

0090

9 Q. You were allowed to give a statement at  
10 the hearing, weren't you?

11 A. Yes.

12 Q. And at that time, did you identify any  
13 specific communications that you had heard or seen  
14 that would in any way suggest that a board member had  
15 prejudged the application?

16 A. I wouldn't do that, no.

17 Q. Because you didn't have any such  
18 evidence; right?

19 A. It would be improper.

20 Q. It would be complete guess or conjecture  
21 on your part; right?

22 A. Sure, yes.

0098

7 Q. What was kept secret about the  
8 application of the transfer station?

9 A. What was kept secret was the second  
10 application that just floated through without anybody  
11 given any information about it. And it is an  
12 indication, a strong indication, that whatever Groot  
13 applied for, they were going to get. This is my  
14 belief.

15 Q. That second application was not an  
16 application for the transfer station; correct?

17 A. It was an application for the recycling  
18 facility. And the conversations I had with the clerk  
19 asking about is anything happening with Groot. And  
20 please tell me when it does. And me calling back and  
21 asking again and having them stonewall me and say  
22 nothing was happening. Boy, I mean it was loud and  
23 clear. When all this started happening, boy, it was  
24 pretty obvious that she was told to keep her mouth  
0099

1 shut.

2 Q. Oh, you heard someone tell her to keep  
3 her mouth shut?

4 A. No. It was obvious that she had because  
5 how could I ask a direct question more than one  
6 time --

7 Q. So you're conjecturing what someone may  
8 have told her; correct?

9 A. I don't know whether she would have taken  
10 that on herself.

11 Q. Have you ever asked her if anyone told  
12 her to keep her mouth shut?

13 A. No, I didn't ask her that.

14 Q. Do you have any evidence anybody ever

- 15 told her that she should keep her mouth shut?
- 16 A. Direct evidence, no. Just the way she
- 17 failed to respond to direct questions by me and
- 18 basically lied.

**ATTACHMENT B**

**Respondents' Counter Designations for Deposition of Donna Wagner**

05-02-14 Wagner, (Page 12:19 to 12:24)

12

19 Q. Did you get a copy of the application  
20 when it was filed?

21 A. Yes.

22 Q. All right. And did you go through the  
23 application after it was filed?

24 A. Yes.

05-02-14 Wagner, (Page 24:7 to 24:10)

24

7 Q. Had you ever heard the name Dale  
8 Kleszynski -- I'll give you the spelling later --  
9 before June 18, 2013?

10 A. No.

05-02-14 Wagner, (Page 30:14 to 30:16)

30

14 MR. PORTER: Mr. Blazer, you've handed the  
15 witness an 18-page document.

16 MR. BLAZER: Uh-huh.

05-02-14 Wagner, (Page 33:9 to 33:12)

33

9 Q. My question is, was your understanding of  
10 what that document was based on what Mr. Karlovics  
11 told you or from some other source?

12 A. From what Mr. Karlovics told me.

05-02-14 Wagner, (Page 38:20 to 39:2)

38

20 BY MR. BLAZER:

21 Q. Somebody had told you that you needed to  
22 be in line with SWALCO?

23 A. Someone told us?

24 Q. Yes.

39

1 A. No. It was discussion that Peter had  
2 with us prior to voting.

05-02-14 Wagner, (Page 39:12 to 39:20)

39

12 Q. Do you recall being told by anyone that  
13 the adoption of the Round Lake Park Solid Waste

14 Management Plan would assist Groot in getting their  
15 approval for the transfer station?

16 A. No.

17 Q. You don't recall that?

18 A. I've never heard it.

19 Q. Okay. From anyone?

20 A. From anyone.

05-02-14 Wagner, (Pages 41:14 to 43:5; 43:19-43:24)

41

14 Q. And was this in a private session, or was  
15 this with several people around you?

16 A. There were several people with us.

17 Q. Who?

18 A. It was myself, Linda Lucassen, Raeanne  
19 McCarty, Bob Cerretti, Karen Eggert, and Jean McCue.

20 Q. And was Ms. McCarty a member of the  
21 Village Board at that time?

22 A. No.

23 Q. Could you tell me what was said?

24 A. Peter said that during the campaign we

42

1 were not to discuss the transfer station in any way,  
2 shape, or form.

3 Q. And did you know what he was talking

4 about when he said you can't discuss the transfer  
5 station?

6 A. Vaguely. Got a vague description of what  
7 it might be and that was all.

8 Q. What description did you get?

9 A. A building that would be -- garbage would  
10 be dumped in and hauled out of it. We had to be  
11 unbiased and not discuss it and not form an opinion  
12 on it and to stay away from it.

13 Q. And you hadn't heard about this transfer  
14 station before this campaign meeting in February of  
15 2013; is that correct?

16 A. No, I have not.

43

3 Q. Was anyone from Groot at the campaign  
4 meeting?

5 A. No.

\* \* \*

19 Q. Now, you said the next time that you can  
20 recall anything about the transfer station was  
21 campaign literature?

22 A. Yes.

23 Q. And how long after this Pizza Place  
24 meeting did you see this campaign literature?



05-02-14 Wagner, (Page 44:1 to 44:3)

44

1 A. It was in March.

2 Q. And what did the campaign literature say

3 about the transfer station?

05-02-14 Wagner, (Page 44:7 to 44:17)

44

7 A. It was a business card of the opposite

8 slate's name and web address and Facebook page; and

9 on the back of it, it stated the only straight slate

10 to vote against the Groot transfer station.

11 BY MR. BLAZER:

12 Q. Did you understand what that meant?

13 A. Not exactly because we had not discussed

14 it.

15 Q. Who is "we"?

16 A. Our campaign. The parties of our

17 campaign.

05-02-14 Wagner, (Pages 46:22 to 50:5)

46

22 Q. Have you ever discussed the transfer

23 station with Jean McCue?

24 A. Have I ever?

47

1 Q. Ever.

2 A. During deliberations.

3 Q. Any time before that?

4 A. No.

5 Q. Never?

6 A. Outside of the campaign meeting that

7 Peter told us not to discuss it, no.

8 Q. Have you ever discussed the transfer

9 station with Linda Lucassen?

10 A. No.

11 Q. Ever?

12 A. Deliberations.

13 Q. Only the deliberations?

14 A. Yes.

15 Q. You never discussed the transfer station

16 with -- with her outside of the deliberations that

17 occurred in, when was it, November?

18 A. December.

19 Q. December.

20 A. No.

21 Q. So that's the -- December 2013 is the

22 only time you ever discussed the transfer station

23 with Linda Lucassen; is that correct?

24 A. Yes.

48

1 Q. And your answer is the same with respect

2 to Jean McCue?

3 A. Yes.

4 Q. How about Bob Cerretti?

5 A. Yes.

6 Q. Same thing?

7 A. Yes.

8 Q. McCue and Lucassen were at the

9 February 2013 campaign meeting; correct?

10 A. Yes.

11 Q. Was Bob Cerretti there? I don't recall.

12 A. Yes.

13 Q. All right. And you didn't discuss the

14 transfer station with any of them at that meeting

15 either?

16 A. No.

17 Q. And at no time between February 2013 and

18 December 2013 did you discuss the transfer station

19 with any of them; is that your testimony?

20 A. Yes.

21 Q. Did you ever discuss the transfer station

22 with any members of the -- what you've described as

23 the opposition slate?

24 A. No.

49

1 Q. Do you know if any of the other members  
2 of your slate discussed the transfer station with any  
3 of the members of the opposition slate?

4 A. Not to my knowledge.

5 Q. All right. Did you ever ask anyone what  
6 the basis was for the opposition slate's statement  
7 that they were the only straight slate on the  
8 transfer station?

9 A. No.

10 Q. You never asked anyone what that meant?

11 A. No.

12 Q. Why not?

13 A. Because I got a gist of it.

14 Q. From who?

15 A. From reading it.

16 Q. What was the gist that you got from  
17 reading it?

18 A. That they were going to say no.

19 Q. And that bothered you?

20 A. Yes.

21 Q. Why did it bother you?

22 A. Because Peter instructed us that we were  
23 not to discuss it in any way, shape, or form. We had

24 to be an unbiased board, we had to be a sequestered

50

1 jury. We had to wait for the hearings before we made

2 up our mind or discussed anything on it.

3 Q. And it's your testimony that that's in

4 fact what you did?

5 A. Yes.

05-02-14 Wagner, (Page 51:9 to 51:23)

51

9 Q. I'm sorry. Did you recall attend any of

10 the Section 39.2 --

11 MR. SECHEN: Siting.

12 BY MR. PORTER:

13 Q. -- siting hearings?

14 A. Yes, I did.

15 Q. And there were some minutes of a meeting

16 marked earlier that said that there were going to be

17 transcripts available.

18 Do you know if those transcripts

19 were indeed made available?

20 A. Yes, they were.

21 Q. And did you limit your decision to the

22 evidence that was admitted in the record?

23 A. Yes.

05-02-14 Wagner, (Page 52:3 to 52:9)

52

3 Q. You mentioned that you were counseled to  
4 be unbiased and not make your mind up before the  
5 hearings commenced. Did you do that? Did you remain  
6 unbiased and not make your mind up until you heard  
7 all the evidence?

8 A. Yes. I took my job very seriously as a  
9 juror.

**ATTACHMENT C**

**Respondents' Counter-Designations for Deposition of Linda Lucassen**

13:13 Q. Go ahead, Mayor. Whose side was the

13:14 Village of Round Lake Park on?

13:19 A. I have to say, I didn't think there was a

13:20 side. We were there to hear the evidence that was

13:21 presented.

13:22 Q. All right. So from your perspective, the

13:23 Village of Round Lake Park was neither opposed to

13:24 Groot nor was it opposed to Timber Creek and the

14:1 Village of Round Lake; is that correct?

14:2 A. We were there for the evidence.

14:3 Q. All right.

14:4 A. And to listen to the hearing.

18:9 Q. Does looking at those minutes refresh

18:10 your recollection as to when the first time was that

18:11 you heard about the subject of a transfer station

18:12 potentially coming into Round Lake Park?

18:18 BY THE WITNESS:

18:19 A. I don't recall. When I take minutes,

18:20 they are words. I write down what is said and try to

18:21 pull it together, but, no.

18:22 BY MR. BLAZER:

18:23 Q. All right. Well --

18:24 A. I mean, I read it but, no.

26:22 MR. PORTER: And, Mike, I have an ongoing

26:23 objection to questions related to this exhibit, okay?

26:24 MR. BLAZER: Understood.

27:1 MR. SECHEN: As will I.

46:13 MR. KARLOVICS: Objection to your testimony

46:14 now, the characterization of her testimony. It's

46:15 been consistent.

46:16 MR. BLAZER: I didn't mean to characterize it.

49:9 Q. How far in advance of the December 10

49:10 meeting had you decided to vote in favor of the Groot

49:11 transfer station?

49:12 MR. PORTER: Objection, foundation.

49:13 BY THE WITNESS:

49:14 A. I didn't make any decision. I had no

49:15 idea I'd be called to vote.

49:16 BY MR. BLAZER:



49:17 Q. Your testimony is that you didn't discuss  
49:18 the vote with any other member of the board before  
49:19 December 10, 2013?

49:20 A. No, I did not.

51:21 Q. Couple quick follow ups. Did you attend  
51:22 any of the Section 39.2 zoning -- I'm sorry?

52:2 Q. Siting hearings?

52:3 A. Yes.

52:4 Q. Were the transcripts made available to  
52:5 you during and after that siting hearing before the  
52:6 vote occurred?

52:7 A. Yes.

52:8 Q. Did you wait until receiving all the  
52:9 evidence before you made a decision in this case?

52:10 A. Yes.

52:11 Q. Did you make your mind up -- strike that.

52:12 You didn't make your mind up about  
52:13 the siting application before the hearing commenced,  
52:14 did you?

52:15 A. No, I did not.

**ATTACHMENT D**

**Respondents' Counter-Designations for Deposition of Candace Kenyon**

05-06-14 Kenyon, (Pages 7:2 to 7:17)

7

2 Q. Why not?

3 A. I don't recall.

4 Q. You don't recall why it didn't surprise

5 you?

6 A. Well, I don't know because I'm not in

7 their brain. I don't know.

8 Q. Okay. Let me try it this way. Did you

9 expect before the vote or -- let's go even back a

10 couple days farther.

11 Before the deliberations -- you

12 recall there was a deliberation meeting before the

13 vote?

14 A. Yes.

15 Q. Before the deliberations, did you expect

16 those four people to vote in favor of the transfer

17 station?

18 MR. PORTER: Objection, calls for conjecture.

19 BY MR. BLAZER:

20 Q. Go ahead.

21 A. I agree with what he said.

22 MR. KARLOVICS: I am going to join -- I'm

23 going to join in the objection because --

24 MR. SECHEN: As well.

8

1 MR. KARLOVICS: Calling for conjecture, a

2 guess.

3 BY MR. BLAZER:

4 Q. Go ahead.

5 MR. KARLOVICS: I'm going to allow -- I'm

6 going to allow her to answer.

7 BY THE WITNESS:

8 A. I have to ask again because I also agree

9 it's conjecture, but --

10 BY MR. BLAZER:

11 Q. Sure. All right.

05-06-14 Kenyon, (Pages 17:21 to 18:8)

17

21 Q. All right. You'll see there's a

22 reference in that same paragraph to then

23 Trustee Nelson already provided information to

24 Mr. Willis on a site he had in mind. Do you see

18

1 that?

2 A. Yes.

3 Q. Did you ever discuss that with

4 Trustee Nelson?

5 A. No, I did not.

6 Q. Did you ever come to learn what site

7 Trustee Nelson had in mind?

8 A. No, I did not -- not that I recall.

05-06-14 Kenyon, (Pages 19:23 to 20:2)

19

23 Q. Either before or after that September,

24 2008 meeting, did you discuss that subject, a Groot

20

1 transfer station in Round Lake Park, with anyone?

2 A. Not to my knowledge.

05-06-14 Kenyon, (Page 21:15 to 21:22)

21

15 Q. To the best of your recollection, what do

16 you remember about that presentation?

17 A. I don't really recall specifics.

18 Q. Okay.

19 A. Just the -- yeah, this possibly is

20 something we could pursue kind of. It's just a

21 preliminary something. So I don't recall any --  
22 anything other than it's something we were exploring.

05-06-14 Kenyon, (Pages 31:3 to 31:9)

31

3 Q. All right. After the presentation in  
4 September 2008, the one we looked at a little bit  
5 ago, did you have any conversations with any other  
6 board members regarding the presentation or a Groot  
7 transfer station coming into the village?

8 A. I don't recall anything outside the board  
9 meeting.

05-06-14 Kenyon, (Pages 50:21 to 51:1)

50

21 Q. Can you recall what that discussion was  
22 about?

23 A. I don't recall in detail, but I do know  
24 that I relied on Attorney Karlovics to come to the

51

1 best agreements that we could possibly get.

05-06-14 Kenyon, (Pages 61:22 to 62:3)

61

22 Q. All right.

23 A. Doesn't mean that she said this, because  
24 we have discussion --

62

1 Q. Right.

2 A. -- during the meeting minutes, and we  
3 can't tell who said what, necessarily.

05-06-14 Kenyon, (Pages 63:5 to 63:7)

63

5 Q. And what is your understanding of what a  
6 solid waste management plan is?

7 A. How to dispose and how to process waste.

05-06-14 Kenyon, (Pages 72:16 to 72:21; 73:9 to 73:24)

72

16 Q. Good evening. Again, my name is  
17 Rick Porter. I represent Groot. Counsel asked you  
18 some questions about the host agreement. In  
19 particular, he had the host agreement related to the  
20 transfer station marked as Exhibit No. 30. Do you  
21 have that document in front of you?

73

9 Q. And isn't it true that document provides

10 at Page 2 that, whereas the Village is desirous of  
11 obtaining certain benefits as set forth herein,  
12 provided that under no circumstance shall the Village  
13 be under any obligation to grant site location  
14 approval and transfer facility unless and until the  
15 pollution control facility site location review  
16 process finds the transfer station meets or exceeds  
17 all criteria set forth in 415 ILCS 5/39.2.

18 MR. BLAZER: Are you asking her if that's what  
19 the document says?

20 BY THE WITNESS:

21 A. Yes.

22 MR. PORTER: I asked her what I asked her.

23 BY THE WITNESS:

24 A. Yes.

05-06-14 Kenyon, (Pages 74:4 to 75:22)

74

4 Q. And isn't it also true that same document  
5 provides at Page 16 under application that the  
6 Village has not, by entering into this agreement with  
7 the company, predetermined whether it will approve,  
8 approve with conditions, or disapprove any  
9 application and has not prejudged whether company and

10 the proposed transfer facility will meet the criteria  
11 for approval under 39.2 of the Act; isn't that right?

12 A. Yes.

13 Q. As a matter of fact, you voted in favor  
14 of approving this host agreement; is that correct?

15 A. Yes.

16 Q. And yet you ultimately voted against my  
17 client's application at the Section 39.2 hearing;

18 isn't that right?

19 A. Yes.

20 Q. So you understood that by executing the  
21 host agreement, you were in no way obligating  
22 yourself to approve later the 39.2 hearing; right?

23 A. Yes.

24 Q. And no county board member -- strike

75

1 that. I am sorry.

2 No village board member ever told  
3 you that they were under the impression by executing  
4 this host agreement that somehow they were obligated  
5 to approve the 39.2 application?

6 A. No.

7 Q. My statement was correct?

8 A. Yes.

9 Q. Isn't it true that you understood that



10 you were to limit your decision to the testimony

11 presented at the hearing?

12 A. Yes.

13 Q. How did you come to that understanding?

14 A. On the advice of my attorney.

15 Q. And isn't it true that the other board

16 members were so advised?

17 A. Yes.

18 Q. As a matter of fact, that was even done

19 in public meetings out -- there are minutes where

20 that advice was given; isn't that right?

21 A. All of these meeting minutes -- meetings

22 are public record.

05-06-14 Kenyon, (Pages 78:4 to 82:2)

78

4 Q. Isn't it true that you had been informed

5 in open session that you were encouraged to attend as

6 many of the hearing days as possible?

7 A. Yes.

8 Q. Isn't it true that you were informed that

9 there would be a transcript available?

10 A. Yes.

11 Q. Did you attempt to attend as many hearing

12 days as you could?

13 A. Yes.

14 Q. And if you missed any days, did you --

15 was a transcript available?

16 A. Yes.

17 Q. And was that -- both transcripts

18 available to other board members?

19 A. Yes.

20 Q. And did other board members attempt to

21 attend as much as they could, to your knowledge?

22 A. Yes.

23 Q. Was the objectors given an opportunity to

24 present their case?

79

1 A. Yes.

2 Q. Did they present witnesses?

3 A. Yes.

4 Q. Were my client's witnesses made available

5 for cross-examination by the objectors?

6 A. Yes.

7 Q. Okay. Did you limit your decision to

8 vote against my client's application to the evidence

9 that was admitted at the hearing?

10 A. Yes, I did.

11 Q. To your knowledge, did any board member

12 fail to do that same activity?

13 A. None, to my knowledge.

14 Q. So as far as you know, they all limited  
15 their decision to the evidence that was admitted at  
16 the hearing; is that right?

79

21 A. As far as I know.

22 BY MR. PORTER:

23 Q. You don't -- strike that.

24 Did you ever have any conversation

80

1 with any of the other board members where they, in  
2 any way, indicated to you that they had prejudged  
3 this application?

4 A. No.

5 Q. And you didn't prejudge the application?

6 A. No, I did not.

7 Q. As a matter of fact, you actually voted  
8 in favor -- strike that.

9 Back in 2008, counsel has pointed  
10 out that there was kind of an introductory meeting  
11 with Mr. Moose and where he described transfer  
12 stations in general. Do you recall that?

13 A. Yes.

14 Q. And at the end of that meeting there was  
15 a vote to determine whether or not the village should

16 continue to investigate the possibility of transfer  
17 stations being sited in your jurisdiction; is that  
18 right?

19 A. Yes.

20 Q. And you voted in favor of that; is that  
21 correct?

22 A. Yes, I did.

23 Q. And by voting in favor of that, you  
24 didn't feel obligated to years later vote in favor of

81

1 an application that was filed, did you?

2 A. No, I did not.

3 Q. And, to your knowledge, neither did any  
4 other board member; correct?

5 A. No.

81

8 BY MR. PORTER:

9 Q. You knew that you were supposed to keep  
10 an open mind from the beginning of the evidence until  
11 the end of the evidence; is that right?

12 A. Yes.

13 Q. And, to your knowledge -- well, strike  
14 that.

15 Do you have any reason to believe  
16 that Mayor McCune [sic] or any other of the village

17 board members failed to keep an open mind?

20 A. No, not even Mayor McCue. You said

21 McCune.

05-06-14 Kenyon, (Page 85:8 to 85:12)

85

8 Q. Back in 2011, when you were running for

9 office, did you have any preconceived notions about

10 the possibility of a transfer station in your

11 jurisdiction?

12 A. No.

05-06-14 Kenyon, (Pages 87:4 to 88:13)

87

4 The three that voted against were

5 yourself and who else?

6 A. McCarty and Williams.

7 Q. At any time, did you see McCarty,

8 Williams, or yourself -- at any time, did any of

9 those three people, to your knowledge, publish

10 anything stating that they were against the transfer

11 station before the vote?

12 A. No, not to my knowledge.

13 Q. And, likewise, did you see any of those

14 three people publish anything saying they were in  
15 favor of it?

16 A. No, no.

17 Q. Okay. Did you ever hear any board member  
18 make any statement before the vote about whether they  
19 were going to vote in favor or against?

20 A. No.

21 Q. So would you agree it would be complete  
22 conjecture on your part to suggest that any board  
23 member had predetermined how they were going to vote?

24 A. I can't speak for others.

88

1 Q. You saw no evidence whatsoever that  
2 anybody on that board that voted made a  
3 pre-adjudication of how they were going to vote;  
4 right?

5 A. Right, I saw no indication.

6 Q. You would agree that the objectors had a  
7 complete and ample opportunity to present evidence  
8 and testimony concerning this application?

9 A. Repeat your question.

10 Q. Would you agree that the objectors had a  
11 complete and ample opportunity to present evidence  
12 and testimony concerning this application?

13 A. Yes.

05-06-14 Kenyon, (Pages 90:12 to 91:3)

90

12 Q. Okay. There were some discussions about  
13 the adoption of a village solid waste management  
14 plan, and then later on the adoption of a different  
15 plan. You actually voted in favor of both of those  
16 actions; is that correct?

17 A. Yes.

18 Q. And your voting in favor of one or both  
19 of those solid waste management plans did not  
20 dissuade you from keeping an open mind regarding the  
21 Section 39.2 hearing, did it?

22 A. No, it did not.

23 Q. And, again, ultimately you actually voted  
24 against that application despite the fact that you

91

1 had previously voted for a plan that included  
2 transfer stations?

3 A. Correct.

05-06-14 Kenyon, (Page 91:6 to 91:17)

91

6 And, again, did any board member  
7 ever make any statement that they believed because

8 they had approved one or both of the prior plans that  
9 somehow they were obligated in any way to vote a  
10 certain way at the 39.2 hearing?

11 A. Not that I know of.

12 Q. You'd never heard any such statement like  
13 that?

14 A. No.

15 Q. Never overheard anybody make any such  
16 statement like that?

17 A. No.

05-06-14 Kenyon, (Pages 91:23 to 92:16)

91

23 So if I understand it correctly, you went  
24 into the hearings last year with a completely open

92

1 mind --

2 A. Yes.

3 Q. -- correct?

4 A. Yes, I did.

5 Q. And you paid attention to all the  
6 evidence?

7 A. Yes.

8 Q. You read all the proposed findings of  
9 fact?



10 A. Yes.

11 Q. And you ultimately adopted the findings

12 of fact that had been submitted by Timber Creek

13 Homes; correct?

14 A. Yes.

15 Q. And you voted no?

16 A. Yes.

05-06-14 Kenyon, (Pages 93:6 to 94:3)

93

6 BY MR. PORTER:

7 Q. There is nothing nefarious to the fact

8 that those four people voted differently than you

9 did, is there?

10 MR. BLAZER: Object to the form of the

11 question.

12 MS. KARLOVICS: Do you know what nefarious

13 means?

14 BY THE WITNESS:

15 A. No, I -- yeah, give me the definition. I

16 have a sense of it.

17 BY MR. PORTER:

18 Q. Well, there's nothing improper in your

19 mind --

20 A. Correct, there's nothing improper.

21 Q. -- to -- by those four people voting  
22 differently than you voted; right?

23 A. Right.

24 Q. And you have no reason to believe that

94

1 their vote was based on anything outside the record;

2 correct?

3 A. Correct.

**ATTACHMENT E**

**Respondents' Counter-Designations for Deposition of Jean McCue**

05-08-14 McCue, (Page 13:3 to 13:8)

13

3 Q. All right.

4 A. That was the only reason that I had

5 stated.

6 Q. So one of those projects was not the

7 Groot transfer station?

8 A. No.

05-08-14 McCue, (Page 20:2 to 20:18)

20

2 Q. All right. And it says here Trustee

3 Nelson already provided information to Mr. Willis on

4 a site he had in mind, and he recommended looking at

5 the site before any action was taken. Do you see

6 that?

7 A. Yes, I do.

8 Q. That's the statement right after about

9 putting in a transfer station to increase your

10 revenue.

11 Do you know or did Trustee Nelson

12 tell you what site he had in mind?

13 A. No, he didn't.

14 Q. All right. Had you discussed the subject  
15 of a transfer station coming to Round Lake Park with  
16 Trustee Nelson or any other board member before this  
17 meeting?

18 A. Not that I recall.

05-08-14 McCue, (Pages 89:21 to 90:4)

89

21 Q. During this period of time that we've  
22 just been going over in the second half of 2012, were  
23 you continuing to have conversations with Groot  
24 representatives regarding to the transfer station?

90

1 A. No.

2 Q. You had none in 2012, in the second half  
3 of 2012?

4 A. Not that I recall.

05-08-14 McCue, (Pages 91:15 to 92:1)

91

15 Q. All right. And why were you in contact  
16 with Shaw Environmental in December 2012?

17 A. As I recall the mayors of the adjoining  
18 towns had asked what this was and wanted to see some  
19 kind of a presentation as to what a transfer station

20 was so that they were knowledgeable with their  
21 residents.

22 Q. And how did you come to know that?

23 A. They called me and asked me.

24 Q. Both mayors?

92

1 A. Yes. Mayor Soto and Mayor Dietz.

05-08-14 McCue, (Pages 96:12 to 96:22)

96

12 Q. All right. So on the first line here you  
13 said to Mr. Fallon, I was told that Shaw would put on  
14 a presentation about transfer stations for the  
15 Villages of Round Lake and Hainesville. Both mayors  
16 are very interested. And are those the phone calls  
17 that you testified to a little bit ago?

18 A. Yes.

19 Q. Okay. And then you say, would you also  
20 do the same for Round Lake Park residents. Do you  
21 see that?

22 A. Yes.

05-08-14 McCue, (Pages 98:6 to 98:16)

98

6 Q. Was it generally about the Groot transfer  
7 station that was coming?

8 MR. KARLOVICS: I'm going to -- I have to  
9 object to a mischaracterization. I don't see any  
10 referral to or a discussion of a first-name basis.

11 MR. BLAZER: Hi, Jean. Thanks, Marty.

12 MR. KARLOVICS: Okay. He was on a first-name  
13 basis with her, perhaps, but I don't see any  
14 reference of her using his first name. I just wanted  
15 the record to be clear on that point.

16 MR. SECHEN: Good point.

05-08-14 McCue, (Pages 114:3 to 115:20)

114

3 Q. Counsel directed you to the meeting  
4 minutes of December 4, 2012.

10 Q. He pointed out some language in it, but I  
11 want to point out there was -- these are minutes from  
12 the public meeting; right?

13 A. Yes.

14 Q. And right underneath the language that he  
15 pointed out, there's a statement, minutes attributed  
16 to village attorney, wanted to remind the board that  
17 even though Groot has not filed a petition for  
18 transfer station, they should keep an open mind.  
19 They should not take a position and listen to all the  
20 factual evidence. Do you see that?

21 A. Yes, I do.

22 Q. Ultimately, Groot did file an  
23 application; is that right?

24 A. Yes.

115

1 Q. Did you keep an open mind?

2 A. Oh, most definitely.

3 Q. Did you attend any of the hearings?

4 A. I attended every one of the hearings.

5 Q. And on those nights when a village board  
6 meeting may have been late or not been available,  
7 were transcripts made available for that village  
8 board meeting?

9 A. Yes, they were.

10 Q. And did you walk into that hearing with  
11 any preconceived notion as to how you would  
12 ultimately vote?

13 A. No.

14 Q. And to your knowledge -- strike that.

15 Did any board member ever make a  
16 statement to you that would suggest to you that they  
17 failed to keep an open mind?

18 A. No, they didn't.

19 Q. Did you base your decision on the record?

20 A. Yes.

05-08-14 McCue, (Pages 115:23 to 116:16)

115

23 Q. Okay. And I noted this was an e-mail  
24 regarding setting up a meeting that was requested by

116

1 the mayors of the Village of Round Lake and  
2 Hainesville?

3 A. Correct.

4 Q. And I noticed on the last sentence of  
5 that e-mail, you mentioned that you did not have an  
6 e-mail for Devin. Who's Devin?

7 A. That would have been Devin Moose.

8 Q. So he is actually the head engineer over  
9 at CBI Shaw in relation to this --

10 A. Yes.



11 Q. -- transfer station application; is that  
12 right?

13 A. Yes.

14 Q. And if I understand this correctly, you  
15 didn't have his e-mail address; correct?

16 A. No, I didn't.