

STATE OF ILLINOIS

IN RE: THE APPLICATION FOR )  
APPROVAL OF THE DEKALB )  
COUNTY LANDFILL EXPANSION, ) Kishwaukee  
) Community College  
)  
) DeKalb, Illinois  
) March 1, 2010

Hearing commenced, pursuant to assignment, at  
9:00 a.m.

BEFORE:

JOHN J. MCCARTHY, Hearing Officer.

POLLUTION CONTROL FACILITY COMMITTEE MEMBERS

PRESENT:

Paul Stoddard  
Riley Oncken  
Ken Andersen  
Michael Haines  
Ruth Anne Tobias

REGISTERED OBJECTORS PRESENT:

Dan Kenney  
Mike McIntyre  
Mel Haas  
Roger Steimel  
Clay Campbell

REPORTERS:

Julie K. Edeus and Callie Bodmer,  
Certified Shorthand Reporters,  
Dixon, Illinois.

APPEARANCES:

ATTORNEY DONALD J. MORAN,  
of the firm of Pedersen & Houpt,  
161 North Clark Street, Ste. 3100,  
Chicago, Illinois, 60601-3242,

Counsel for Waste Management of  
Illinois, Inc. as the Applicant.

ATTORNEY RENEE CIPRIANO,  
of the firm of Schiff Hardin,  
6600 Sears Tower,  
Chicago, Illinois, 60606,

Counsel for DeKalb County.

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HEARING OFFICER MCCARTHY: Good morning, ladies and gentlemen. My name is John McCarthy. And as you know, on November 30, 2009 Waste Management of Illinois filed a site location application for the expansion of the DeKalb County Landfill in DeKalb County, Illinois. The DeKalb County Pollution Control Facility Siting Ordinance provides that the Pollution Control Facility Committee of the DeKalb County Board shall appoint a hearing officer to preside over the public hearing on the request for local siting approval. I have been appointed by the committee as the hearing officer for this public hearing. The siting ordinance also provides that the hearing officer shall preside over the public hearing and shall make any decisions concerning the admission of evidence and the manner in which the hearing is conducted. The hearing officer shall make all decisions and rulings in accordance with fundamental fairness. The hearing officer may exclude irrelevant, immaterial, incompetent or unduly repetitious testimony or other evidence. The hearing officer shall rule on all questions relating to

the admissibility of evidence. No ruling of the hearing officer concerning the admissibility of evidence or procedural issues at this public hearing shall be appealable to either the Committee or to the County Board.

Now, the Illinois Environmental Protection Act provides that no permit for the development or construction of a new pollution control facility may be granted by the Environmental Protection Agency unless the applicant submits proof to the agency that the location of the facility has been approved by the county board of the county in which the facility is to be located in accordance with Section 39.2 of the Act. Section 39.2 of the Act provides that the county board is to approve or disapprove the request for local siting approval. This section also provides that an applicant for local siting approval shall submit sufficient details describing the proposed facility to demonstrate compliance. And local siting approval is to be granted only if the proposed facility meets the nine criteria set forth in the statute. So the burden of proof is on the Applicant in this

matter. The Applicant must demonstrate compliance with the nine criteria set forth in the statute. And local siting approval is to be granted only if the proposed facility meets the nine criteria.

The nine criteria are as follows: 1) The facility is necessary to accommodate the waste needs of the area it is intended to serve. 2) The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected. 3) The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding properties. 4) The facility is located outside the boundary of the 100-year floodplain or the site is flood-proofed. 5) The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents. 6) The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows. 7) If the facility will be treating,

storing or disposing of hazardous waste an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in the case of an accidental release. 8) If the facility is to be located in a county where the county board has adopted a solid waste management plan consistent with the planning requirements of the local Solid Waste Disposal Act or the Solid Waste Planning and Recycling Act, the facility is consistent with that plan. And 9) If the facility will be located within a regulated recharge area, any applicable requirements specified by the Illinois Pollution Control Board for such areas have been met.

The County Board may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant in the field of solid waste management when considering Criteria 2 and 5.

The Act also provides that any person may file written comment with the County Board concerning the appropriateness of the proposed

site for its intended purpose. The County Board shall consider any comment received or postmarked not later than 30 days after the date of the last public hearing. Written comments submitted to the DeKalb County Board within 30 days of the final public hearing shall be made a part of the record of proceedings in this matter and will be considered by the County Board in making its decision.

If the County Board has entered into a host agreement with the siting Applicant, the terms and conditions of the host agreement are to be disclosed and made a part of the hearing record. DeKalb County has negotiated and entered into a Host Community Agreement with Waste Management of Illinois and the Host Community Agreement has been made a part of the application in this matter.

The Act also provides that at least one public hearing is to be held by the County Board or in this case a committee of the County Board no sooner than 90 days but no later than 120 days from receipt of the request for site approval. And the public hearing in this case



is being held before the Pollution Control Facility Committee of the DeKalb County Board.

Now, the rules and procedures of the committee provide that all participants in the public hearing, other than the Applicant, must register with the County Clerk at least seven days prior to the start of the public hearing. All other parties will be limited to public comment during the public comment time of the public hearing or to written comment through the written comment period. Any exhibits that a participant, other than the Applicant, anticipates using during the public hearing shall be submitted to the County at least five days prior to its anticipated use. All participants shall submit at least 30 copies of all exhibits. A copy shall be furnished to the applicant by the County. Members of the public who speak during the public comment time of the public hearing shall submit any exhibits they expect to use to the County prior to the time designated for the public to speak. At least three copies of all such exhibits shall be submitted and the applicant will be provided one

of these three copies by the County. Any additional exhibits to be used by the Applicant during the public hearing and not a part of the application shall be submitted at least 24 hours prior to the commencement of the public hearing. At least 20 copies of all additional exhibits shall be submitted.

All parties wishing to testify or cross-examine witnesses must submit written notification of their intent to the County Clerk at least seven days before the first date of the public hearing. Other persons shall be allowed to submit questions to me and I shall exercise discretion in the manner in which such questions are to be posed to the witnesses.

Now, after reviewing the application, written comments, transcripts of the public hearing and other pertinent documents, the Pollution Control Facility Committee shall make a recommendation on site approval to the full DeKalb County Board no sooner than 30 days after the last public hearing but no later than 180 days from receipt of the site location application. The DeKalb County Board shall

approve or deny the site location application. After reviewing the recommendation of the Pollution Control Facility Committee and reviewing the application, written comments, transcripts of the public hearing and other pertinent documents, the DeKalb County Board shall base its decision only on the nine criteria established in the Illinois Environmental Protection Act. If the County Board approves the application, the Board may impose such conditions as may be reasonable and necessary to accomplish the purposes of Section 39.2 of the Act and that are not inconsistent with the Illinois Pollution Control Board regulations.

Members of the general public may be involved in this process in another way and that is by providing public comment. If a member of the general public desires to provide public comment, we have set aside a time on Tuesday evening, March 2nd, 2010 from 7 to 9 p.m. for that purpose. However, if because of scheduling conflicts you are only able to be present at one of the public hearings and you are not available

on Tuesday evening, I will allow other times during the public hearing for public comment. So for example, if you're not able to be present tomorrow evening, Tuesday evening and you're interested in making a public comment, for example, today, please approach me during the break that we will take this morning and I will allow you to make your public comment at the end of this session. One lady has already approached me prior to the start of the public hearing and has asked that she make -- she be able to make her public comment today. Please also keep in mind that any person may file written comment with the office of the DeKalb County Board, 200 North Main Street, Sycamore, Illinois, 60178, within 30 days after the date of the last public hearing.

Now, in connection with this application the Pollution Control Facility Committee and the County Board are acting in an adjudicatory capacity, as a decision-maker and not in a legislative capacity as a policy-maker. The Committee and the County Board are acting in a much different role than they normally do. In

effect, the Committee and the County Board are sitting as a jury in this matter. They are not as available to you on this subject as they would normally be. They should not be listening to your opinions unless the opinion is presented to them in this hearing either in the form of oral testimony, oral public comment or written public comment. I urge members of the public to make your opinions known to the committee and to the County Board, but please do so in the correct manner. If you make your comment a part of the record in these proceedings the County Board must consider your opinion in making its decision.

Now, at this time I would like the members of the Pollution Control Facility Committee who are present to identify themselves for the record. We'll start with the County Board Chair, Ruth Anne Tobias.

MS. TOBIAS: Ruth Anne Tobias, County Board Chair and chair of the Pollution Control Facility Committee.

MR. HAINES: Michael Haines, District 2, Genoa and Kingston, County Board.

MR. ANDERSEN: Ken Andersen, District 3.

MR. ONCKEN: Riley Oncken, District 3.

MR. STODDARD: Paul Stoddard, District 9.

HEARING OFFICER MCCARTHY: Are there any other members of the County Board who are present today other than the members of the Committee? Would you please rise and identify yourselves for the record.

MR. AUGSBURGER: Jerry Augsburger, District, 7, County Board.

MR. NEWPORT: Scott Newport, District 8, DeKalb.

MS. DEFAUW: Sally DeFauw, District 7.

MR. TODD: Mark Todd, District 11.

MS. LAVIGNE: Pat LaVigne, District 10.

HEARING OFFICER MCCARTHY: Next I would like Counsel for the respective parties to stand and identify themselves for the record. We'll start with Mr. Moran.

MR. MORAN: My name is Don Moran. I represent the Applicant, Waste Management of Illinois, Inc.

HEARING OFFICER MCCARTHY: Ms. Cipriano?

MS. CIPRIANO: Good morning. My name is

Renee Cipriano and I represent the County of DeKalb.

HEARING OFFICER MCCARTHY: And there are members, as I understand it, of the general public who have submitted written notification to the County Clerk of their intent to participate in this public hearing and I think there are at least two gentlemen here. Would you rise and identify yourselves.

MR. KENNEY: Dan Kenney, Chair of the Stop the DeKalb County Megadump.

MR. McINTYRE: Mac McIntyre, also with the Stop the DeKalb County Megadump and individual.

HEARING OFFICER MCCARTHY: Now, I understand from Mr. McIntyre and Mr. Kenney that they have a preliminary motion that they would like to make and I would allow them to make it at this time.

MR. KENNEY: Yes, we do, Mr. Hearing Officer. Thank you very much. Dan Kenney individually and Mac McIntyre, individually --

HEARING OFFICER MCCARTHY: Mr. Kenney, if you could hold on just a minute for the microphone.

MR. KENNEY: We submit this motion to dismiss. Dan Kenney, individually; Mac McIntyre, individually; Gracie Mott, individually; and Stop the Megadump, a citizens' group, move to disqualify the County Board, to terminate this proceeding and to deny the siting application of Waste Management for the following reasons. 1) The County Board has already made up its mind in this matter. Board Member Julie Fauci told Dan Kenney last summer that approval was, quote, a done deal. 2) The County Board went on a private tour of Waste Management's landfill in Will County. This is improper and tainted the Board in favor of the application. Board Member Eileen Dubin told Dan Kenney that this tour and the Waste Management landfill of Will County were impressive. 3) The County Board has already making -- I'm sorry -- the County Board is already making arrangements to spend the host fees having advertised for construction bond sales backed by the host fees. This means they have no choice but to approve the application. According to the DeKalb Daily Chronicle



newspaper on February 25th, 2010, quote, the County has targeted the additional revenue generated from the landfill expansion to fund the county jail expansion, unquote. 4) The County Board does not understand its role in siting or the significance of what it is doing. The state's attorney is telling the newspaper and the County Board that they merely serve as an advisory capacity to the Illinois Pollution Control Board. This is not true since the appellate courts have held that the, quote, public hearing before a local governing body is the most critical stage of the site approval process, unquote. 5) The County Board improperly believes it is under some kind of gag order which prevents them from listening to their constituents. Constituents have a right to address their elected officials and to be heard by them and according to the appellate court the County Board has the right to find that all the siting criteria have been proven and to still deny the application, quote, based upon legislative type considerations, end quote. 6) The County Board's representatives met

improperly with Waste Management -- Waste Management representatives to conduct a pre-filing review of the application. 7) The County Board and County Clerk have not made the application available to the public for copying. They have denied DVD copies to some while giving the same to others. They have refused to have the application copied. They have refused to quote prices or times for copying other than to tell people it would cost a lot of money, quote -- and would, quote, take a long time, unquote. And they have refused to do anything other than let people inspect the nine-volume application at county offices. This is unfair and defeats the purpose of a public hearing. 8) The County adopted rules and procedures for this procedure and has had those posted on its website. Article 3, Section 5 of those rules limits the role of, quote, participant, unquote, to only property owners entitled to statutory notice and municipalities within one and a half miles of the site. All others are restricted to only being allowed to make public comment. This is illegal, fundamentally unfair and violates even

minimum due process. Recognizing this, the Hearing Officer has apparently indicated as of Friday, February 26th, that he will allow anyone to be a, quote, participant, unquote. However, we feel the damage is done because we can never know how many people will fail to appear today because they believed they would not be allowed to participate.

For all these reasons the full County Board should be disqualified, the hearing should be terminated before they begin and the application should be denied.

I have copies, Mr. Hearing Officer.

HEARING OFFICER MCCARTHY: Would you distribute the copies, please?

Mr. Moran, when you've had an opportunity to review the motion, would you like to respond?

MR. MORAN: Yes, Mr. Hearing Officer, I would.

HEARING OFFICER MCCARTHY: Are you prepared or would you like to --

MR. MORAN: I'd like to just finish reading it, if I could.

HEARING OFFICER MCCARTHY: Fine.

MR. MORAN: Mr. Hearing Officer, I'm ready to respond.

HEARING OFFICER MCCARTHY: You may proceed.

MR. MORAN: Thank you. I'll take each of the items in the order in which they appear in the motion.

The first contention is that the County Board has already made up its mind in this matter. Certainly this issue is one that is belied by the fact that this hearing has been scheduled, this committee has been constituted to hear the evidence that will be presented in this proceeding and indeed the decision on whether or not this application should be granted can and must only be based upon the evidence presented at the hearing. There hasn't been any evidence presented in this motion or otherwise indicating that the County Board, as the decision-making unit, has in any way determined that this application will or has been approved.

The second point --

MR. KENNEY: Excuse me, Mr. Hearing

Officer, can I respond to each point as he presents it or do I have to wait --

HEARING OFFICER MCCARTHY: No. You should wait.

MR. KENNEY: Okay. Thank you.

AUDIENCE MEMBER: Is his microphone even on, sir?

MR. MORAN: I can speak a little louder.

AUDIENCE MEMBER: Use the microphone.

MR. MORAN: Testing one, two --

HEARING OFFICER MCCARTHY: It doesn't appear to be on. Is there a button there?

MR. MORAN: Testing. All right. I think I have it.

HEARING OFFICER MCCARTHY: Do you want to start over in view of the fact that the audience probably didn't hear your first point.

MR. MORAN: Yes, I'd be happy to. The first item alleges that the County Board has already made up its mind in this matter. In fact, that contention is belied by the fact that this County Board has scheduled these hearings to consider the evidence that will be presented on each of the nine statutory criterion. The

final determination and decision on this application must and is required to be based only on the evidence presented in this hearing. There is no evidence and no allegation here that in any way this County Board has made any determination that this application ought be, should be or has been approved. And without such facts and without such information this point simply cannot be sustained, cannot be upheld.

The second point alleges that the fact that the County Board took a, quote, private tour of the Waste Management of Illinois landfill in Will County, which is the Prairie View facility, somehow taints the Board in its ability to make a determination on this siting application. The case law is clear that prior to the filing of the siting application such information and such tours are entirely proper, entirely appropriate and in no way form any basis to determine that the County Board is unable or in some way biased from making a fair and impartial decision based on the evidence presented in this hearing.

The third item alleges that the County has already begun making arrangements to spend the host fees for a number of different reasons. The question of if and when a decision is rendered to approve the siting application -- and as Mr. McCarthy alluded to, this is simply the first step in that process -- the first step in the Illinois regulatory process. If siting approval were to be granted in this matter there is still the question of presenting a permit application to the Illinois Environmental Protection Agency for both the development and an operating permit. Prior to that point when the agency issues the development permit and subsequently the operating permit, there can be no site, there can be no development of this expansion and indeed pursuant to the provisions of the host agreement, no obligation whatever for the parties to proceed based on the provisions of that agreement. And so whether the County has or hasn't taken steps with respect to the possible approval is simply an irrelevant matter in terms of its qualification and ability to decide this siting application.

The fourth point alleges that somehow the County Board does not understand its role in the siting process because of remarks the state's attorney may have made in connection with the nature of the decision by this County Board. In fact, the Illinois Supreme Court in the Town and Country versus County of Kankakee decision that came down in 2007 made very clear that this entire siting process is one that begins with the county board and continues through the Pollution Control Board stage. In other words, the decision that is made here by the County Board, if appealed, then becomes the province of the Pollution Control Board who then will make the final decision on whether the siting ought be approved or denied. So the state's attorney's comments in that regard were not inaccurate and appears certainly to be consistent with the holding of the Supreme Court in the Town and Country decision.

The fifth point alleges that the County Board believes that it is somehow under some type of gag order. Well, the law in this area is clear. As Mr. McCarthy stated previously,



County Board members in this type of proceeding assume a role that is unlike any other they perform in their duties as County Board members. In this proceeding those Board members are required to act as judges. They are required to act in an adjudicatory capacity with respect to this siting application which means, as it means in a court of law, that communications with those decision-makers outside the presence of this public hearing or outside the presence of the other parties involved, as in a court case, would be improper. Because as in a court case if you're a party in a court case the other party is not allowed to approach and talk to the judge without the presence of all parties. So this is a steadfast, long-established rule that the County Board members didn't create, the County Board members didn't come up with, the state's attorney certainly didn't just develop out of whole cloth, but is a long-established principle that prevents those kinds of communications. Does that mean that individual citizens, interested parties are unable to communicate with their County Board members

about their feelings on the application? Of course not. That's the purpose for this hearing. This hearing gives every person the right to come in and express those very views in the context of this hearing before these County Board members. So no one is being prevented from communicating with the County Board. The only question now is because we're in this adjudicatory proceeding it can't be done behind closed doors, it can't be done without presence of the Hearing Officer and also the parties here. That's the way it works in court cases. That's the way it works here. That's the law. That's what's been established.

The next point is that the County Board representatives improperly met with Waste Management in conducting a pre-filing review. Well, in fact, a pre-filing review of the application is also a long-approved, longstanding practice in these types of proceedings. In fact, the Land and Lakes decision from the Third District Appellate Court back in 1999 established this principle. That indeed before a siting application is filed the

county, if it deems it appropriate, is enabled to retain a consultant and conduct a review of that application prior to filing. The comments, the observations, the recommendations of that consultant can be shared with the to-be applicant. The applicant is under no obligation, no requirement to follow any recommendations, to adopt any of them or to accept them. But the process itself of a pre-filing review is well established in this area of the law.

The next point is that the County Board and County Clerk have not made the application available to the public for copying. And there's a reference to some electronic versions that apparently having been submitted to the County were not made available on a uniform or fair basis to people who requested it. Well, again, the law in this area is very clear. The nine-volume siting application which consists of well over 6,000 pages filed by the Applicant on November 30th of 2009 has been in the County Clerk's office and available through the County Board since November 30th. State law requires

that to be made available to anyone who wants to come in and review that application, to copy it or make any other appropriate or fair use of that document. It does not, however, obligate a county board to provide at no or little charge an electronic version of the application or copies of the hard copy of the application without payment of the actual cost of reproduction to the county. The state law says that very clearly. It's available. If copies are requested they must be paid for. Here the County indeed by virtue of its ordinance had requested electronic versions of the application which were provided in addition to the hard copy. There is no right statutory, through case law or otherwise that would obligate the County Board to provide the electronic versions to any individual, any citizen free of charge or at a minimal expense. The hard copy is available. Anyone could have come in and reviewed it. It's been there since November 30th of 2009 and the point about unavailability is simply not supported by any of these allegations.

And then finally, the argument is made

that the County has rules and procedures with respect to who can participate in this proceeding. Indeed, it does suggest that the only participants who would be able to attend or participate as a party are those who either are entitled to pre-filing notice or who live within one and a half miles of the site. But the standard that applies in these instances is any person or individual who has an interest and wants to participate will be allowed to participate. That's provided in state law. That's provided in the series of cases that has established the appropriate rules for eligibility in terms of participating in this siting hearing. And as we all know, everyone is presumed to know the law. Everyone is presumed to know that the law in this area allows for that type of participation, allows for citizens to come in and address those issues in a way they want to address the issues and it is something that simply cannot be viewed as the County precluding anyone from participating who has an interest who perhaps falls outside these very strict definitions of what a participant

may be. And as Mr. McCarthy has indicated, certainly anyone who has an interest in participating can come in, can sign up and can participate in that fashion. So the charge that somehow these rules and procedures have precluded individuals for coming and appearing is simply not based on any fact that I'm aware of and not based on anything that has been alleged in this motion.

And for those reasons I would request that this motion be denied.

HEARING OFFICER MCCARTHY: Thank you, Mr. Moran. Ms. Cipriano, do you have a comment?

MS. CIPRIANO: Yes, please. Thank you, Mr. Hearing -- can you all hear? Thank you, Mr. Hearing Officer. I will be brief. I think Mr. Moran has done a complete job of providing us with the assessment of what the current state law is with respect to a number of the items mentioned in -- in the motion before us. But just to sort of clarify and run through each point as well, certainly with respect to the first point that the County Board has already made up their minds, it is clear that there is

no indication that that is the case and certainly Mr. Moran is correct, as you are, Mr. Hearing Officer, in your opening presentation that the whole purpose of these hearings this week is to take in information for the County Board to consider. And I commend them for not only attending today, but also to take their job very, very seriously and I am confident that there is no evidence or facts that support the conclusion that they've already made up their minds.

Again, with respect to the second point, the private tour, Mr. Moran has stated accurately the current status of the case law in that regard. It is clear that it is proper prior to the filing of the application and so I think that -- that there need not be further discussion with respect to -- to that point.

Three, with respect to arranging to spend the host fees, again, very similar to the response I had to the first point, Mr. Hearing Officer, and that is that there is still a decision that needs to be made both from the County Board as a result of the hearings as well

as the issuance of a permit from the Illinois Environmental Protection Agency. And again, this is what this process is all about and I'm confident that the County Board members, again, are taking their job very seriously today.

With respect to the fourth point which is the state's attorney's description of the process itself, Mr. Moran has explained the process, I have as well and that is there is a decision that is rendered by the County Board. That decision, however, is appealable to the Illinois Pollution Control Board, so ultimately it is the Illinois Pollution Control Board if a local siting decision is appealed that renders the final decision. That, of course, decision is -- is appealable as well. But the state's attorney was accurate in their description of how this process works in -- in -- based on state law.

The improper quote/unquote gag order. I think that there is a misunderstanding as to the value of making sure that the County Board looks at this decision as one that they're making as a judge. And it really benefits the public



greatly in ensuring that all of their comments and issues and questions are properly within the record. And that, again, is something that is quite beneficial to the public because it does allow the County Board to consider that information. Otherwise it is not allowable for it to be considered. I, on February 26th, did author a letter and send it to the County Board to help them fully understand the importance of this project and the process that we have here. And that ex parte communications are something that is difficult because of your legislative duties, but we need to respect the process. It was the process that the General Assembly gave to us for a reason and -- and it's very important that we have a full and robust discussion over the course of the next several days.

The next point that was raised is regarding meeting improperly with Waste Management to conduct the pre-file review of the application. Again, Mr. Moran has set forth the case law with respect to allowing a pre-file review of the application.

The seventh point is an issue regarding the availability of the records. State law does require that the application be made available to the public for the cost of actual reproduction. In order to save paper and also to make it more accessible to the County Board members DVDs were provided as well, but state law does not require that those DVDs be provided, only that the documents comprising the application be made available for -- for reproduction.

And then lastly, I would just like to comment on the rules and procedures set forth in the ordinance. State law is very clear on this point that this is an open process and that the public is allowed and encouraged to fully participate. Mr. Hearing Officer also made that quite clear today and state law certainly cannot be altered by -- by an ordinance, so we look forward very much to this motion being denied and allowing this process to move forward in a way that allows for a complete, open discussion and full public participation. Thank you.

HEARING OFFICER MCCARTHY: Mr. Kenney, any

rebuttal?

MR. CHARVAT: Can the public comment on the motion?

HEARING OFFICER MCCARTHY: No.

MR. CHARVAT: I have evidence.

HEARING OFFICER MCCARTHY: Well, I'm going to get to that in just a moment and maybe I should have done that initially. There is -- there was a list that I have a copy of here of members of the public who signed up a week ago to either be -- I'm not sure whether they desire to be participants, whether they want to make public comment or just what this list represents. Mr. Kenney and Mr. McIntyre approached me prior to the hearing and indicated that they did desire to participate in this process by calling witnesses, cross-examining witnesses and so on. Are you saying --

MR. CHARVAT: I'm on the list, but I have some evidence that has to do with their motion.

HEARING OFFICER MCCARTHY: Well, are you -- do you desire to be a participant in this process?

MR. CHARVAT: I should be on that list

that you have there.

HEARING OFFICER MCCARTHY: What's your name?

MR. CHARVAT: Mark Charvat. No. 15 perhaps.

HEARING OFFICER MCCARTHY: Okay. And are you indicating that you desire to be a participant in this process?

MR. CHARVAT: While I'm here, yes.

HEARING OFFICER MCCARTHY: Well, there's a difference between -- you know, I went through this. You can participate really in one of these ways. You can actually be a participant as Mr. Kenney and Mr. McIntyre are. You can make a public comment and some of the folks that are on this list have approached me and indicated that's really what they wanted to do or you can make a written comment during the written comment period. Now, if you desire to be a participant and you've signed up, you certainly may join Mr. Kenney and Mr. McIntyre and participate in this process.

MR. CHARVAT: But my piece of evidence I want to enter has to do with the motion that was

just put forth by Mr. McIntyre and Mr. Kenney regarding the DVD aspect of this.

HEARING OFFICER MCCARTHY: Well, let me do this. Mr. Kenney, do you have any rebuttal to Mr. Moran and Ms. Cipriano?

MR. KENNEY: Yes, yes, I do.

HEARING OFFICER MCCARTHY: Okay.

MR. KENNEY: I'd like to commend Mr. Moran on restating the law. However, my motion has to do with something that he didn't allude to in his response. One of the things in terms of Point 1 not only is the issue about one Board member making that comment to myself, there's also the issue of that Board member sending an e-mail to a constituent saying, quote, this was not an easy decision to make until all the facts were in, unquote. This e-mail was sent to a constituent around 2/18 or 2/19 long before this -- a week before this hearing. How can a County Board member say that it was not an easy decision to make until all the facts were in when that statement was made before the hearing? I'm not saying that that is the entire County Board, but I am saying that that is an

indication of members of the County Board making the decision before the hearing. Also, the County Board has voted 22 to 1 to let bonds on the money that is to come in from the tipping fees from this landfill expansion. A 22 to 1 vote does indicate that they are -- if they have not already made their decision about this, that they are very much looking forward to the tipping fee money coming in to support those letting of bonds.

In terms of the County Board private tour, I understand that that happened according to Mr. Moran and I have no proof of exact date of when that did happen, but it was before the application was submitted. However, whether it was before or after the application was submitted it still is a fact that the County Board was privileged to a tour that the public was not invited to participate in and it still could prejudice their feelings about the application when it does -- when it is submitted.

Also in terms of the -- the County Board not being aware of what their role is, the other

issue is that -- what I was trying to say in the motion is that the County -- citizens of the County were prejudiced against attending this hearing because they were told that, one, it was -- that it was not -- that it was a done deal ahead of time. And most people that I've talked to have said that they already knew that this was a done deal and so by having this in the newspaper, by the state's attorney saying that in this matter the County Board serves as an advisory role to the Pollution Control Board makes the public think that the County Board really doesn't have a say in this in terms of they're only advisory. There also seems to be some confusion in this room today about what the role of the County Board is. If I heard you correctly, Mr. Hearing Officer, you said the County Board is a jury. If I heard Mr. Moran say it correctly, the County Board is the judge. I'm confused now. What is the County Board? Is it a jury or is it a judge? And it seems to me there would be a difference between those two.

HEARING OFFICER MCCARTHY: I'd prefer --

MR. KENNEY: I'll leave that for you to

ponder, but --

HEARING OFFICER MCCARTHY: As Mr. Kenney has brought up some new information in his rebuttal, I'm going to allow additional time to Mr. Moran and Ms. Cipriano if they would like to respond.

MR. MCINTYRE: We weren't through with our rebuttal.

HEARING OFFICER MCCARTHY: Oh, I'm sorry. I thought you were through.

MR. MCINTYRE: I'll try to get through it quickly. In regards to the electronic copy of the siting application, according to state statutes, especially the new FOIA laws that took effect January 1st, electronic versions of public record are to be treated as the same as any, so I -- I think we are restating the law when we're saying that the electronic versions of the siting application would not be subject to -- given to the public. In fact, if electronic communications is -- is used and possessed, that should speed the process up and not slow it down. And then since -- since case law was quoted regarding the state's attorney's



statements that they're to make a jury type decision, Kane County Defenders versus Pollution Control Board is where the appellate court said that this hearing is the most critical stage of the process. It also says that ex parte communications cannot be prevented between the voting public and the County Board nor should it be and that a case can be -- a siting application can be approved on all nine criteria and the County Board can reject it, quote, based on legislative decisions. Thank you.

HEARING OFFICER MCCARTHY: Mr. Moran?

MR. KENNEY: I'm sorry. One other thing I wanted to add to that is in about the eighth point on the motion in terms of Section 5 of the rules I understand that -- I hear today that we want all people to participate, I hear today from both parties that we want everyone to have their input; however, it has to be restated, that Section 5, saying that the only participants who will be allowed to participate -- it was in their website long in advance of this date stating that it was only those who owned property does send a message to the public

that only certain people would be allowed to participate. There's no question that that rule makes it clear that only -- and all I'm saying is that if we go forward with this hearing we are in my estimation prejudicing the public in terms of who could have been here if they had not read, well, I don't own property within one and a half miles of that site so I guess I can't speak. And I have -- people that I've spoken to have told me that -- that they did not pursue it because they were told -- that they understood that they would not be allowed to speak.

Also, in terms of the DVD being made available, if some people have it made available to them and others don't -- and I know of one individual who was told at the County Clerk's office that there were no DVDs available and then Mr. Bockman, the administrator for the County, shortly called him and said oh, we do have a DVD, I'll bring it over to your house and brought it over to his house with a note attached and that to me is not fair process. Thank you.

HEARING OFFICER MCCARTHY: Mr. Moran?

MR. MORAN: Thank you, Mr. Hearing Officer. Again, the answers to some of the issues that have been raised by the Petitioners here or the Movants here can be looked at and those answers provided. In the Town and Country decision that I was referring to earlier there was an issue in that matter that related to the capacity of the hearing room to accommodate all the individuals who wanted to come in and participate and indeed in that case the hearing room was insufficient to accommodate all the interested citizens who came the first night of the hearing to participate, speak their comment and provide their evidence. And those people were excluded the first night, specifically told they could not come into the hearing room because there was not sufficient capacity. People were turned away. There was a challenge to that fact on a fundamental fairness attack -- an appeal of that siting approval and what we learned from the Pollution Control Board and from the appellate court more importantly was that so long as there was an opportunity for any individual person or citizen to participate at

some point in the proceedings -- as Mr. McCarthy indicated, there has been a public comment session that's been scheduled for tomorrow evening, Tuesday, at 7 p.m. -- so long as that was made available fundamental fairness in the availability and opportunity for anyone to come in and participate was satisfied. So to somehow suggest at this point that because people might have read the articles and rules and read them a certain way and ignored what state law provides for an individual's ability to participate or for some other reason in determining that a DVD wasn't made available or that some other, perhaps, excuse was given as to why someone couldn't have gotten a copy of the DVD is unavailing. It's unavailing because that written siting application has been on file with the County since November 30th. No person has been denied access to that application. No person has been refused or denied the opportunity to read it, to look at it and if they so chose, to copy it. That's clear from what we've seen and from what has occurred even on the basis of what's contained in this motion.

So from what we have heard thus far there simply isn't sufficient evidence alleged in support of any of these contentions to sustain them. And I don't agree that any of them have even been close to have been satisfied. But having said all of that, at best what we have in this motion are challenges to the fundamental fairness of this proceeding. Those challenges in no way affect or relate to the jurisdiction of this County Board to decide this application. And as such, the motion as it's posed and as it's presented cannot form the basis for any decision to dismiss the proceeding. There simply is no basis to dismiss this proceeding on the basis of contentions unsupported -- supported or unsupported that allege fundamental unfairness and on that basis as well this motion should be and must be denied.

HEARING OFFICER MCCARTHY: Ms. Cipriano?

MS. CIPRIANO: Thank you, Mr. Hearing Officer. I just wanted to make one last point regarding the motion and that is, again, on -- with respect to the point dealing with the availability of the local siting application as

well as the DVDs provided to a few individuals who -- who came into the office and I think the notice of public hearing was quite clear on how copies of the application could be obtained. One individual that I spoke with directly, it was late on a Friday and was very interested in obtaining a copy of the application and as a courtesy the County did loan a DVD that was in the possession of one of the staff members in order for that individual to have access to -- to the application, but that was in no way something that the County was under the obligation to provide. It was done simply as a courtesy in hopes that that individual would have access to the information and participate today.

I do not believe that we have before us today any issues that should prevent this important hearing from going forward and I respectfully request that the motion be denied.

HEARING OFFICER MCCARTHY: Okay. Having heard the --

MR. KENNEY: I wanted to also respond to that, if it's possible.

HEARING OFFICER MCCARTHY: Okay.

MR. KENNEY: Mr. Moran continues to point out what the law states, but he doesn't address the fact that in this case the Section 5 -- No. 8 on the motion, Section 5 of the rules still communicates something else to the public other than what the law states and that -- that prejudiced the public in terms of how they could participate and in my opinion makes an unfair violation of fairness in this case and that this motion should be approved.

HEARING OFFICER MCCARTHY: Having heard the arguments of the Objectors and the arguments of Waste Management and the County, I'm going to deny the motion and adopt the arguments of both Mr. Moran and Ms. Cipriano.

I would also point out that Subparagraph D of Section 39.2 of the Act provides that -- in part that the fact that a member of the County Board has publicly expressed an opinion on an issue related to the site review proceeding shall not preclude the member from taking part in the proceeding and voting on the issue. So even if someone had expressed some view or some

opinion, that does not preclude that -- that person by statute from participating in the process.

And secondly, in connection with the availability of the application, the -- the statute is also quite clear. It says -- and this is Subsection C of Section 39.2 and it provides in part all such documents -- and that's referring to the application -- or other materials on file with the County Board shall be made available for public inspection at the office of the County Board and may be copied upon payment of the actual cost of reproduction. So it doesn't seem to me that there is any obligation on the part of the County to provide DVDs of the application to members of the general public.

So for those reasons and the reasons expressed by both the Applicant and the County, the motion is denied.

Now, I am still not clear in my own mind as to those on the list who desire to be either participants or merely make public comment. Specifically you, sir. Are you desiring to



participate in this proceeding?

MR. CHARVAT: Define participation for me in your definition.

HEARING OFFICER MCCARTHY: My definition would be that you would sit at a counsel table with Mr. Kenney, Mr. McIntyre, you would have the ability to cross-examine witnesses, call witnesses and the like. There are three ways to participate in this process, okay? 1) A participant, which I've just described. 2) To make public comment during the public hearing and I will be lenient in allowing those who desire to make public comment to make them at a time that is convenient. 3) You may submit written public comment within 30 days after the date of the last public hearing. And if you have a DVD or something of that nature you certainly can submit that as a part of your written comment. And again, let me emphasize that the County Board must consider those comments in making its decision.

MR. CHARVAT: If your name is on the list though will I be called upon today? If I want to be a public -- someone that would comment

publicly as opposed to sitting over there at a table would I be called upon today or would I have to come back tomorrow to do that?

HEARING OFFICER MCCARTHY: Well, you know, I would prefer that we do it all at one time. However, I understand that not all people are available from 7 to 9 tomorrow night. Maybe you work second shift. So I would allow you, as I'm going to allow this lady here to make her comment this morning, probably at the end of this morning's session.

MR. CHARVAT: That would be fine with me then.

HEARING OFFICER MCCARTHY: Okay. Yes, sir? Please state your name for the record.

DAN STEIMEL: Yes, my name is Dan Steimel. A point of clarification. You mentioned there are three ways to participate. The public comment period, is that put into the record?

HEARING OFFICER MCCARTHY: Yes, it is.

DAN STEIMEL: So there will be someone that dictates that at the front of the room and puts that into the record?

HEARING OFFICER MCCARTHY: There will be a

court reporter here throughout and every --  
every word of this proceeding will be recorded  
and transcribed.

MR. KENNEY: Does that apply to Tuesday  
night's public comment period?

HEARING OFFICER MCCARTHY: Yes, it does.

MR. KENNEY: Okay. Thank you.

DAN STEIMEL: Thank you.

HEARING OFFICER MCCARTHY: Now, the only  
thing I would say to you is that during the  
public comment period you're not sworn as a  
witness, okay? When Mr. Moran or the Objectors  
or Ms. Cipriano calls a witness in this  
proceeding, those persons will be sworn. Okay.  
When you make your public comment you'll simply  
be making a public comment. It will however be  
recorded and it must be considered by the Board  
in making its decision.

Yes, sir? Please state your name for the  
record.

MR. HASS: My name is Mel Hass and I am  
listed on your list. The only thing I'm  
requesting is depending upon the nature of Waste  
Management's presentation that I may or may not

like to ask a few questions and reserve public comment until tomorrow night.

HEARING OFFICER MCCARTHY: You know, as I indicated in my opening remarks, if you have a question you may either submit the question to me in writing and I'll pose it to the witness or we may allow some leeway in members of the public asking -- asking questions, but generally the questioning of witnesses is going to be done by the Applicant, by the Objectors, by the County. They are participants in this process.

MR. HASS: It was my understanding that if we wished to cross-examine that we would put our name on --

HEARING OFFICER MCCARTHY: Then you need to be a participant and join Mr. Kenney and Mr. McIntyre. Did you get his name?

THE REPORTER: Yes.

HEARING OFFICER MCCARTHY: Okay. Are there any other preliminary matters that should be taken up at this time? Yes, sir?

MR. CAMPBELL: Sir, my name is Clay Campbell. I'm also on that list and I'd also like to be a participant, please.

HEARING OFFICER MCCARTHY: Did you get his name?

THE REPORTER: Yes.

HEARING OFFICER MCCARTHY: Any other preliminary matters before we move on?

DAN STEIMEL: One quick question, sir.

HEARING OFFICER MCCARTHY: Yes, sir. State your name again, please.

DAN STEIMEL: My name is Dan Steimel. It was pretty widely understood that the people that came to the County Clerk's office and signed on that list would have an opportunity to ask a question. So are you now saying that even though a week ahead of time we signed on that list we have to now say whether or not we do want to ask questions?

HEARING OFFICER MCCARTHY: Well, frankly, I was not clear when I saw this list as to who -- what these people wanted to do and I'm not sure that the people who signed it were sure what they wanted to do. What I'm asking is -- I think that some of them -- this lady here indicated to me, Frankie Benson, that she didn't want to participate, she wanted to make a public

comment, so that's fine. If you want to be a participant and ask questions of witnesses then you need to come forward and participate.

MR. STEIMEL: Well, I'd like to reserve the right to potentially ask a question of --

HEARING OFFICER MCCARTHY: Well, we'll deal with that as we go forward then.

MR. CHARVAT: Likewise.

HEARING OFFICER MCCARTHY: All right. Any other preliminary matters before we move on?

MR. CAMPBELL: Sir, may I make a comment? I just wanted to say respectfully that I think that the questions that you're getting from the public right now are a reflection of how confusing this matter has been to the average DeKalb County citizen. I'm a practicing attorney myself here in DeKalb County and when I went over to the clerk's office to sign that form that's in your hand right now in regards to participating in this hearing I was completely unclear as to the nature of the participation. And I think that it's a sad reflection on this process if here we are an hour into this hearing and we still have very intelligent citizens out

here in the crowd trying to determine exactly what the nature of their ability to participate in this process has been. And I think that the gentlemen that are sitting to my left here that have put together this presentation or their ability to participate was done in spite of the County Board and in spite of the County Administrator and I -- I -- I'm merely making this statement so it's on the record that this whole process has been extremely secretive in regards to the citizens in this county. And I think the reason that you have quite a few citizens here today is we're fairly astonished that a decision of this magnitude that will affect all the citizens in this county has been almost intentionally and purposely obfuscated to the extent that we don't really know what's going on and we're slowly learning the process as the process unfolds. And I think that that, again, is a sad reflection on a public process that should not be -- that should not only be fair and open, but should encourage the participation of citizens and encourage the exchange of information. Instead, what we have

is we're now told that an application that got filed here about three months ago that's 6,000 pages long that if a citizen wants to go and review this and unless they have the money to actually copy it and take it home which would be an extraordinary expense, it's actually expected that they would sit there at the counter at the clerk's office and review this application. And again, I find it fairly startling that public citizens weren't encouraged in this age of electronic communication to bring a DVD up to the clerk's office and say will you please burn a copy of this application so I can review it, you know, in my home or you know, with other citizens here in the community. And I think that that impediment to the exchange of information on that application is, again, a reflection on the fact that this process does not encourage public participation. And the County Board's activities in this matter haven't encouraged citizens to come forward and educate themselves. Thank you.

HEARING OFFICER MCCARTHY: Okay. At this point I'd like to ask are there any stipulations



with regard to the hearing notices?

ROGER STEIMEL: Mr. Hearing Officer, I also would like to be a participant -- Roger Steimel -- to ensure that I have an opportunity to ask a question.

HEARING OFFICER MCCARTHY: Fine. Any stipulations as to the hearing notices?

MR. MORAN: I don't think we've talked about that.

HEARING OFFICER MCCARTHY: All right. I'd like at this point for the Applicant to identify the application, the date of the filing and the hearing notices and then what I think I would like to do once we get done with that housekeeping chore, it is about 10:15, we've been at this for an hour and 15 minutes, we'll take a short break and then I will allow the Applicant to make an opening statement, the County, if they like, to make an opening statement and any Objectors to make an opening statement. So with that, Mr. Moran, would you identify the application, the date of filing and the hearing notice.

MR. MORAN: Yes. Mr. Hearing Officer, the

site location application for the DeKalb County Landfill Expansion is a nine-volume text consisting, as I said, of something over 6,000 pages. That application was filed with the County Board on November 30th, 2009. Prior to the filing of that application pre-filing notices of the intent to file that application were both published in the Daily Chronicle and served upon over a hundred and eighty persons or entities who were shown as owners of record of properties within and near the subject site. We -- and those proofs of service with respect to those notices and publications are contained in Volume 2 of the application. We would request that this nine-volume application be identified as Petitioner's Exhibit No. 1 and we would offer Petitioner's Exhibit No. 1 into evidence.

HEARING OFFICER MCCARTHY: Any objection, Ms. Cipriano?

MS. CIPRIANO: None.

HEARING OFFICER MCCARTHY: Objectors?

MR. KENNEY: None.

HEARING OFFICER MCCARTHY: It will be admitted.

(Petitioner's Exhibit No. 1  
marked for identification and  
admitted into evidence.)

MR. MORAN: Secondly, Mr. Hearing Officer,  
notice of this public hearing was required to be  
published in the Daily Chronicle, also sent to  
the Illinois Environmental Protection Agency,  
state legislators and other designated entities.  
My affidavit that sets out the publication and  
service of the notice of this public hearing is  
identified as Petitioner's Exhibit No. 2 with  
the appropriate attachments, the notice itself,  
the certificate of publication as well as the  
proof of service on those various entities and  
we would submit and offer Petitioner's Exhibit  
No. 2 into evidence.

HEARING OFFICER MCCARTHY: Any objection  
by the County?

MS. CIPRIANO: None, Mr. Hearing Officer.

HEARING OFFICER MCCARTHY: Any objection  
by the Objectors?

MR. KENNEY: None.

HEARING OFFICER MCCARTHY: Okay. The  
notices -- the various notices of public hearing

referred to by Mr. Moran shall be admitted without objection.

(Petitioner's Exhibit No. 2  
marked for identification and  
admitted into evidence.)

HEARING OFFICER MCCARTHY: Is that -- go ahead.

MR. MORAN: And then third -- I'm sorry -- Mr. Hearing Officer. The third document that we would seek to identify and submit at this time is the public hearing presentation which consists of the hard copy slides that we will use as part of the presentation of testimony from the eight experts who we will be presenting. That publication will be identified as Petitioner's Exhibit No. 3. We would offer that Petitioner's Exhibit No. 3 into evidence and assuming it is granted I would then request leave to distribute those copies to members of the Committee.

HEARING OFFICER MCCARTHY: Any objection by the County?

MS. CIPRIANO: None.

HEARING OFFICER MCCARTHY: Any objection

from the Participants?

MR. KENNEY: None.

HEARING OFFICER MCCARTHY: Okay. The public hearing presentation which is this volume here will be admitted as Petitioner's Exhibit 3.

(Petitioner's Exhibit No. 3 marked for identification and admitted into evidence.)

HEARING OFFICER MCCARTHY: Anything else?

MR. MORAN: That's all at this time, Mr. Hearing Officer.

HEARING OFFICER MCCARTHY: I would suggest that we take about a ten-minute recess to be followed by opening statements.

MR. KENNEY: Mr. Hearing Officer, I just have one question about the process here. Are we going to go Criteria 1, Criteria 2 after the opening remarks or what order are we going in and who gets to set that order?

HEARING OFFICER MCCARTHY: Well, that's going to be up to the Applicant.

MR. KENNEY: It's up to the Applicant. Is that -- that's the law that says the applicant can --

HEARING OFFICER MCCARTHY: Well, you know, you don't necessarily go 1, 2, 3, 4, 5. Some of that depends upon the availability of witnesses and the like, so --

MR. KENNEY: Okay. Mr. Moran, would you be willing to tell me what order you plan to go in?

MR. MORAN: Certainly, yes.

HEARING OFFICER MCCARTHY: Do you want to do so on the record so that people are -- Mr. Moran, do you want to do that on the record so that people are aware of the order that you think you're going to follow?

MR. MORAN: Yes, certainly. I'd be happy to identify those witnesses who we will begin with -- our first four witnesses. The first witness will be Mr. Andy Nickodem. He's a licensed professional engineer. He will be addressing that part of Criterion 2 that deals with the landfill design. Our second witness will be Mr. Tom Price, a licensed engineer, who will address that part of Criterion 2 dealing with the surface water management system. Our third witness will be Mr. Dale Hoekstra,

director of operations for Waste Management of Illinois. Mr. Hoekstra will address the proposed operation of the facility. And then the fourth witness we would identify is Ms. Joan Underwood, a professional geologist, who will address the hydrogeologic and geologic conditions at the site.

MR. KENNEY: Thank you.

HEARING OFFICER MCCARTHY: Okay. With that we'll take about a ten-minute recess.

(A recess was taken at 10:20 a.m.  
and proceedings resumed at 10:43  
a.m.)

HEARING OFFICER MCCARTHY: Let's reconvene the public hearing. Mr. Moran, would you like to make an opening statement?

MR. MORAN: Yes, I would, Mr. Hearing Officer. Thank you. Good morning again, members of the Committee, interested citizens, Participants, Ms. Cipriano, Mr. Hearing Officer. As I indicated, my name is Don Moran. I represent the Applicant, Waste Management of Illinois, Inc. Waste Management has proposed an expansion of the existing DeKalb County Landfill

which is located northeast of the corner of Somonauk Road and Gurler Road in unincorporated DeKalb County. The existing facility has been operating since 1956 or somewhere thereabouts. Waste was first accepted at the landfill in 1956. The footprint of that existing landfill is identified here in green. It's an 88-acre footprint located just east of Somonauk, as I indicated, just west/northwest of Union Ditch No. 1 which runs along this line from southwest to northeast. The facility first began accepting waste well prior to the environmental regulations -- the modern environmental regulations that are in place today. The initial area where waste was received was indeed an area just west of the union ditch -- just north of union ditch, an approximate 24-acre area which has been outlined here in green.

In 1970 the Illinois Environmental Protection Act was enacted and the Illinois Environmental Protection Agency was established and the first permit for this landfill was issued in 1974. It allowed and authorized expansion of this 24-acre old area to a 38-acre



area to the north. Again, at that point the permit was issued, but at the time regulations did not require any specific engineered elements which we're seeing today.

In 1981 this Illinois Siting Act, which is the subject of our proceeding here today, was passed. The prior owner in 1989 applied for and received local siting approval from this county board for a further expansion of the landfill to the west, an approximately 26-acre area and that area has been designated the active area. So from the period of its initial waste acceptance in 1956 through 1989, the footprint outlined in the yellow and the orange and the other yellow which is, in essence, the 88 acres, was put together and assembled.

Waste Management of Illinois acquired this property in 1991 and in acquiring the property Waste Management had to address the issue of the newer landfill regulations that went into effect in 1990. So to bring this facility into compliance with those new regulations, those new more stringent regulations, Waste Management established a monitoring system in the area of

the old area, the original fill area of the facility. That monitoring detected impacts to the shallow groundwater at this facility. Now, the shallow groundwater is not the drinking water. It's not the principal source of drinking water in the area, which as you will hear as we proceed with this testimony is in the Galena Group, in the Galena aquifer which is a deep aquifer ranging anywhere from a hundred to 200 feet beneath the surface. These impacts were in the shallow groundwater, not that drinking water.

With the approval of the IEPA Waste Management then developed corrective action to address these impacts. That corrective action consisted of a soil vapor extraction system which is established at the site and also phytoremediation. Both of those corrective actions have been operating since 2000/2001 and continued to this day and continue with the same level of effectiveness that they've shown over these nine years.

Now, to look at how the proposed expansion is addressed in the west side of the site west

of union ditch I'd like to just identify the footprint of that expansion and it consists of four separate elements. The first element is a exhumation of the old area, the area that was initially used for waste disposal which lacks the engineered liner systems, the leachate collection system and the other elements that are required by today's regulations. That exhumation of the 24-acre area will occur and then that waste will be redispersed in newly lined area located to the southwest of that footprint.

The second element of the expansion here includes both a vertical and horizontal expansion of the active area. Remember this 26-acre area to the west which was expanded in 1989. So we have a horizontal expansion of that area to the south and a vertical expansion of a portion of that active area in this location.

And then the final aspect of the expansion will include a vertical expansion of the southern part of the north area that we identified previously which you'll see is outlined in white here. So the entire area

outlined in white consists of 61 acres. That constitutes the west footprint of this expansion.

The entire proposal also includes for the entire site an additional east footprint of approximately a hundred and seventy-nine acres which is located east of union ditch. So to look at the entirety of the site outlined in blue, that property is approximately 594 acres which includes both the west expansion which I identified previously, the 61 acres and then the east unit expansion, that footprint being a hundred and seventy-nine -- or approximately a hundred and seventy-nine acres.

As indicated by Mr. Hearing Officer, this application presents and contains information, data and analysis that addresses each of the nine statutory criteria and then provides that evidence which will demonstrate that these nine criteria have been established. That information is contained, as we indicated previously, in the nine volumes that comprise the siting application. In our presentation of eight witnesses who you will hear from during

the course of this proceeding we will not present all of the data and information contained in the application. If we did we'd be here until Christmas. Instead, these witnesses will identify and describe the key points that will be critical in understanding and coming to an awareness of how this application and how this evidence supports and establishes each of the nine statutory criteria. Those eight witnesses include a number of experts in various areas and I'd like to identify those witnesses for you now. I indicated initially a few moments ago our first witness will be Andy Nickodem, a professional engineer, who will talk about the design of this facility. Our next witness will be Mr. Tom Price, a professional engineer, who will address that part of Criterion 2 that relates to the surface water management system. And Mr. Price will address with us those sustainable strategies that will be implemented to provide an integrated surface water management system. Our third witness will be Mr. Dale Hoekstra. Mr. Hoekstra, director of operations for Waste Management of Illinois,

will also address a portion of Criterion 2. That portion that deals with the proposed operation of this facility. Following Mr. Hoekstra, also addressing Criterion 2, will be Ms. Joan Underwood, a professional geologist, who will address both the geologic and hydrogeologic conditions at this property. Our fifth witness will be Ms. Cheryl Smith, an engineer and environmental consultant, who will address Criterion 1 which talks about the need for this expansion and also Criterion 8 which asks the question does this proposed expansion and is this proposal consistent with the County's Solid Waste Management plan. Our sixth witness will be Mr. Pete Poletti. Mr. Poletti will address Criterion 3 -- the second part of Criterion 3 which asks the question as to whether this expansion is located so as to minimize any effect on the value of surrounding property. Mr. Poletti is an assessor and a real estate consultant. Our seventh witness will be Mr. Dave Miller. Mr. Miller is a licensed professional engineer and a traffic consultant. And Mr. Miller will address Criterion 6 which

asks the question have the traffic patterns to and from the expansion been designed in a way as to minimize any impact on existing traffic flow. And then finally, Mr. David Yocca, an urban planner and landscape architect, will address the other portion of Criterion 3. That is whether this application and this expansion is located so as to minimize any incompatibility with the character of the surrounding area. That will be the presentation of our witnesses during the course of this hearing.

As I also indicated, this process -- this hearing is the first step in the Illinois regulatory process for solid waste facilities. This review by the County Board is the essential and required first step in that regulatory process. If siting approval were to be granted, that's not the end of this review. Because at that point the Applicant would be required to present to the Illinois Environmental Protection Agency a request to issue a development permit which involves a substantial and technical review by the agency of this proposed expansion. If the development permit is issued and if the

Applicant at that point constructs and develops the facility in accordance with that permit then a request will be made for an operating permit to actually allow the facility to begin accepting waste. This is the first step in that process.

As we present our witnesses you will hear a fair amount of rather technical and sophisticated and thorough data, information and evaluation as it relates to these criteria. And at times, frankly, that information can be quite daunting. If during the course of that presentation there is something that is not clear to you, that doesn't seem to make sense, that is problematic or in any way presents a question in your mind, I would ask and in fact, urge you to ask questions of these witnesses. These witnesses are here to provide those answers, to provide the clarity, to provide the information that will persuade you and make you confident that this application and this submission is not only fully compliant with the requirements of these statutory criteria, but that also confirms and establishes the most



critical point here which is that this facility will be designed and operated to protect the public health, the public safety and the public welfare. And these witnesses will provide that information.

With that, I would thank you in advance for your consideration of our witnesses and our testimony. And thank you again for your consideration of this application.

HEARING OFFICER MCCARTHY: Thank you, Mr. Moran.

Would any of the Participants wish to make an opening statement at this time? Mr. -- the County will go last. Mr. Kenney?

MR. KENNEY: Yes, I would like to make an opening statement and then I believe Mac would like to too.

This morning I did not just speak for myself, I have the responsibility to speak on behalf of hundreds who believe this proposed landfill expansion is wrong for our county. I stand here as a representative of people who believe the County has violated their trust by the way they went about this agreement, also by

their plan that is already in place for how they will use money from the proposed expansion. I also am here today on behalf of 28 9 and 10-year-olds that I teach. They cannot vote on this landfill expansion. However, they will reap what is sewn by this Board and this hearing. When my students are my age, if this landfill expansion is approved, they will not only have a mountain of garbage that is over one mile wide and two and a half miles long -- which I might say Mr. Moran failed to mention that along the border of the landfill is I-88, so as people come into our community along I-88 from the east that will be what they will first see of DeKalb County. And I might ask the County Board to also consider how seeing this mountain of garbage as they come into the community will enhance our efforts to increase tourism to our county. My students, when they are my age, will not only have a mountain of garbage that they inherit, but they will also have a filled landfill and be forced to look elsewhere for a site to place their refuge. The people I speak for today believe this is a crime against our

children. Our children will also inherit the associated issues a mega landfill presents by its very nature. It is common knowledge that all landfills will eventually leak. However, none of us in this room may live to see it if we are lucky. But it will leak and our children or our great grandchildren will pay the price.

In the course of this hearing we will prove that Waste Management has failed to meet all the criteria to allow them to expand the County landfill. We will also give examples of how the County government officials have interfered with the public hearing process and have not provided an adequate opportunity for the citizens to be part of the process as seen by the confusion that existed here this morning with all the questions coming from the public about who could talk, when they could talk, how long they could talk and things like that.

We also condemn that the County Board has been negligent in their responsibility to the health, safety and well-being of the county citizens. The County Board has entered into ex parte talks with Waste Management. However,

when it was learned by the County Administrator, Ray Bockman, that citizens were upset about the proposed expansion he sent out an e-mail to all the Board members saying they were forbidden to talk with their constituents about the expansion until the Board had voted on it. The expectations are clear that there should not be any unfair influence put on the Board by either party in this hearing. However, the misinformation that followed in the local newspapers perpetuated by the DeKalb County State's Attorney not only misleads the County Board, but also the citizens of this county. To say that the County Board approval is only advisory is not true and to say this before this public hearing sends damaging messages to constituents. Also, I'd like to mention that Mr. Moran did state several times in his opening comments about how this is the first step in the process which, of course, it is, but he failed to mention, again, how it is the most critical step in the process according to the appellate court ruling. He creates the misconception that what they say has no relevance on the outcome of

this hearing or the County Board vote to follow. Time after time I've been told by members of the community that this landfill expansion is a done deal, why are you wasting your time. Many DeKalb County residents have been convinced by the County officials and the County Board that this hearing is just another hoop that must be jumped through. Many residents have said to me that this hearing is a sham and a waste of time. However, the appellate court decision in Kane County, Defenders versus PCB, ruled to the contrary. I read from The Court's decision. This board -- this broad delegation of adjunctive power to the County Board clearly reflects a legislative understanding that the county board hearing is the most critical stage of the landfill site approval process. We find support for this view also in the statutory notice requirements themselves which are more demanding at the county board phase of the process, unquote. So the information that has been published in the local papers twice now gives misleading information that this hearing process is little more than a formality. It

would indicate that the County Board nor the citizens of the County have any role to play in this process other than bystanders, jury or judge however we decide which they are.

This is a grave miscarriage of justice and miscarriage of democracy. Who knows how many might have been here today to speak if they had not read that our state's attorney said that the County Board only has an advisory role.

Also, a member of the County Board told me this past summer in August of 2009, over six months before this hearing, that the landfill expansion was a done deal. The County Board did not go on to say -- the County Board member did go on to say -- and I paraphrase -- at least we were able to negotiate some good things for us such as money for the Forest Preserve District and rural recycling, unquote. The same Board member sent an e-mail to a constituent about ten days before this hearing and the e-mail, this was not an easy decision to make until all the facts were in, unquote.

Let me restate. This was a good week before the date of this hearing and before the

hearing to establish the facts from both sides before the Hearing Officer, the Board members, saying the expansion is decided then the Board member sent a follow up e-mail after Mr. Bockman's e-mail asking the constituent to destroy the e-mail the County Board member had sent. Quote, I wasn't supposed to communicate to you about this, unquote, to paraphrase the e-mail. So not only was the Board member indicating that the decision was made on all the facts which were in before the hearing to establish the facts, it is clear that ex parte communication has occurred. This, coupled with the private tour given to DeKalb County Board members of the Will County facility run by Waste Management, is a clear violation of the fundamental fairness. This is why we have filed the motion that we had filed and mentioned earlier to dismiss stating all the various ways this hearing and the County Board has been tainted. And I also have to think wouldn't it be a better day if the County Board and Waste Management had brought forward a proposal to build a biofuel garbage to ethanol plant like

the one Power Energy of America, Inc. is constructing in Evansville, Indiana. That plant will employ 400 individuals as opposed to this proposal which employ 11.

Our County Board has often expressed the desire to increase the amount of jobs available in the community. The desire to increase the amount of sustainable long-term revenue for our county. However, they have not pursued this possibility.

The plant that's being built in Evansville will also generate more revenue for the county than this agreement gives our county. Also there would not be any solid waste buried under the ground for hundreds of years for my children that I teach to deal with or for their grandchildren to deal with. Also, there would be -- not be any solid waste buried under the ground -- I'm sorry -- if this expansion takes place our county may have one of the last mega dumps.

Technologies -- it is clear that new technologies as well as federal funding is backing the garbage to energy policy which I



also might mention that Waste Management has purchased interest in two or three companies that are pursuing these technologies.

We must ask why is our county willing to enter into an agreement to allow this expansion when there are better alternatives. We must ask have they done all that they can to seek out these better and greener alternatives. It appears the citizens of DeKalb County are victims of two desperate parties. On one hand is Waste Management who claims there is a need for the expansion despite the 22nd Annual Landfill Capacity Report of 2008 stating that capacity is up in -- the state capacity available for landfill solid waste is up 10.1 percent from a year ago. Actually capacity for solid waste is at an all-time high. It appears that Waste Management has a need -- Waste Management themselves have a need for this expansion to accommodate the 16 counties within its service area. And then we have the County Board which is desperate for more revenue to expand the jail and courthouse. One can see why Waste Management and the County Board thought

this was a match meant to be. Only both the County Board and Waste Management didn't include the citizens of the County. We didn't ask can this be a safe plan when the current landfill is already leaking? How can this be safe if our county is put -- is to put a large landfill over an area that is mostly sand and gravel? The County Board must also ask itself how it can trust a company with such a dark history. I printed out the fines, penalties and court judgments against Waste Management since 1970 to 2009 and it is over 110 pages long. The penalties and fines and court judgments paid by Waste Management amounts to over 400 million dollars. In Illinois since 2000 there have been 11 litigations involving Waste Management of Illinois, Inc.

Through the course of this hearing the evidence will pile up against this proposal. Hopefully our County Board will be listening. I trust they will take their responsibility seriously and vote for what is in the best interests of the citizens of the County now and for generations to come.

HEARING OFFICER MCCARTHY: Thank you, Mr. Kenney. Mr. McIntyre, do you have an opening comment?

MR. MCINTYRE: Yes, thank you and thank everyone for -- for coming here today. I think that we're not a bunch of citizens with too much time on our hands as we're described by a Board member today. I think we're citizens that are concerned with our future and our environment. Clearly, from the point of view of Waste Management there is a need for this expansion. They have stockholders to keep happy. They -- they need to be able to compete with competitors who have made capacity in Illinois at an all-time high except for Waste Management, so they're playing catchup. And that's why we have a proclamation sheet that serves as a cover to the host agreement that says DeKalb County, DeKalb County, DeKalb County. In every paragraph the word DeKalb County appears. Nowhere does anything related to the 16 northern Illinois counties appear in that proclamation. So they're not fulfilling a need for DeKalb County. They're fulfilling a need for the

Chicago metropolitan area. And again, we are at an all-time high in capacity. There is no need for this project.

It was mentioned that the -- that the water supply, the Geneva (sic) line is a deep -- a deep aquifer and that's where we draw our drinking water. Well, surface water is important. The landfill was built on Elmer Larson's original gravel pit and he moved just down the road a ways from that and so I think you can see that -- that there's a connection there. There's gravel all over the place there. Water travels quickly -- I'm hearing feedback. Is -- there it went. I'm hearing that water travels quickly through the gravel system. And if we could pretend, and that would be a dangerous pretense, that our water only comes from the deep aquifers and that they're so deep they won't be penetrated, how do the deer drink? How do the wildlife in the area drink? Could they drink some of this contaminated surface water? And I have to add something to what Dan said. He was talking about how our children and grandchildren may be

facing the dangers of the -- of the leaking because all landfills leak. All landfills leak including this one right now and when you add to a landfill that is leaking you're adding to the problem. You have the union ditch running through there. That is the feeder to the east branch of the Kishwaukee River. You can play all the games you want, but that's a vital part of the ecological system in this county and in northern Illinois. The landfill is on a ridge where if you go a little bit to the north and east you're in the Kishwaukee River valley. If you go -- or north and west you're in the Kishwaukee valley. If you go a little bit to the east or to the south you're in the Fox River valley. You are -- that landfill has the ability to leak into two major watersheds for Illinois. Oh, but we'll get a new jail. Oh, but we'll get a fancy courthouse for our judges and lawyers. They get new digs. In the meantime there is an elementary school within a half mile of the landfill. We're going to subject those children to the methane leaks. We're going to subject -- potentially subject

those children and the community of Cortland to leachate leaks on the surface that can wash to them. You would think Cortland would be here. And you would think that Cortland would be protesting it. Well, I had a lawyer tell me that if you buy somebody off the only mistake you could make is to pay them too much money. Cortland received one -- will receive one million dollars cash. They'll receive one dollar per household per bill. They'll receive 10 percent off the garbage rate. They'll get \$30,000 for their volunteer fire department and Cortland's obligation -- and I'll read this verbatim from the contract signed by Bob Seiler (phonetic) and a representative from Waste Management. Cortland agrees that it will not directly or indirectly take any action of any kind to oppose Waste Management's efforts to expand the DeKalb Landfill. In addition, Cortland agrees that it will not take any action of any kind to support any other party's opposition including I guess the Cortland elementary school to Waste Management's efforts to expand the DeKalb Landfill. Did they pay too

much? This is not what we elect our government to do to us. This is not what we want our representatives to do for us. Sell us down the river. I hope that the common decency that makes me so proud to be a DeKalb resident rises to the surface here and we send this deal packing. Thank you.

HEARING OFFICER MCCARTHY: Thank you, Mr. McIntyre.

Mr. Campbell, would you like to make an opening statement?

MR. CAMPBELL: My name is Clay Campbell. I'm actually only sitting here today -- I'm pretty inspired by the two gentlemen that you just heard speak. The idea that private citizens can take it upon themselves to create a group and actually start educating the public and fighting against this process I think is commendable and among the highest traditions of our American values.

I want to first start out my statement by saying that I'm not making any comment against Waste Management. I'm not making any comment against the lady and gentleman over there that

are representing that company. I'm not making any comment against the other attorneys here that are representing the County Board. And frankly, I'm not making comment here about the merits itself on, you know, whether this will pollute groundwater, how it will affect small children, you know, what sort of smells that will come from this landfill and I'm not smart enough to know anything about geology, but I do know something about fairness. And it's being suggested here today that this process is fair. It's further being suggested here today that the members of the County Board sit as an impartial jury, if you will. That they are sitting here today listening to the testimony and the evidence presented by Mr. Moran and that they are going to make a decision in regards to whether this process will go forward and it's my understanding that ultimately the County Board will have something to say about this.

The reason that I'm here this morning is to object to the process that's been propagated here on the citizens of DeKalb County. About ten days ago there was an e-mail sent around to



all the County Board members that somehow fell into the hands of a couple private citizens. And this e-mail actually specifically stated that the County Board members were forbidden from speaking to their constituents about this issue until after the vote has already been taken and I had to sit there and reflect on the e-mail when I read it myself. I was reflecting on what the average American would think about their congressman saying, look, I'm going to vote on this issue and I can't get your opinion on it yet until after I've voted on it. I mean, aren't you really telling the citizen that his vote -- or his opinion on the vote is not important? What troubles me the most about that statement, presuming here that -- that the case law as set forth by Mr. Moran and by the Hearing Officer is correct as I understand their representation of the case law, that this is a process that the information ought to be provided at the hearing and that the decision by the Committee should be made based on the testimony and evidence presented at this hearing. I understand the idea behind that

process. It's important to have the factfinders actually listen to the evidence presented. I'm a trial attorney myself. I love knowing that the jury is going to decide the case based on what they hear from the witness stand. So I understand the principle behind the idea that we should have a fair process here and that these ladies and gentlemen that are listening to this testimony ought to make their decision based on what they hear in this hearing. What troubles me the most about suggesting that, however, is that the County Board has had intimate interactions with Waste Management prior to today's hearing. They have -- if I might just give an example and I'm not going to take everybody's time up, I know this is a busy day. Before I came over here this morning I printed off a finance committee presentation report dated October 7th of 2009, so roughly six or seven months ago. It's a printout from the County Board's website entitled Finance Committee Presentation, Financing of the Courthouse and Jail Expansion. It's my understanding of this document that it is a

public document that sets forth how the County anticipates financing the expansion of the jail and the changes that are being suggested be made to the county courthouse. And what troubles me most about this document is they take great pains to spell out specifically how the County intends to pay for these projects. And on Page 10 of that document -- and again, this is October of last year -- the document specifically says that the County is working with Waste Management to enter into a contract starting in December of 2012 that will produce roughly a hundred and twenty million dollars for the County over 30 years. The County is working with Waste Management. That doesn't sound to me like an impartial group that is waiting to hear the evidence presented by Waste Management at a public hearing to determine whether or not they're going to agree to allow this project to go forward. It sounds to me like it's a County Board that has already decided that the revenue stream is going to come from this landfill and that they're going to use that money for these other two projects. The County is working with

Waste Management. That's the County Board's language. I think that to try to convince the citizens of this county that -- knowing that they've already figured out how they're going to spend this money, to try to suggest that they're actually going to be impartial here and to suggest that they might deny this petition or this application for this landfill I think is really, really -- it's really insulting to the intelligence of the citizens of this county. And I think that the conversation we heard a little bit earlier here about whether or not somebody could speak publicly, whether somebody had to be a participant, you know, where you had to sign up last week and to hear the gentleman stand up here and hold a disc up in the air and say I actually went over there and I couldn't get any information on this. They said it's available for me to look at, but I'd have to pay for the copies -- the 6,000 copies and to actually hear him say that somebody came and delivered that disc later on to his house, I think that suggests a process that's not only already been determined -- the outcome has

already been determined -- and I'm going to be curious to read the comments that I'm making right now and Mr. Kenney makes right now and Mr. McIntyre makes right now. It's going to be curious to me down the road if we juxtapose the votes of the County Board with the comments that we make here today and I bet that we're going to get an awfully favorable vote on the County Board in regards to this application, because again, not only have they not made this process open, not only have they discouraged communication between County Board members and their constituents, but they've also decided that they're going to work with Waste Management before this hearing and they're going to take that revenue and spend it otherwise. It -- it -- it troubles me to imagine that a decision of this import in this day and age is being reduced to a process like this where people have the audacity to say it's a fair and open hearing and they have the audacity to suggest that this is a participatory process when we all as we sit here today know that the money has already been spent, the comments have already been squelched

and it gives you a sinking feeling in your stomach to know that a half a mile away from this landfill, as Mr. Kenney I think eloquently stated, you know, little kids can't speak up. Little kids can't say what is that smell in the air, mommy, how come -- where's that coming from? Little kids can't determine the quality of their groundwater. But little kids ought to be able to as American citizens be proud of the process, know that their parents can participate in a process. You know, we ought to -- the values that we teach our children, we ought to exemplify those values in these hearings. And this process here today, Mr. Hearing Officer, I respectfully suggest is not a fair process. It didn't invite public comment. I mean, literally, you know, what you stated earlier, we're going to clear out two hours tomorrow night from 7 to 9 for people to stand at a microphone over there and make public comments. Although I admire the accommodation of people's schedules, wouldn't we have been a lot better served if six months ago the County Board worked very, very hard to communicate to their

constituents the gargantuan nature of this process and to put a notice out in the newspaper to say, you know what, anybody that wants to have a disc of all this information on it to review at your home at your leisure can come and get it. But instead, we get two hours with an open mic tomorrow night so angry housewives can come in here and say I don't want this. I think we all know that that's not what we aspire to and we all know that that's not the sort of process that should take place. Thank you.

HEARING OFFICER MCCARTHY: Mr. Steimel, did you want to make an opening statement?

ROGER STEIMEL: No, I don't.

HEARING OFFICER MCCARTHY: I think there was one other gentleman that was a participant that I missed.

MR. HASS: I have no statement.

HEARING OFFICER MCCARTHY: Could you give me your name again, sir.

MR. HASS: It's Mel Hass, H-A-S-S.

HEARING OFFICER MCCARTHY: Ms. Cipriano, would you like to make an opening statement for the County?

MS. CIPRIANO: Yes, briefly. Thank you, Mr. Hearing Officer. Madam Chairwoman, honorable members of the County Board and of course, all of the members of the public, again, my name is Renee Cipriano and I'm an environmental lawyer. I'm here today with Chris Burger who is with Patrick Engineering. And we were brought on by the County to assist with a review of the application that has been submitted by Waste Management. As has been indicated a number of times today and I agree wholeheartedly with the participants, this is clearly the most important process -- the local siting process is the most important process and it was put in place by the General Assembly to give the public and the County the opportunity to review the application and to ask questions and to put whatever positions that you have on this application into the record, so obviously the participation of the public and the County Board is extremely important today and for as long as these hearings need to continue. Waste Management must demonstrate, as has been said, that it meets the nine criteria set out in



Section 39.2 of the Illinois Environmental Protection Act. I can guarantee you that the law insists that this decision that is rendered by the County Board is rendered based on the record and the County Board members that we have today -- here today take their job very, very seriously. And I do appreciate all of the participation from the County Board members as well as all of the members of the public. I do look forward to a very open and robust discussion. And again, encourage everyone to put their comments on the record so they can be appropriately considered by the County Board. Thank you very much.

HEARING OFFICER MCCARTHY: Thank you, Ms. Cipriano.

Mr. Moran, would you like to call your first witness?

MR. MORAN: Yes. Mr. Hearing Officer, we would call Mr. Andy Nickodem.

HEARING OFFICER MCCARTHY: Mr. Nickodem, would you come forward and be sworn by the court reporter.

ANDY NICKODEM,

being first duly sworn, was examined and testified as follows:

HEARING OFFICER MCCARTHY: Before we start, it is about 11:25, 11:30. Mr. Moran indicated to me off the record that there is a point in Mr. Nickodem's testimony that may be a logical stopping point for lunch. The college has indicated to us that they would prefer that we not all converge on the cafeteria right at noon because I think that's when the students go. So we'll try to take our break for lunch either probably a little after noon is what I would anticipate, maybe 12:15 or so if that's all right with the court reporter.

THE REPORTER: Certainly.

HEARING OFFICER MCCARTHY: You may proceed, Mr. Moran.

MR. MORAN: Thank you, Mr. Hearing Officer.

DIRECT EXAMINATION

BY MR. MORAN:

Q. Mr. Nickodem, what is your business or occupation?

A. I'm a civil engineer specializing in the design

of solid waste facilities.

HEARING OFFICER MCCARTHY: Can everybody hear him?

AUDIENCE MEMBER: No.

HEARING OFFICER MCCARTHY: It might make sense to have the microphone -- oh, you have one.

THE WITNESS: Maybe a little closer. Can everyone hear me now? Okay.

Q. I'm sorry, Mr. Nickodem, your business or occupation again, please.

A. I'm a civil engineer specializing in the design of landfills and other solid waste facilities.

Q. Are you a licensed professional engineer?

A. Yes, I'm a licensed engineer in the states of Illinois, Wisconsin, Indiana and Kansas.

Q. How long have you been a licensed engineer?

A. For 18 years.

Q. Are you employed?

A. Yes.

Q. By whom?

A. By Golder Associates.

Q. Could you tell us a little bit about the nature of the business of Golder Associates?

A. Yes. Golder is a worldwide engineering firm.

One of our specialties is the design of  
landfills and other solid waste facilities.

Q. What is your position at Golder?

A. I'm a senior consultant.

Q. Okay. What are your duties and  
responsibilities in that position?

A. Among other things, I manage the Green Bay,  
Wisconsin office where -- which is my office.  
I'm a senior solid waste professional in our  
national solid waste sector. Part of that  
sector we set standards for design and  
operations of the landfills that we work on.  
I'm a member of a number of professional  
societies related to -- to landfill design and  
operations.

Q. And Mr. Nickodem, you're going to talk to us  
today about the design of this proposed  
expansion?

A. Yes.

Q. And that's part of Criterion 2?

A. Yes.

Q. You're also going to talk to us about Criterion  
4 which relates to whether this facility is

located within the hundred year floodplain?

A. Yes.

Q. Before we get into that testimony I'd like to cover your qualifications a little further.

What is your education?

A. I have a bachelor of science in civil engineering from the University of Wisconsin, Madison.

Q. Can you describe for us your professional experience as it relates to the design of solid waste facilities?

A. Yes. My -- I've been in this business for approximately 22 years. I've been licensed for 18 years. My entire career has been spent in the solid waste industry in the design, construction, operations, permitting, compliance of landfills and other solid waste facilities such as transfer stations. I work for engineering firms such as Golder that I work for currently and I've also worked for owners and operators of landfills. So I understand the operations of the site as well as the engineering and design.

Q. How many landfill design projects have you

worked on?

A. 55, and that includes ten in Illinois.

Q. Are you familiar with the regulations in Illinois regarding the design of solid waste facilities?

A. Yes.

Q. And who enacts these regulations?

A. The Illinois Pollution Control Board.

Q. What portions of the Pollution Control Board regulations relate to the design of solid waste facilities?

A. The regulations are Subpart 8-11 of those regulations.

Q. And those 8-11 regulations went into effect when?

A. In September of 1990.

Q. Were there regulations that preceded the 8-11 regs?

A. Yes. Those were the called the 807 regulations.

Q. And when did those regulations become effective?

A. In October of 1983.

Q. And those regulations were enacted pursuant to

the Illinois Environmental Protection Act?

A. Yes, they were.

Q. And that Act was enacted in 1970, if I'm correct?

A. Yes.

Q. Now, prior to 1970 were there any regulations in effect that governed the design of solid waste facilities in this state?

A. No, there were not.

MR. MORAN: Mr. Hearing Officer, if I could approach the witness.

HEARING OFFICER MCCARTHY: You may.

MR. MORAN: Thank you.

(Petitioner's Exhibit No. 4  
marked for identification.)

Q. Mr. Nickodem, let me show you what we have marked as Petitioner's Exhibit No. 4. Do you recognize Petitioner's Exhibit 4, Mr. Nickodem?

A. Yes. It's a copy of my resume.

Q. And does Petitioner's Exhibit 4 truly and accurately reflect your educational background, employment history and professional experience?

A. Yes, it does.

Q. Now, Mr. Nickodem, is there a written report

that describes the design of the expansion?

A. Yes.

Q. And is that report contained in the siting application?

A. Yes, it is.

Q. I believe contained in Volume 1 of the siting application?

A. Yes, it is Volume 1, yes.

Q. Now, could you situate for us, Mr. Nickodem, the proposed expansion?

A. Yeah. This is an aerial photograph similar to the one that Mr. Moran used in his opening statement. Basically we're going to locate the facility -- the blue outline is the subject site boundary. That's the property area. On the west side of the site is Somonauk Road. On the south is Gurler Road. On the east is Hinckley Road and to the north is I-88. You can see in the center of the site here this line that bisects the property, that's Union Ditch No. 1. We have, of course, an existing landfill on the west side here. There is going to be an expansion of the existing landfill that we call the west unit and then there's also going to be



an east unit east of Union Ditch No. 1.

Q. Mr. Nickodem, could you describe for us the steps you took in designing this expansion?

A. Yes. This is a list of the items that we went through in doing the engineering design of the DeKalb Landfill and I'll just go through briefly some of these things and then I'll talk in more detail about several of them throughout my discussion here. First we looked at the history of the site. It's very important primarily because there's an existing landfill on the site -- as an engineer, you know, I want to understand how that existing landfill works, what the features are, how it was developed so that we can understand how to expand that existing landfill. And we'll talk a lot about the history of the existing landfill and how it was developed.

We look at existing conditions. It's very important from an engineering standpoint to understand all the existing conditions on the site. Things like utilities, the underlying geology, the watershed that the site is in so that we understand how to design the site based

on those existing conditions.

I'll talk about the facility description. That's really the areas of the landfill that we're proposing to expand.

And we'll talk about the composite liner. That's the first engineered component that I'll discuss. The purpose of a composite liner is to contain the waste that's placed into the site and we've designed a liner for this site that will do that. We've designed a leachate management system for the site. Leachate is liquid that's formed when rainwater percolates down through the waste material and picks up constituents in that waste. That liquid needs to be collected and managed and taken off-site for treatment and we've designed a system to do that. We also have a final cover system that I'll discuss. After the waste that's placed in the site reaches final elevations we place a final cover over that waste and that's -- the purpose of that is to contain that waste and to ensure that -- to minimize the amount of stormwater that gets into the waste because any liquid that gets into the waste will form

leachate.

We designed a surface water management system. The purpose of that system is really to collect surface water that comes onto the cover and allow that surface water to drop sediment or to deposit sediment in ponds around the site prior to it being discharged off-site. And I want to note a real important thing about surface water. That is not -- is not leachate. Any water that comes into contact with the waste on the site will be treated as leachate. Surface water is clean runoff off the final cover. It may have some sediment in it from the soils on the final cover, but it is not water that comes into contact with the waste and that's an important distinction.

Gas management. As waste is placed and decomposes over time landfill gas is formed through the decomposition of that waste and that gas needs to be collected and managed and we've developed a system to do that. And again, all these I will talk in much more detail about them down the road.

We'll talk about facility development.

This will not be developed all at once. I'll show, for instance, some liner drawings in some future slides and you'll see a large area that's being developed. It won't be developed all at once. It will be developed in phases as the incoming waste is brought in. And all the facilities will be developed in phases and I'll discuss that.

Monitoring systems. This is a very important complement of any landfill is to monitor all the environmental constituents around the site. We'll talk about monitoring groundwater, leachate, gas, surface water, ambient air around the site. That's a very important system because what those do is they monitor the performance of all these other engineering components that we've designed for this site to ensure that they're functioning properly -- properly throughout the life of the site and after the site is closed. We'll discuss closure and post closure. Again, after the waste reaches its final elevation the site will be closed. There's several steps that are required to be taken to have that close. And

that closure needs to be certified by the IEPA. And then there's also a post closure period that after the site is closed the site will be maintained for a minimum of 30 years after closure of the site and that's a minimum. We'll discuss that in more detail later.

Q. Mr. Nickodem, let's address that first item in your design and overview, the history of the existing facility. When was waste first disposed of at this site?

A. In 1956.

Q. Okay, and when that waste was first disposed that was prior to the enactment of the Illinois Environmental Protection Act?

A. Yes. That was enacted in 1970.

Q. And it was also prior to the establishment of the Illinois Environmental Protection Agency?

A. Yes. That was also established in 1970.

Q. Could you describe for us now the history of solid waste disposal at this site?

A. Yes. This first slide is an aerial topography. These are contours with the existing topography on the site. This is the existing landfill area. This line here is the existing property

line. Again, from that previous slide where we located the site, on the west of the site is Somonauk Road, on the south of the site is Gurler Road and to the north is I-88. So again, this is the existing landfill. This would be union ditch right here -- Union Ditch No. 1. The areas in the existing landfill -- this is the limited waste around the entire existing landfill or the old area. That is the oldest fill area in the site which began in 1956. There's the north area to the north of that old area. And then the active area where current disposal operations are taking place. So if we take a look now at a series of aerial photographs of the site, I'm going to take you through kind of the history of the development of this -- of the current landfill and how it ties into the expansion that we've designed at the site. So this is from 1953 obviously it says on the top there of the slide. This is prior to waste disposal operations beginning on the site. Again, Somonauk Road on the west and Gurler Road on the bottom of the slide here to the south of the site. The site entrance at

this time is off of Somonauk Road. You can see this road coming in to the center of the facility. In the center of the slide here union ditch. And there's two areas of disturbance that you can see in the center of the slide and then on the upper right-hand corner of the slide. These are sand -- sand and gravel recovery operations -- sand pit operations that were taking place at the time to mine and recover sand from the property. And again, at this time there was no waste disposal operations ongoing. This was prior to any regulations that existed at all. The Illinois Environmental Protection Act had not been enacted. That was, again, enacted in 1970. So if we take a look at the next slide. This is now from 1965 and as I noted, waste disposal operations started in 1956, so as of this slide there's about nine years of operations -- waste disposal operations that are ongoing. Same location, Somonauk Road to the west, Gurler Road to the south. That's not going to change throughout my discussion. You can see this -- this entrance road off of Somonauk Road coming into the site. This yellow

line in the center of the slide here is the limit of what we call the old area. That is the original disposal area on the site. Again, there were no regulations. It's not an engineered fill, there was no liner, no leachate collection system. And I'm going to talk more about those components later, but there were none of these engineered components that we know today in the regulations and frankly, there were no regulations at the time regulating these facilities. Again, this was originally a sand pit. And that sand from a geologic standpoint that is -- there are several layers under the site of different geology and actually we're going to have another witness that will discuss geology in much more detail. But that sand layer is what's called the Henry formation. That's where the sand was mined out of and basically that's a layer underneath the site. They recovered that -- that sand and then they placed waste in that excavation and the only reason that we believe that was done in that area is because it was conveniently placed because there was an excavation there or a hole



there. You can see the waste is also placed very close to union ditch at this point and at this point. One of the other things that occurred and this was -- waste disposal operations at the time, not just the design and the construction, but operations were very different at the time than what they are today. One of the common things that was done at this period of time is waste was burned. Petroleum products like diesel fuel or something like that was placed on the waste and then the waste was lit and it was burned off and then when the next load of waste came in or next couple loads they did the same thing. It was a very common operation at the time and we understand that that was done on this site as well. And that has a lot of significance that we'll talk about in the future because one of the features that we're going to be doing as part of this design is we're going to be totally excavating and exhuming this entire old area and redepositing it in newly lined areas.

Q. So Mr. Nickodem, the area outlined in yellow, that's a 24-acre area?

A. Yes.

Q. And that's what you've referred to as the old area?

A. Yes.

Q. And as you've indicated, this old area had within it none of the engineered systems. For example, there's no liner system, there's no leachate collection here; would that be correct?

A. That's correct, yes. Now, if we look at the next slide. This is 1975. Again, this is all prior to Waste Management owning the site. At the time the Engstrom (phonetic) family owned the site and operated the disposal area. Now, one of the features I want to note on this slide, again, we have Somonauk Road and Gurler Road, but now to the north of the site we can see I-5 which is now called I-88, so at this time that was constructed north of the site. Now, this in 1975 is after the enactment of the Illinois Environmental Protection Act, after the Illinois Environmental Protection Agency was formed and after the first regulations for landfills was enacted which was called Chapter 7 regulations. They were enacted in July of 1973.

But at that time those regulations still didn't have any requirements for liners, leachate collection systems. There were some requirements for covering and things like that, but they didn't have the extensive engineering design regulations that we know today. So as you can see from this slide, this, again, is that old area, that 24-acre old area that disposal operations are continuing in that old area, but you see to the north, this is a new outline to the north, that's what we refer to as the north area. That's a 38-acre area. That was obviously developed north of the existing old area and in 1974 the Engstrom family had submitted a permit to the IEPA for expansion of the landfill and that permit was granted and that's -- in fact, the permit was for that north area. The operations in this north area are different from what had occurred in this old area. You see here these lines in the center of the slide, those are actually trenches that were dug into the underlying soils and then waste was deposited in those trenches. But unlike where this area was developed -- the old area which

was developed in the Henry formation in the sand, the foundation of the north area was in what is called the Tiskilwa till which is a low permeability soil material. So it's not -- it's not at all like the Henry formation which is a highly permeable soil material. Clay versus sand and gravel, it's a very different material. So again, 1975 they were just beginning to develop that north area.

Now, if we go to the next slide. This is 1984. Now, from a regulatory standpoint in 1983 the 807 regulations were enacted and they were very similar to the Chapter 7 regulations. They still did not require any liners or leachate collection systems, but they require some operational cover and things like that. At this time open burning was prohibited, so that's not going on anymore and we understand that open burning was only done in this old -- old area. It was not done in the north area. So you see from this slide that construction and development of the north area is continuing. There's -- obviously these original trenches are filled. Waste disposal operations are

continuing. Now, the north area does have a leachate collection system. Along with being constructed in that low permeability existing soil it does have a leachate collection system as well. And you can see the old area now by and large the disposal operations have ceased in the old area. There's cover -- vegetative cover over the old area, so by and large that is closed as of this time.

Now, in 1992 the site looked like this and the significance of this, this is the first slide we see that -- shortly after Waste Management purchased the site in 1991. So now as of this slide Waste Management owns the facility. Prior to Waste Management owning it in 1989 the Engstrom family had submitted again another permit application to the IEPA for an expansion of the site. And you will see this outline here. That is what we call the active area. It's a 26-acre area to the west of the north area and that was permitted by the IEPA prior to Waste Management purchasing the site.

Q. And Mr. Nickodem, isn't it also true that that was the first area that was the subject of a

site location application similar to the one that's been filed here?

A. Yes, that's true.

Q. And in fact, that site location application was approved by the County Board and that was required as a prerequisite to obtain the permit from the IEPA?

A. Yes. Another thing of significance with this active area that was permitted is that it does have a constructed liner. It has a 5-foot compacted low permeability soil liner and a leachate collection system, so it has -- it has those components in that liner system. You can see though from this slide that construction has not begun in that active area yet, that operations are still continuing in the north area. The old area is still closed. As we see, there's no future further operations that have taken place in the old area. You can see these black lines in the center or on top of the old area. What that is is a compost operation. Basically yard waste is taken in and put into windrows or rows that are -- are then turned into compost. That yard waste is continuously

turned and eventually it's turned into compost. As part of that -- as part of the expansion that compost operation will be moved on the site and we'll have further testimony about that. The reason it's going to be moved because I noted this entire old fill area will be excavated and relocated into the newly lined areas of the expansion.

Q. So Mr. Nickodem, at this point in time we now have the entire 88-acre waste footprint from the existing facility that you referred to earlier?

A. Yes.

Q. And that's outlined obviously on the outer boundary of this yellow border at this footprint, correct?

A. Yes. So this is the last aerial photograph that I have and it's a -- from obviously 2000. Again, Waste Management owns the site. One thing of significance here from a regulatory standpoint is now the Illinois 8-11 regulations are in effect and they became -- they become -- became effective in September of 1990. They required liners and leachate collection systems along with a number of different features

including operating monitoring systems and requirements for groundwater monitoring. And in fact, after Waste Management acquired the site they needed to upgrade to the regulations and also improve the site and what they did was they sent in a permit application to upgrade to the 8-11 regulations and that included upgrading the monitoring network around the existing landfill. That included a series of monitoring wells along the, you know, east and south side of the old area and that application was I believe approved in 1996 and after that application was approved Waste Management went forward and installed groundwater monitoring wells in the upper -- what's called the upper -- undifferentiated Lacustrine unit -- the upper Lacustrine unit of the site. And actually that's very different than what had been monitored in the past. In the past the Henry formation had been monitored and actually there had been monitoring wells even in some of the low permeability soils of the Tiskilwa till, but now they put monitoring wells in the Lacustrine unit which is a unit that is able to be monitored under the entire



site. So those are placed around -- around the -- the old fill areas. And in 1997 shortly after they placed these wells and they monitored wells they did find some that there was some contamination in the wells around the site. This is well-known and documented that there is some contamination around the site. Well, after they detected that contamination they wanted to -- they confirmed that contamination actually occurred by doing confirmatory sampling. After that what's required to do is assessment monitoring to really assess kind of the extent and nature of that contamination. And again, that was done in 1997. And they determined that the contamination was really coming from the old fill area primarily due to the open burning practices and in placing, you know, petroleum products on that waste and burning the waste off parameters that were found in the groundwater monitoring wells were indicative of that type of operation in the old fill area.

Q. And Mr. Nickodem, the impacts that were detected at that time through the monitoring system were in the Henry formation; would that

be correct?

- A. Yes, yes, they were. So as part of -- after they did assessment and figured out where the -- where the contamination was coming from they worked with the IEPA to develop a corrective action -- an approved corrective action for this site. In fact, the corrective action was approved and implemented. It consisted of two different systems. One, a soil vapor extraction system which was placed along this side -- the east side of the site and then also -- and basically what that is is wells placed into the soil that extract the vapor or -- from the soil and collect it. The other thing that was done is what's called a phytoremediation system along the southeast side of the old fill area. What phytoremediation is it's plants that are planted so that they can take up the contamination in the soils to evapotranspiration and treat the soils -- treat that contamination and what was done is hybrid poplars were planted along this area as part of that corrective action. Now, both of those systems were again approved by the IEPA. They were in place and they have been

working for I guess at least ten years now -- in excess of ten years and they are working and it is actively remediating the contamination, but again, as part of this design of the expansion we're going to take that one step further.

We're going to take the source of that contamination out which is this old fill area and that old waste that was burned off with the petroleum products, we're going to take that out of this old, unlined area and place it in the newly lined -- composite lined areas of the expansion. We're also going to be removing the Henry formation materials below this waste until we get to the low permeability soil. So we're going to be taking out that permeable layer underneath that as part of the expansion.

Q. And Mr. Nickodem, I'm sorry, but as you indicated, that waste in the old area was disposed right up it appears to the boundary of Union Ditch No. 1; would that be correct?

A. Yes.

Q. And in terms of the monitoring that was performed and has been performed, have any impacts been determined to have existed or

occurred within Union Ditch No. 1?

- A. No, no, it's just within the Henry formation where the subsurface was. And actually that's a good point. As part of the -- with the proximity of this old area to union ditch -- you see here it's right up against there. As part of the expansion we're going to be moving back the limits of landfill 200 feet away from union ditch so we will be not right up against union ditch. I guess some operational things just to note in this slide as well you can see now the north area, kind of this greenish color, is by and large closed. There's some operations going on in this area, but a lot of it has been covered and vegetated at this time and now in the active area you can see active waste filling occurring in this area and actually at this time as we speak today the actual disposal operations are somewhat in this area. So this is -- this is where the landfill active operations are currently occurring.

Now, just to summarize again that same slide I want to, you know, reinforce these different areas throughout just because it's

important that we're going to be removing this old area. So again, this is the existing landfill, the limit of that landfill, the old area, the north area to the north and the active area. Again, this entire old area will be exhumed and redeposited in the newly lined areas. So just a further summary of the facility. Now, this is a little wider view which will be -- shows the entire property of the expansion, but first let's look at the existing facility. This is the existing property area. It's 245 acres which is shown with this blue outline. Within that 245 acres we have the existing landfill which is 88 acres. Within that 88 acres we've got that old fill area consisting of 24 acres. The north area is 38 acres and the active area is 26 acres. That's the existing landfill as it exists today. The peak height of that existing landfill which is actually about -- right here is the peak height is 80 feet above the existing ground elevations if you're looking at -- if you're standing at Somonauk and Gurler Road it's roughly 80 feet above existing ground

elevations. The actual elevation of that is -- I forget -- 945 mean sea level is the actual elevation of that -- of that peak height on the existing landfill.

Q. And Mr. Nickodem, could you describe for us now the features of the proposed expansion?

A. Yes. First we're going to be looking at the property area and this blue line is the property area of the expansion. You see the existing is 245 acres. 349 acres of property were added for a total of 594 acres. As I noted within that existing landfill, that old area will be exhumed, so that entire 24 acres will be excavated and redeposited into the expansion areas of the west unit. The west unit limits of waste is 61 acres. That's west of union ditch, so that's this -- this limit here and I don't know if you want to click back just one click because we can show how -- how that limit moves back because that's important that when we're excavating that -- okay, so here's that old fill area. It goes right up against union ditch and then we've got the new limits, old fill area and then the new limit of waste you can see is moved

back. You have a 200-foot setback from union ditch and we designed that to allow some setback and also we want to continue that operation of that phytoremediation system and that soil vapor extraction system. Even though we're removing that waste from that area there is still some contamination of the soil, so that -- that will continue -- this remediation system will continue on the south end and east side. So this is the limits of the west unit. You can see your 61 acres and we also have an expansion in the east unit which you can see here and that's 179 acres. Now, the peak height of the east expansion is a hundred and thirteen feet and that's approximately in the center of the site and that a hundred and thirteen feet is in relation to -- is if you were standing on Gurler Road about here and it's probably one of the lower points and we try to take one of the lower points to get that peak height. That peak height represents an elevation of 981 mean sea level.

Q. And Mr. Nickodem, if we could just summarize the components of the 61-acre limits of waste on

the west. That expansion which is -- I said 61 acres consists of first a horizontal and vertical expansion of the active area; would that be correct?

A. Yes.

Q. So in other words, we're moving -- if you look on the upper left-hand side of that 88-acre footprint on the west, the lower half of that active area will experience a horizontal expansion, that area going down to the south, correct?

A. Yes, that's -- that's here. The existing active area is about here, so that's, yes, a horizontal expansion yes.

Q. And if we move to the southern part of that active area there will be a vertical expansion above it, correct?

A. That's right here, yes. That will be a vertical expansion above that active area, yes.

Q. And if you move just to the east of that active area there will also be an overlay or a vertical expansion in the north area on the southern part of the north area, correct?

A. Yes, and that's roughly this area here, yes.



Q. And then there will also be a new liner area identified on part of the old area?

A. And that's right here, yes.

Q. Yes. And as you pointed out, it will be set back approximately 200 feet from Union Ditch No. 1?

A. Yes.

Q. Now, Mr. Nickodem, you also indicated that you looked at existing conditions at this site, correct?

A. Yes.

Q. Could you describe those conditions for us, please?

A. Yes. And I'm just going to look at a couple of those conditions. They're all covered in the application, but I'm going to cover just some of the main points. One of the things we always do is look at the watershed, where our landfill is located in relation to a local watershed. And we do that really to understand the runoff in the area and we want to know where that runoff is going to. So the watershed for DeKalb Landfill is the Kishwaukee River and this outline here -- this black outline is the entire

Kishwaukee River watershed and here's the river and it exits the watershed.

Q. Mr. Nickodem, could you tell us initially what a watershed is?

A. Yeah, a watershed is an area where property flows to a specific -- to a specific water body, so what this is -- this watershed is -- all these areas or all this property flows eventually down to the Kishwaukee River, so it's an area where water flows to a particular water body.

Q. And you also have sub watershed on that -- on that slide. Could you tell us what a sub watershed is?

A. A sub watershed is just a subset of a larger watershed. You can see this red area here. That's actually the union ditch sub watershed. That is all the areas that drain to union ditch within the larger Kishwaukee River watershed. Within that you can see this green limit on the southern edge of the Kishwaukee River watershed, that's what we call our study area. Those are all the areas within this large Kishwaukee River watershed that flow to the property on the

landfill and on the -- on the expansion area or expansion property in the landfill. So if we take a look at the next slide. That's actually -- this is that same green limit. We've just blown it up now. This blue line is the facility boundary or the property boundary of the expansion and what this is is all of these areas within this green boundary flow to union ditch or to other drainageways and flow through the landfill property. And we've quantified all the surface water runoff. In each one of these areas you can see they're numbered areas. Basically we've looked at the topographic map or the way the contours flow to determine what water flows through the site. And the reason we do this is to develop a predevelopment flow for the site. What a predevelopment flow is is basically the amount of water that's flowing through the site prior to the site being developed. And we want to understand that so that when we develop the site we don't add any additional flow to the predevelopment conditions so that we don't flood any properties out downstream. It's very important in any design

we do this and in fact, we've done that for the DeKalb design and we've determined that -- or we've designed it so that there is no additional flow in postdevelopment conditions versus the predevelopment. So that's watershed analysis.

What we've also looked at in existing conditions is the drain tile location. The drain tile in farm fields surrounding the site. And the reason this is important is we want to ensure that by developing the site that we don't cut off any drain tiles to adjacent properties and therefore back water up on to any adjacent properties. Now, this is the east unit. We don't show the west unit. We did -- and basically what this is is we located all the existing drain tiles on the property on both the west and the east sides. Although I don't show the west side, it is in the application. This is the east unit, that 179 acres that we developed as part of the expansion. You can see all these drain tiles with these arrows are the direction of flow. Most of them flow kind of to the center of the east unit and then they'll flow and continue to go west until they reach

union ditch. That's kind of the direction of flow. Some of them do flow to the east off-site, but that's pretty minor. But the big thing here is we've got two tiles that come from the south side of Gurler Road, flow to the north onto the property and as part of development of this east unit -- in fact, the first phase which will be approximately right here on the east unit, these main tiles will be excavated and taken out as part of development of the site. So we want to make sure that we continue to allow drainage to these properties to the south of Gurler Road. So what we're going to do is put in a new tile which is this kind of orange line here and new tile that will take the flow -- intercept the flow from these two tiles and take it to where it intercepts these existing tiles and then it can continue to flow to union ditch. Now, on the west side on the west unit there are no tiles that are going to be affected like this. There's nothing that we need to reroute, but this will be done really before the first phase of the east unit is constructed just to ensure that drainage continues to those farm

fields to the south.

The next existing condition that we looked at was the existing water supply wells. These are private water supply wells around the site. We wanted to identify all those wells so we understood where their location was. This, again, is the property limit, the blue line in the center of the slide. This kind of circular black line around that entire area is a one-mile radius from that facility boundary. And then you can see all these blue dots on the slide with numbers, those are locations of wells that we've determined to be around the site. So we need to identify those private water supply wells. You can also see that there are some wells within the existing property. As part of the development of the expansion those will be properly abandoned at the time that we develop this east unit.

- Q. And Mr. Nickodem, what is the principal drinking water supply source for these wells?
- A. It's the Galena group bedrock aquifer.
- Q. Not the shallow groundwater or any of the shallow groundwater units?

A. No, it's not. So if we take a look at the next slide --

MR. MORAN: Mr. Hearing Officer, this might be a good place for us to break.

HEARING OFFICER MCCARTHY: This is a good spot to take a break. It is about almost 12:15. Why don't we take a break for lunch and reconvene, say, at 1:30.

(A recess was taken at 12:15 p.m. and proceedings resumed at 1:30 p.m.)

HEARING OFFICER MCCARTHY: Let's reconvene the public hearing.

A couple of items I'd like to mention before we begin again with the witness. The notice of public hearing that was published provides in part that the public hearing will be conducted pursuant to applicable provisions of law, including, of course, the Illinois Environmental Protection Act, the Illinois Open Meetings Act, the DeKalb County Pollution Control Facility Siting Ordinance and the Articles of Rules and Procedures of the Committee.

The hearing, it says, may be continued from time to time for the purpose of receiving all relevant evidence. There has been an implication that we will only hear public comment tomorrow night from 7 to 9. That is not the case. We will be here as long as it takes. If we don't conclude tomorrow night, this room is reserved both Wednesday, Thursday and Friday. It's also reserved Wednesday evening from 7 to 9. So there will be ample time for anyone to make any relevant comment that they may desire to make. So that is -- that's number one.

Number two, I think what I'm going to do, because I have had two or three people approach me that would like to make their comments today, so I think we'll finish with this witness, both the direct and the cross-examination and any redirect that there may be, and then we'll go to the two or three people who have approached me who would like to make public comment.

The third item is this: The college has informed me that we must vacate this room by 5 o'clock today. Normally I'm a little -- you know, I like to stay over, I like to try to get



it done, but that's not going to be the case here. So we have to be out of this room at 5. And the college is suggesting that we take everything with us and that nothing should be left behind.

So with that, I'll turn again to Mr. Moran, and you may continue your direct examination.

MR. MORAN: Thank you, Mr. Hearing Officer.

CONTINUED DIRECT EXAMINATION

BY MR. MORAN:

Q. Now, Mr. Nickodem, we had just concluded your discussion with respect to the water well locations within a mile of the subject site.

I want to now turn to the specific design elements, the engineered elements of this proposed expansion. Could you describe for us, please, the design which you have prepared for this expansion?

A. Yes. Uhm, first we'll talk about the composite liner. Uhm, this is the liner that will be placed under the waste to contain waste on the site, and it's a composite liner. Composite

means it consists of two components, a soil component and a geosynthetic component. We'll look at a detail of that in a minute.

But first what I want to show is the grades that we have designed for the top of the liner for the expansion. Again, as you recall, this blue line is the property area of the facility. This is the west unit. This is the east unit of the expansion.

You can see on both the west and the east unit there are some lines here, these are contour lines. They're grades that we have designed for the top of this composite liner system. What these grades represent -- you have got the limit of the west unit expansion here. What these grades show is we're excavating down into the soil to a base that's not flat but a relatively flatter base on both the west and east sides. So we have got these excavation grades where the lines are closer together and then the base of the liner which is shown here. Actually, this is the top of the composite -- or the base of the composite -- top, no, I'm wrong, the top of the composite liner.

Uhm, you can also see these V -- maybe it's a little hard to see in the back, but these V-shaped patterns in these grades, what we -- that's what we call a herringbone pattern. And this is common to landfill design for the top of liner design. What that allows is leachate to flow along those lines to a central leachate collection line point. I'm going to talk more about the leachate collection system more in a moment. But we design it not only for constructability but also so we can collect and manage the leachate that's generated by rainwater percolating through the waste.

It's very important when we design these grades on both sides of the site that we take into account the geology of the site, and we have. Uhm, as I mentioned, over on this side with that old filler that's being exhumed and redeposited in the new areas we're going to be excavating down through that sand and gravel layer, or that Henry formation, and we're going to be actually taking that out underneath this liner. So we will be excavating not just down to the base of that old fill, but we'll be going

beyond that to take up the sand and gravel beneath that until we find the liner in the low permeability soils of what's called the Tiskilwa Till. It's another layer, but it's a low permeability material like a clay. And that's what you want for a liner design, you want low permeability material. And that's, in fact, what the composite liner is, it's a low permeability layer meant to contain waste and any constituents of the waste that are in there.

Now, on -- we talk about both sides.

Let's look a little more at the west unit. This is just a blowup of that -- of that west unit expansion. Again, you can see these grades where the lines are close together, that means it's a steeper grade. That's just a side slope. That will be excavated down, and then eventually the liner will be placed, and these are the top of the liner grades. Then this herringbone pattern, uhm, you can see there's distinct -- a few cells -- and those are really our phases, they're our cells. I am going to talk about how the site will be developed, will be developed in phases, and that's how we design it with these

distinct phases. Those liner grades are meant to drain down to a collection sump. Again, that's to collect leachate and allow it to be extracted.

But on the west side, from a liner standpoint, you have the composite liner in this entire area here. You also have a composite overlay liner that we're constructing over the north area because we're expanding over that north area. So you see this limit here, that's the limit of the composite where the overlay liner in that north area is.

Now, you recall that the active area -- that also has a vertical expansion. But the active area already has a liner system, it has a liner and leachate collection system. And it's a constructed liner leachate collection system. Where the north area doesn't necessarily have a construction liner, but it is constructed in that low permeability Tiskilwa Till and it does have a leachate collection system.

One of the important things to note about the west unit, as well as the east unit, is we did extensive engineering analysis on the liner

systems mainly to make sure that they're stable throughout the construction and the life of the site. Settlement analysis, stability -- that's slope stability, basically that's determining if the liner will be stable in excavation and construction and after the waste is filled. Sub-stability determines how and if the waste would slide, if it would slide; and it's not going to, our analysis has -- we have obviously designed it and so it's stable.

But we also look importantly at the liner systems and the leachate collection systems in the north area and the active area, because we want to make sure that those liners which are going to -- and leachate collection systems which are going to remain in place in both areas and will continue to function as designed and as currently are operating. And, again, we did settlement analysis, stability analysis, uhm, bearing capacity analysis to ensure that those -- that the integrity of those systems in the existing landfill are maintained. And, in fact, they will be.

Now, let's take a look at a detail of the

composite liner. This is the liner that is proposed for the expansion. It consists of a 3 foot compactible permeability soil layer, and you want that low permeability material. It's overlaid by a 60 mil textured HDPE geomembrane.

What HDPE is is it's high density polyethylene. It's a polymer that has been shown for many years. It's a standard in the landfill industry shown to be very resistant, and resistant to any chemicals in the landfill. Anything that's been put in the landfill for many years, it's been shown to be resistant to that. It's been shown to provide a very, very stable membrane for the landfill design. So these two components combined are what's called the composite liner.

Above the geomembrane we have a geotextile cushion, and that's an engineering fabric that's placed above that -- above that geomembrane so that it protects the underlying geomembrane.

You also have an overlay liner, as I mentioned. Now, the overlay liner is going to occur in that -- over that north area. Now, there's also already existing soil final cover

in that north area, uhm, and so we don't need to really put a compacted clay -- 3 foot clay liner underneath. You will be just putting the 1 foot soil grading layer, because there will already be a thickness of soil underneath, and then on top the 60 mil HDPE and the same cushion geotextile. So those are our liner systems that contain the waste in the expansion.

So now what I want to do is show you some construction photographs of liner construction just to illustrate what these -- all these different components do just to help you understand liner construction.

This is actually a photograph from Waste Management's Prairie View Landfill in Illinois. It will be very similar to the type of construction that will occur in the expansion at DeKalb. It's the same type of liner system at Prairie View, the 3 foot of low permeability soil and the HDPE liner.

Uhm, first I want to note the grades. You can see here these are -- this is what we call the side wall of the landfill, you can see it's a steeper grade, and then there's this flatter



grade. That, remember in one of those previous slides where I showed that those contour lines were close together, that's how we have designed the side wall. Then on the base, this is where that herringbone pattern, that V pattern grading would be to collect leachate on the base. So that's kind of the grading and how we design it, it's a steeper side wall and kind of a flatter base area.

Now, what this depicts, actually this is the top of that 3 foot low permeability soil liner, this material here. It's been prepared and ready for placement of the HDPE liner material, which is this black material. We'll talk more about that in a minute.

But also you can see over here, this is actually the -- an existing landfill cell where waste has been placed. So this kind of illustrates how the landfill is constructed in phases. You have a phase over here that's being filled, and then you have another phase over on this side which they're expanding the landfill. That's going to be very similar to the development at DeKalb. It will be discreet

phases that will be constructed and then filled.

You can see over on this side that what they're doing is they're exposing the existing liner surface in the existing landfill. There's a tie-in area because these liners from one phase to the other get tied together. The -- both the low permeability soil and the HDPE liner all get tied together from phase to phase. So that's what they're doing over here, they need to expose it, clean it, and then they will tie in both the clay -- actually the clay's already been done, but they'll tie the HDPE liner together.

This over here, this black material, this is in the completed cell that's operated. They have filled in that area, but that's the -- actually the top of the filter fabric over the leachate collection layer.

You can also see -- one of the things you want to do during construction of these liners is to ensure that you don't get any surface water runoff from these filled areas into this liner area until it's completed. So this berm actually will prevent any surface water from

running toward this new liner area. You can see these blue lines are actually temporary pump lines that are extended down into behind that berm so that they can extract surface water from that area during construction to make sure that things aren't going to be impacted by any surface water.

What this guy has here, this is actually sandbags. This is a sandbag. Before they put final seams on the liner they just put sandbags on there to make sure that it's -- that it's held down so that it doesn't move in case there's any wind or anything like that.

What this guy's doing is actually running a seamer on the geomembrane. This machine here is a seamer. You can probably kind of see that there's -- this is one sheet of material, this is another sheet. This sheet on the lower half of the slide is overlapping the sheet on the upper half of the slide. And then he cleans this seam as he goes along and he allows this machine to -- it's a fused seam that it places on the -- between the two panels of liner. It's actually a double wedge seam is what we call it.

So it's probably hard to see, but there's two lines of seam where it basically runs a double wedge. What that allows is in the center of that seam in between those two wedges you can actually air test that by pressurizing that seam and testing it to make sure that there are no leaks in that seam. That is done for every single seam on the site.

One of the things I should note is that all the construction, the grades, the 3 foot compacted low permeability soil, the HDPE, the leachate collection system that I'll talk about in a minute, all of those items are inspected by a third party engineering company throughout construction to ensure that they're constructed as per the specifications that the design engineer places on them. That report then after they're done with construction, all that data that the third party engineer takes, they put it into a report and they send that into the IEPA, because the IEPA has to approve that construction that it was constructed properly prior to them depositing any waste in the new cell area or in the new lined area.

So I mentioned that all these seams are tested, the entire seam. All the clay is tested for moisture content, compaction to make sure that it has the proper compaction.

The other thing that's going to be done on DeKalb is what we call resistivity testing. Kind of a hard word for me to get out, but resistivity testing. What that is is after the liner is constructed and after the leachate collection system is placed on top of it you can come back and actually test the liner to ensure that there are no leaks in the liner. And if there are and if they're found then they can be repaired prior to the IEPA approving the site. So there's quite a few levels of approval and checking to make sure that this liner is constructed properly.

And I worked on these composite liners, more than 40 of them all across the country, the same type of composite liners, and they perform very well. They have been in place for over -- well over 20 years in some of the sites that I have worked in, and none of these composite liners that I have worked on in the country are

leaking at all.

So if we go to the next photograph, this is that side wall. And this is just showing construction -- or laying the liner on that side wall. You can see that same piece of equipment that had the roll of liner on there. Actually he will sit at the top of the slope with the piece of equipment and they will pull this liner down the slope, and then these guys, laborers, will position it properly so that it has the proper overlap of the seam and then they'll run a seamer along it just like they did on the base liner.

One of the things to note on this slide, you can see this berm goes along at a nice straight line all the way to the top and then it kind of dips down here at the right-hand side of the slide. What that is is that's the end of the liner construction, or the end of the cell. And the reason it's like that is in this area this would be the next cell's construction. Here we have got the 3 foot compacted low permeability soil; here we don't.

You also see the difference between

surfaces. Here it's kind of a rough surface because it's a temporary surface, and here the top of that 3 foot liner is well prepared, they smooth roll it, they pick all the rocks off of it, and that's what's required to place this liner.

The next photograph actually shows that tie-in. Remember I talked about that this is the existing landfill liner and then they're now constructing this new liner. So they have exposed -- you can see along this whole edge here, they have exposed that existing HDPE liner and they have got -- they actually have a lot of work to do on this one, they need to clean it off and prepare it and then they pull this other sheet over there and they will seam that liner.

Again you can see those pump lines that are extended down into the low area on the other side of the berm, that will allow surface water to be collected so it doesn't get into the construction area. It's critical, we don't want any rainwater to get underneath this liner. We want a good contact between that HDPE liner and the low permeability soil. And, I mean, I have

been on a lot of construction projects, if rain gets under these panels basically you need to -- you need to tear up the panels and start over. So you really want to -- you really want to prevent surface water from getting in that area, and this at Prairie View shows that that's what they're doing.

You see a four-wheeler here. They use the four-wheelers to pull the liner down the slopes. You remember that piece of equipment before that had a roll on a spreader bar on a piece of equipment, they'll attach the back to some straps to the back of this four-wheeler and then they'll pull that liner down the slope. We don't want large, heavy equipment on these slopes with track vehicles, things like that, because we don't want to create a lot of ruts on these slopes. We want it to be a very smooth surface for placement of the liner.

This is actually the cell when the majority of it has been completed with the liner. This is a little wider view. We were just looking at this area here where the tie-in was, so now we're backing out from that. And as



you can see, here's the existing landfill.

Here's the newly completed -- it's not completed yet, but here's a new cell that they're lining. And this will be a future cell over here. So it kind of shows the progressing of landfilling, where the existing, the new and then the future cell areas that will be constructed. This is actually the top of the HDPE liner. They still have to lay it on this -- on this back slope and finish it.

The next slide shows it being more completed. This is actually after the liner has been completed. You see it's done on the -- on this side slope as well as the base. It's been tied in over on this side, tied into the existing landfill liner, tied in on the side slope. So this is kind of the sequence of the construction and how it works, and that's exactly what we're going to be doing at the DeKalb Landfill.

The next component I'll talk about is leachate management and the design of the leachate management system on the site. Where the liner system contains the waste, the

leachate management system collects and extracts leachate from the lined area. And, again, just to review, leachate is formed when rainwater percolates down through the waste and it picks up constituents of that waste, and it needs to be collected and managed. And, in fact, the existing landfill has an existing leachate collection system, as I noted, collection in the north area and the active area. And that leachate is currently pumped out and taken in tanker trucks to the Fox River Water Reclamation District for treatment.

So the leachate collection system is -- remember that herringbone pattern on the base liner, these arrows show the direction of the leachate flow on both the west unit and the east unit. And those arrows flow to a leachate collection pipe in the center of each one of these what you call phases or cells. And each one of these areas has a collection system. And the reason we have several of them is that way it more efficiently collects leachate, and also if each one of these areas has a pump in it -- and that way we can continue to pump leachate

even if we have to replace a pump or do some maintenance on one area, you can continue to collect leachate in all the other areas.

So -- actually if you go back one.

So we got the central leachate collection line, that flows down to a lower area which we call a sump. It's just a depressed area that we designed in the liner to allow leachate to be collected. You then put a pipe and a pump down into that sump, pump that leachate out into -- directly into a tanker truck or into a leachate force main, which is essentially a pipe force main, to temporary leachate holding tanks, and then eventually the leachate can be taken off-site for treatment.

So if we look at the next slide, this is a detail of the leachate collection system. This is that same composite liner that we looked at before. Above that we place 1 foot granular drainage layer material. What that is is a gravel material, it's a highly permeable material. And the reason we want that high permeability is to allow leachate to flow down to the central leachate collection pipe. This

pipe represents those orange lines that I showed before on that previous slide. And you can see this grade flowing down to that pipe, that's -- because of that herringbone pattern that we designed, this is how the leachate flows to that pipe.

Above the granular drainage layer is the geotextile filter. That's just an engineered fabric so that fines and other material from the waste that's placed above it doesn't clog this system.

Now, below -- below the leachate collection pipe -- the central leachate collection pipe we're also placing a geosynthetic clay liner panel below that central leachate collection pipe.

This system, I just want to note, is very important in the operation of a landfill. We want to make sure that we extract the leachate, but the reason it's important is to minimize the depth of the head of leachate above the liner. Because the head -- in engineering terms, the head is a driving force of any liquid through any potential defects in that liner. I do not

expect that. Again, I'm -- I have worked on many of these sites with composite liners and none of the composite liners I have worked on are leaking and -- but we want to make sure that you minimize that amount of head above that liner system. That's why it's a very important part of the engineering design in this so that -- and that's why we want to make sure that we get the leachate off of that liner as quickly as possible, and that's what's done in this case.

So the next slide shows a leachate collection sump. Again, same liner. We're looking at this from a little different angle now. This is actually that 6 inch leachate pipe that was shown the other way in the previous cross section, and then the granular drainage layer, and you can see this sump is a lower area that we designed into the liner system.

So how this works is leachate flows through that pipe and fills up that sump. We then have a side slope riser, which is essentially a large diameter pipe that's placed on top of the liner into the sump, and then we

place a pump inside that side slope riser, and then when that pump is turned on the leachate's pumped out either into a tanker truck or, like I say, into a leachate force main and then taken off-site for disposal. This way we can constantly pump that leachate out, because we have dedicated pumps, meaning they'll be in this side slope riser permanently and they will constantly pump out this leachate so that we minimize that head on top of the liner system.

This is a photograph of placement of the granular drainage layer material, essentially a gravel material. This is that same cell we have looked at where the liner's been completed, which is the black material here. Actually, this is the geotextile above the liner. But basically they constructed a road in to be able to place the granular drainage material. You see the thickness of this material, and the reason for that is we don't want to drive heavy equipment at all on top of this liner. We want to make sure that there's thickness of material that's placed for road material before any of this equipment comes out onto the liner. So

they kind of place this in sections until they get out onto the liner. So the drainage material is dumped by the dump truck and then the dozer spreads it out according to the grading specifications. Again, this is still all checked by a third party engineer to ensure it's constructed properly.

Here's a little wider angle of that, of that same leachate drainage layer construction. You can see here they're -- they are spreading more material. This truck looks like it's backing up with another load of material to deposit on the liner. And you can see the new cell area. So it kind of shows again the progression of landfilling.

This is actually the filter fabric that's placed above the granular drainage layer. This will be placed across the whole layer after it's completed.

The next engineering component that we have designed for the DeKalb Landfill is the final cover. After waste reaches its final elevations after -- in a given area final cover will be constructed on -- over the top of that

waste. And the purpose of final cover is to contain the waste, to minimize any infiltration into the waste, any rainwater so that we don't create more leachating. And these grades represent the top of the final cover grades. So we can see here on the west and on the east we have different final cover grades.

This final cover is constructed in phases, just like the rest of the landfill construction. It's not going to be necessarily following the sequence of cell construction in the west and the east. It will be constructed in a little bit different phases just because you reach final elevations a little differently than just phase by phase. And actually, in the application we do have a detail of how the final cover construction will be phased. But it will be -- it will be constructed as they go along.

One thing to note is, you know, this isn't going to be placed just after all the waste is placed in the site. It will be done as you go along, as the waste reaches final elevation final cover will be placed.

So if you look at the next photo, this is



a detailed final cover, 1 foot of soil grading layer is the first layer. Then we have a 40 mil LLDPE geomembrane. LLDPE is a little different than HDPE. This is called linear low density polyethylene. The reason we use that in a final cover is it's a little more flexible than the HDPE. And because it's on the final elevations and waste tends to settle, this material is able to take that settlement a little better than the HDPE. It is still a very -- you know, it is still the industry standard that is used really across the country for final covers.

Above that we have a geocomposite drainage layer. That's -- what that is is it's a synthetic drainage media. So it's a constructed grid work similar to HDPE, a grid work that allows liquid, water in this case, to flow and be collected off the top of the 40 mil LLDPE geomembrane. The reason we put that in there is we have this soil cover above all these geosynthetic layers. You know, rain water will slowly percolate down into these layers because, you know, this is now exposed. Waste is down here. Of course, this is vegetative up here.

So rainwater will percolate down. We want to collect that so it doesn't collect on top of this LLDPE. That provides better stability for the final cover.

And this has -- the final cover has been -- similarly to the base liner, the final cover has been evaluated for settlement, for stability, things like that to ensure that it is stable throughout, and we have obviously designed it that way to be that way.

So now look at some photos of final cover construction just to give you an idea. Now we're standing on -- if you're looking here, this would be like standing on the top of the slope looking down. This would be the 40 mil LLDPE material that's being placed. You got sandbags to temporarily hold it in place here. You can see there's a tie-in at the bottom that's been exposed, probably an acre trench. An acre trench is just to -- they'll put it into a trench, the end of the liner, and then backfill it with soil so that the liner is stable.

And in the background you can see some

other features that I want to talk about. It doesn't necessarily have to do with the final cover. But these -- this here is a groundwater monitoring well. And you'll note the close proximity of the groundwater monitoring well to the limit of the landfill. That's very common. It's going to be the same way for the expansion at DeKalb: we're going to put groundwater monitoring wells around the perimeter of the site, they're going to be in close proximity to the limits of waste to monitor that groundwater.

This is also a sedimentation basin here. I'm going to talk about surface water management a little more. These are outlet risers. And the purpose of the sedimentation basin is to collect stormwater from the site -- clean stormwater, not leachate, and allow it to deposit sediment before it's discharged off-site.

So the next photo shows further construction of the final cover. Now it has the geocomposite drainage layer over the top, which is this black material. Then they're placing the soil over the top of that.

This is a landfill gas well. We'll talk more about gas management. But the gas will stick up above the top of the liner, and they construct seams around that to make sure that there are no air leaks or nothing is leaking around that gas well.

You can see that there's seams. Now, this is a little bit different kind of seams since this is geotextile. It's actually a sewn seam. But, again, the final cover is tested by a third party engineer just the same way that the base liner or the composite liner was tested.

This next slide shows completed final cover. Again, we're standing kind of at the top of the slope looking down. This is what completed final cover looks like, a grassed area. That protective cover is vegetated. And actually, we're going to have further testimony after mine about some different ways that -- on the DeKalb Landfill that we're going to use native vegetation and things like that on the final cover.

You can see these gas wells. This is after they're constructed. There's a number of

them there. You can also see the same pond here and maybe a monitoring well -- a couple monitoring wells in there as well.

We have also designed the surface water management system for the site. Again, this is meant to handle just the clean runoff. Any -- I just want to reiterate that any water that contacts waste materials will be treated as leachate. This is meant to take clean runoff from the intermediate or final cover areas on the site.

What it consists of is you can see these lines here, these are diversion berms. So there's a series of diversion berms, down slope channels, perimeter channels and sedimentation basins to collect the stormwater.

First let's talk about the diversion berms. Diversion berms are just a small mound of earth that are constructed on the final cover really to intercept the flow that's flowing down these slopes. The reason we want to do that is to get that flow to slow down, and we want it to slow down because if it doesn't it will create gullies and erosion on the final cover. So this

prevents erosion and also efficiently gets the surface water off of the final cover.

So then those are directed into down slope channels, which are essentially gravel channels that then direct it to a series of perimeter channels. You can see all the water that comes onto the final cover will be directed into perimeter channels. There are actually existing perimeter channels around the entire existing landfill area. We're just showing more of the expansion features on this photo.

But all that surface water is collected, then it runs from the perimeter channels into a series of six sedimentation basins. We got one, two, three, four, five, six basins in and around, three for the west unit and three for the east unit. Those sediment basins allow the surface water to run into there and slow down and allow the surface water to be -- to drop any sediment that may be in there, because after they go into these basins that water will then be discharged off-site.

This is a photo again of that sedimentation basin. You can see basically this

is the way we have designed the ponds or the basins at DeKalb. It will be wet basins, so they have water in them at all times. They have been designed -- all surface water features have been designed to the County Stormwater Ordinance, as well as your requirements in Illinois 8-11, the IEPA regulations. So we have taken all that into account.

You can see the outlet risers here. So eventually this water rises to a certain level, and there's perforations in these pipes and then the water will eventually exit those pipes. But surface -- the sediment can be deposited.

Some other interesting things to look at on these slides, again here's these monitoring wells around the site and in the background you can see the existing landfill in operation. Up here is the -- would be an existing active area. This is a tipper -- transfer trailer and tipper. And actually we're going to have more testimony about that when you hear about operations from Mr. Hoekstra. And you see some additional trailers coming to the site, coming or exiting the site.

So the landfill operations up here, we have got completed final cover here, sedimentation basin here. So it shows a lot of features of how the site operates.

The next engineering component that we design is the gas management system. As waste decomposes landfill gases form, and that gas needs to be collected and controlled through a gas management system.

Now, this shows the final gas management system, and I'll talk about that in a minute. But gas can be collected early on and will be collected early on after disposal of the waste. We have actually designed kind of a three-tiered landfill gas system for this site. First there's a gas system that's placed -- which it's a perforated pipe, and it's placed in the high points of the leachate collection system, or the drainage layer, on the base of the landfill. We then collect that -- connect that pipe to a system of lateral and header pipes, and that in turn is connected then to a blower which provides a vacuum on the site to draw that gas out of the site. So we have got collection on



the base of the landfill.

Then during operations of the landfill as the waste is deposited and lifts are -- lifts are basically discreet thicknesses of waste that are placed during operation. As those lifts come up in elevation we can place horizontal trenches in that waste to collect gas during the operations of the site. Basically they're flat -- flat trenches with gravel and with perforated pipe. Again, that pipe is connected to a blower, and then you can place a vacuum on that and draw the gas out of the waste. So those are more during operations.

Then as the waste gets further up in elevation the third part of the system is the landfill gas wells, or the vertical wells in the site. And each one of these dots represents a vertical landfill gas well that we have designed for the site.

Now, on the west unit in the existing landfill these dots that are gray, those are actually existing landfill gas wells because there is an existing system on the landfill, there's an existing flare where the gas is

flared off. That system will remain in operation and will continue to be operated during construction and operation of the expansion. There will be no interruption in the operation of that system. We will also be expanding that in the west unit. You can see these white dots, that is the expansion of the -- of the gas system in that area. We also have a gas system for the east unit, which consists of the same three components but you can see a lot more wells just because it's a larger area.

Now, on the west unit, since we have that existing landfill and that overlay liner we want to make sure that we collect the gas from both above and below that overlay liner, that 40 mil -- no, actually, I'm sorry, it's a 60 mil HDPE overlay liner in that area. So what we have devised -- or what we engineered is a system of trenches that will go underneath the overlay liner to ensure that we still are able to collect gas from beneath that overlay liner from the north area. We have also designed wells above that overlay liner to collect gas

above that.

So we have looked -- that's why I said in the beginning that the existing conditions and the history of the site is very important to our engineering design. We want to ensure that those existing systems continue to operate.

Again, there's an existing flare on the west side of the west unit. There will be new flares on the west side of the east unit to allow gas to be collected and flared.

So now we'll take a look at some photos of the gas management system. Now, these are those permanent vertical gas wells. Basically how these are constructed, a 3 foot diameter bore hole is bored down through the waste and then a perforated pipe, vertical pipe, is placed in that bore hole with gravel around it, and then that is connected to another pipe, and then eventually that's connected back to the blower and flare system. And that blower provides a vacuum onto this well to draw the gas out of the site. And we have done design calculations and volume calculations, and based on that we came up with the number of wells that you saw in the

previous slide.

Each one of these wells is monitored. It also has a valve to allow it to be shut off individually for maintenance, and what that allows is that the entire remainder of the system can continue to be operated while one well is -- needs to have maintenance.

We also are able to adjust each one of these wells with that valve for the amount of vacuum that's going into each one of these wells. They're watched continuously on every site to ensure that each well is maximizing the amount of gas that it's extracting. There's a technician on each site that goes around and checks each one of these wells to make sure they're functioning properly on a regular basis.

The next photo just shows some additional completed wells on top of the final cover prior to the soil being constructed. The liner -- as you can see, the liner comes right up to these wells and is booted or welded to this pipe to ensure that there's no air intrusion into the gas system and try to minimize the amount of oxygen or air in the system.

You can see in the background here these are the risers for the sedimentation basin. Over here you can see a monitoring well again.

This shows wells that are placed into vaults. Basically they're underground well heads. It's the same type of well head, and it does the same thing, it extracts gas. With the valve you can change the amount of vacuum, but it's just in a vault. Sometimes this is desirable for aesthetics. Also when they're in vaults you can lock this unit, and so there's obviously less potential for vandalism or things like that. Depending on the end use of a site, you know, you might want it for aesthetics. In this case you can see here that there's a golf course on this landfill. In fact, this is Waste Management's Settler's Hill Landfill in Illinois.

This is a photo of the existing landfill gas flare on the west side of the existing landfill. This will remain in operation throughout construction and operation of the expansion. Then on the east side of the landfill we will have a new flare, and this

shows an enclosed flare similar to the one that will be installed on the east side of the site to flare the gas.

One of the things that's commonly done in the landfill industry is beneficial reuse of gas, taking that landfill gas that's generated and reusing it for something else. There's several different ways to do that. This actually shows a landfill gas to energy facility at the -- again, the Waste Management Settler's Hill Landfill in Illinois. Basically landfill gas, rather than piping it to a flare it's piped to a plant like this which has a series of engines that gas is used as fuel to run those engines. Those engines, in turn, turn generators which, in turn, generate electricity. So it's a beneficial reuse, and a lot of landfills are doing this when the gas gets up to a quantity that's large enough to be able to construct a system like this. This is one way.

There's several other ways you can directly use landfill use, called direct use or direct sale project where the landfill gas might be piped to a manufacturing plant for use in

their boilers or to an asphalt plant. Gas is also used to create compressed natural gas and liquid natural gas to fuel vehicles. And actually Waste Management has done all these types of projects across different sites in the country.

Q. Now, Mr. Nickodem, could you describe for us now how the expansion will be developed?

A. Yes. As I noted, the site won't be developed all at once, it's going to be developed in phases. We're going to take a look at a series of slides that will show how it will be constructed and operated during the operation of the site.

So if you take a look at the first phase -- and the site's going to be developed with the west unit first and then east unit. So the west unit, of course, is where the existing landfill is. So you see, one of the things I want to talk about first is -- before we get into the actual liner development is the facilities. Currently the existing entrance of the site is here off of Somonauk Road and enters the site and it goes to the active area, trucks enter

there. As part of the expansion, that entrance is going to be located further south on Somonauk Road and will create a new entrance, a new receipt control area with a scale house and scales, entrance road, employee parking area and a public drop-off area for recyclables and things like that. Then that road will be extended to the cell areas. So that will be some of the first things that will be constructed as part of Phase 1.

This road will be paved. In fact, it's going to be paved all the way over to the east unit, this entrance road. And we will hear more testimony on why we do that, but a big part of the reason is it eliminates a lot of the mud tracking that can occur if you don't have a paved road. So that's why we're doing that.

You can also see these more black features here, these are screening berms. Screening berms are going to be constructed next to Somonauk Road and in other areas of the site to screen the operations from view of the public when they're going down these roads, and those will be constructed in phases as the landfill



progresses.

This is one of the sedimentation basins. Then that kind of brings us up to the cell construction. You can see here we're only constructing a portion of the composite liner in this first phase. The reason we're going to do that is remember we have this old fill area, which is kind of this yellowish colored area on the slide, that will be excavated and redeposited in these newly lined area. Again, that will all be phased in as construction progresses.

So if we take a look at the next slide, this is Phase 2. So some of this old area in Phase 2 has already been excavated and redeposited into Phase 1. We have also started an overlay of the active area and we're also starting some of the construction over the overlay liner over the north area here.

Phase 3 is very similar. We have got an existing land -- or the new landfill cell. You can see more of that old area has now been excavated and redeposited in the newly lined areas. The access road along the perimeter has

been extended, that's going to continue to be extended as construction progresses. And more of this overlay liner has been constructed in the north area.

Phase 4 is the last constructed phase of the west unit. You can see at this time all of that old area has now been redeposited into the newly composite lined areas in the west unit. We have got another pond that's been constructed. At this point we have also constructed a bridge across Union Ditch No. 1. That bridge will allow haul trucks to access the east unit. The important thing to note there is that all haul trucks will stay on the facility property after they enter the site and exit the site here. This will be the entrance and the exit for all hauling trucks at the facility, so they're going to stay on the site and they're going to go all the way to the east unit, and we'll see that in a minute.

Q. Mr. Nickodem, I'm sorry, if we could go back for a moment to the Phase 1, Phase 2 and Phase 3 slides. There was an indication on each of these slides that there was going to be the

introduction of structural fill in certain areas?

A. Yes.

Q. Can you explain to us what that is going to be?

A. Yes. Structural fill is basically soil fill that's used to build up perimeter berms, to also fill in areas where you may over-excavate and need to fill in soil. But it's a constructed soil fill that's compacted in a stable -- a stable fill. So there's several areas on the west unit that we use -- we use structural fill. One, on the perimeter berm. You remember on those photographs where I showed the side wall of the landfill that's built up at that higher slope. We'll have that side wall here, and part of that will be structural fill to build that up above the existing grade to allow this to be constructed. And part of the road will go on structural fill as well.

If you go to Phase 2, as you recall when I talked about excavating the old area we're going to be excavating that Henry formation, that sand and gravel, taking that all out. That will be backfilled with structural fill until we get up

to these grades in the liner system. Structural fill is also used as we continue the perimeter berm construction.

The same thing here, structural fill is used to replace any Henry formation that's excavated under Phase 3, the same thing with Phase -- Phase 4 and the final phases.

This brings us up to the final cover of the west unit. This is after waste has been filled to the final elevations and final cover has been placed in the west unit, and now we move to the east unit and describe the phasing of construction and operations in the east unit.

This is that access road that I talked about that will come across Union Ditch No. 1. Again, it stays on the landfill or the facility property. New facilities will be constructed for the east unit, including a maintenance building, a landfill gas flare, I talked about that, leachate holding tanks, sedimentation basin, employee parking areas for the east unit. So they will have operation facilities over here. Although, the scale -- the receipt control area and the scale and scale house will

always remain as I showed next to the west unit.

So Phase 1 of the east unit is as shown here. And the reason we have it on the north side versus on the west unit we had it on the south side is because that's where the leachate collection sites are. We want to ensure that those are constructed first so we can continue to collect leachate throughout operations of the site.

You can see the roads are extended. We have also extended the screening berms around Phase 1, and these screening berms will be extended a minimum of 500 feet beyond the limits of construction for each construction phase.

Now, you can see here there's phases and cells. Phases are the -- what we call the larger area, so in the east unit there's nine phases. The cells are subparts or subportions of these phases. It's just what we use for terminology on landfills. Cells are usually smaller parts of phases. So Phase 1 of the east unit, we're constructing Cell A of Phase 1 and Phase 2.

The next slide shows Phase 2, we're

filling this area with refuse and now we're constructing the south end of that -- those phases. I am going to go through these kind of fast just because they're very similar. Phase 3 you can see additional filling, Phase 3, Cell B.

You can see Phase 4, now you can see the screening berm's been extended, the roads have been extended. Phase 4. And we're not going to show all the phases because they're very similar. This brings us up to the final cover grades of the east unit. You can see now the screening berm around the entire east unit.

Q. Now, Mr. Nickodem, will the expansion be monitored to evaluate the performance of this design?

A. Yes, it will.

Q. Can you explain that for us?

A. Yes. As I noted -- do you want to go to the next slide -- the environmental monitoring is a very important part of the design. Really the purpose of that is to monitor that all these other engineered components that we designed for the site are functioning properly and that there's no releases to the environment.

So first there are the groundwater monitoring wells. These blue dots represent the groundwater monitoring wells around both the west units and the east units. You saw some photographs of them. They are in close -- generally in close proximity to the -- to the limits of the landfill.

We also monitor -- and, again, that's going to be monitoring the upper -- upper groundwater. We're not monitoring the Galena bedrock. We're monitoring the zone -- actually on the west unit it's the undifferentiated Lacustrine unit, on the east unit it's that same Lacustrine unit or the Silurian Dolomite on the east unit.

We're also monitoring the surface water. Surface water is monitored at each one of the outlets of the sedimentation basins. Even though that water, as I mentioned, is not coming into contact with waste we're still monitoring there. And it's monitoring things like dissolved solids and things like that, because what we're really concerned about in here is sediment. We want to make sure that we don't

discharge any sediment to the surrounding water courses.

Leachate is monitored. Samples are taken from each one of the leachate sumps, as well as the leachate holding tanks.

The landfill gas is monitored around the perimeter of the site. You'll see these wells here, those are wells drilled into the soil, and landfill gas samples are taken from those wells to ensure that there is no landfill gas migration occurring.

We also monitor all those wells that were designed in the interior of the site to check the quality of the gas, things like temperature and pressure and things like that to monitor areas of the gas. That way we can respond if we need to put in another well or change operation of the landfill gas system to improve it, we can do that by looking at this monitoring data.

We also monitor ambient air around the site for the presence of landfill gas. These are locations right above the ground level, it's not drilled into -- they're not wells that are drilled into the soil, they're just right above



the ground level.

Q. Mr. Nickodem, have you proposed procedures that will be implemented once the expansion reaches capacity?

A. Yes.

Q. Can you describe what those procedures are for us, please.

A. Yes. As you can see here, there's two types of procedures, there's closure and post-closure. Closure involves items that are done after the site receives its last load of waste. Primarily that's completion of the final cover and completion of the landfill gas system that we've designed. Those are the two main items. Of course, some of that final cover will have been constructed already. Some of the gas system will have been constructed but we need to complete that.

Then we also have post-closure care. That involves maintaining the site, maintaining the final cover to fix any potential erosion, continued operation of the gas system, the leachate system, and also monitoring all the groundwater, gas wells, leachate wells. That

will all continue for a minimum period of 30 years after closure. And the reason I say minimum is the IEPA has to release the owner and Waste Management from that post-closure care period. So if there's potential problems, any environmental problems at the site at the end of that 30 years Waste Management will continue to have to maintain and monitor that site until those problems are addressed. Again, it's Waste Management's responsibility, being the owner, that they continue to do that, so. And that's a minimum 30-year period.

Q. And that funding, Mr. Nickodem, is provided by Waste Management of Illinois?

A. Yes.

Q. Now, Mr. Nickodem, based upon your expertise, your experience and your review of this application, do you have an opinion as to whether the design of the DeKalb County Landfill expansion is such as to protect the public health, safety and welfare?

A. Yes, it is designed to protect the public health, safety and welfare.

Q. And what are the reasons for that opinion?

A. Well, it's the engineered components that we have designed for this site. You know, importantly the composite liner that contains the waste that's placed in it. Again, a liner that's -- I have used for many, many years. The industry's -- the industry standard's been used for many years without problems. The leachate collection system to collect the leachate from the liner, continue to collect that, and minimize the depth or head above the liner, development of the gas system to collect the landfill gas that's formed on the site, also the final cover that we have designed to contain the waste after the final load of waste is received on the site, and the final cover will be placed over that. And I think one of the most important parts is the monitoring system that we have designed to monitor the performance of all these other engineered components to ensure that they're functioning properly.

Q. Now, Mr. Nickodem, I'd like to just switch gears now to Criterion 4. Did you consider whether the expansion is located within the hundred year floodplain?

A. Yes. It is not located within the hundred year floodplain.

Q. And what is the basis for that conclusion?

A. We assembled the FEMA flood insurance rate maps which are readily available from FEMA. Those maps depict areas of floodways all across the country, they map them. And from those maps we have determined that the site is not within a flood -- hundred year floodplain.

MR. MORAN: Thank you very much,  
Mr. Nickodem.

I have no further questions of this witness.

HEARING OFFICER MCCARTHY: Thank you,  
Mr. Moran.

We have been at this for about an hour and 10 minutes. Let's take a 10-minute break, and then we'll go to the cross by the Objectors.

(A recess was taken at 2:42 p.m.  
and proceedings resumed at 2:59  
p.m.)

HEARING OFFICER MCCARTHY: Let's reconvene the public hearing.

We're going to start with the Objectors'

cross-examination of this witness.

I'm going to get out of my high chair every once in awhile and sit in this chair. It's kind of hard sitting up here. I haven't disappeared, I will be right here.

Mr. Kenney.

MR. KENNEY: Thank you, Mr. Hearing Officer.

#### CROSS-EXAMINATION

BY MR. KENNEY:

Q. My first question is who from A-E-C-O-M is testifying as to Criteria 2?

A. No one.

Q. Why then on the cover page is A-E-C-O-M identified as the author of Criteria 2?

A. I'm not sure what cover page you're on.

Q. Of the application. 3.1, 47 dash 47.

A. It's within Criteria 2?

Q. Yes.

A. It's Page 3 dash 1?

Q. Uhm, I think it's Page 47 of Section 3 dash 1.

A. Is it Criteria 3? I'm just trying to find it.

Q. No, it's Criteria 2.

A. I guess I'm not sure where you're looking at.

Q. Well, do you work for A-E-C-O-M?

A. No, and it's actually Aecom. And I guess I'll explain, I am the lead engineer on the project. Our company Golder took the lead. I was lead designer for the site. I either completed or managed all of the design calculations. There are some other firms that were involved in the development, not just Aecom, not just that company, but they were under my direction. And it's very typical in any design that I work with that we have some subcontractors or other people working on a project.

So I'm not sure which page you're looking at, but the entire Criteria 2 design, engineering part of the application is done under my direction, including Aecom. I spend a lot of time with them.

Q. But no one from that company is going to testify today --

A. No.

Q. -- to Criteria 2.

Also I want to ask, do you live in Illinois?

A. What's that?

Q. Do you live in Illinois?

A. No, I live in Wisconsin.

Q. You live in Wisconsin?

A. Yeah.

Q. Have you ever lived in DeKalb County?

A. I have lived in Illinois, yes, I have. I have lived in Illinois from 1987 through roughly 1997, one year -- with the exception of one year I did move back to Wisconsin, so roughly 10 years, yes.

Q. Did you ever drive out of Chicago heading west at that time and smell anything in the air?

A. Did I ever what?

Q. Drive out of Chicago heading west on what is now Interstate 88, uhm, say around the area of Hillside, did you ever smell any bad odor in the air on a summer evening when you drove out of Chicago?

A. There was -- at times there was some odor from the Hillside Landfill, yes.

Q. Have any of your designs ever been rejected?

A. Which designs?

Q. Any of your designs that you have presented for landfill expansions or landfills, have any of

those designs ever been rejected?

A. Well, I have been part of some siting hearings, such as these proceedings, that have not been approved but they haven't been on my design, they have been on other features of the landfill. Have any been rejected? I -- you know, I can't recall on a -- usually what happens on a State level there will be some comment back and forth, they will -- the State will ask you to make some changes to the design, you make those changes and then it's eventually approved. So I can't recall any that were rejected except for, like I say, with the exception of those siting hearings, and they were not -- they were not rejected based on Criterion 2.

Q. Could you elaborate on the siting hearings that you were part of involving Waste Management's attempt to expand in Kane -- in Kendall County? Were you involved in those two that were defeated?

MR. MORAN: Objection. There were no proposals to expand any landfill in Kendall County. There is no landfill in Kendall County.



HEARING OFFICER MCCARTHY: Mr. Kenney,  
it's my understanding there is no Waste  
Management Landfill in Kendall County.

Q. Well, to place on -- I'm sorry, I misspoke, to  
place a landfill site in Kendall County, there  
was a hearing to place one there and that was  
voted down, were you a part of that process?

A. Yes.

Q. Could you elaborate on why it was voted down  
twice in Kendall County to put a landfill there?

MR. MORAN: Objection. There's no  
foundation for this witness to know why that  
site location application was turned down.

HEARING OFFICER MCCARTHY: Sustained.

Q. But you were a part of the process?

A. Yes.

Q. And you did present the designs for those  
landfill sites; is that correct --

A. Yes.

Q. -- proposed landfill sites? Thank you.

Now, it is also my understanding based on  
your resumT here that you were also part of the  
design work in the gas system at Hillside  
Landfill in Hillside, Illinois or the -- I'm not

sure the exact title of the landfill but it's located in Hillside, Illinois?

A. The Hillside site?

Q. Yes.

A. Yes.

Q. And you alluded yourself earlier that there were some odor issues at that site, and isn't it true that site has been closed down now?

A. Can you ask that question again?

Q. Isn't it true that that Hillside location has been closed down now for operation because of problems that existed with it?

A. It is closed.

Q. Because of problems that existed with it?

A. There -- I guess to clarify, I worked there from approximately 1991 through 1997, and at the time I was in charge of all the technical aspects of the entire company, which was John Sexton Sand and Gravel, which operated that site.

Now, at the time when I was there, there were no compliance problems with the site. We were in compliance with all IEPA inspections. And I had not designed that site, that was

designed prior to my -- prior to the time that I came to Sexton. But we did make improvements to that site when I was there, including additional gas management, leachate management.

After I left the site -- and, again, I don't have a lot of knowledge of what went on after that, that's been a number of years since I left. And I believe through operational practices that were not correct that some of those issues with odors occurred at the site. Again, when I was there the site was in compliance.

Q. I want to clarify something. Earlier you said -- or Mr. Moran said that there was no landfill site in Kendall County. Also I believe the Hearing Officer also alluded that there was no landfill site in that county. Uhm, why does it say in your resume Waste Management, Willow Run Landfill, Kendall County, Illinois?

A. What's it say?

Q. Waste Management, Willow Run Landfill, Kendall County, Illinois.

A. And I'm sorry, Mr. Kenney, I'm getting a lot of feedback and it's hard for me to hear up here,

it's bouncing off the wall.

Q. It says Waste Management, Willow Run Landfill, Kendall County, Illinois on your resumé. Why does it say that if there is no landfill in Kendall County?

A. Because I was involved in developing a siting application.

Q. Just a siting application?

A. Yes.

Q. Okay. Now, you said you weren't involved with the engineering of the Hillside, but it says that you managed all engineering compliance and construction for the private solid landfill owner-operator at Hillside?

A. Yes, I was responsible for engineering of the site, but I didn't design the base liner system, the leachate collection system had already been constructed and designed by others by the time I got to Hillside. And the other thing about Hillside, it's a unique site, it's a 350-foot deep quarry landfill, a very unique site.

And I managed the engineering, but I didn't design the site. The engineering that I was managing would have been things like

extensions of the gas system, we actually permitted a leachate force main that could directly discharge leachate to MWRD, things like that. So I didn't design the original liner, things like that on the site.

Q. Let me back up again to the Aecom -- is that how you say it, Aecom?

A. Aecom.

Q. I'm still a little bit confused about who actually created this design. I understand you're saying you did, but was it as a Golder and Associates person or was it as an Aecom employee?

A. It was -- it was myself, and other people at Golder and Aecom did complete some of the calculations under my direction, as some of the Golder employees completed calculations under my direction or with my direct -- direct involvement, so. But I was involved with the entire engineering design, whether it was Aecom or Golder.

Q. You mentioned the -- I think it was Prairie View site in Will County that Waste Management has and you were showing pictures of that site;

is that correct?

A. Yes.

Q. Were you present when the County Board members were given a private tour of that site?

A. No.

Q. I want to talk a minute about the old area and its leaking. Does the old area have a Subtitle D liner system?

A. No.

Q. Is there a groundwater management zone associated with the old area?

A. Uhm, I'm not sure about that. I don't know if there's a GMZ associated with that.

Q. Was the groundwater zone set up because of releases from the old area, if there was -- well, you're saying there is no --

A. I don't know.

Q. Okay.

A. We have another witness that will be coming that can discuss that whole issue in more detail.

Q. The old area is leaking and contaminating the groundwater; is that correct?

A. Yes.

Q. In part because it has no Sub D liner and it was an old sand and gravel pit; is that correct?

A. Yes, as I mentioned it was conveniently placed in that old Henry formation.

Q. And it is your intention and your design and Waste Management's intention to exhume the old area to solve this problem; is that correct?

A. Well, not entirely. The remediation system, the corrective action that's currently in place that I mentioned, the soil vapor extraction and the phytoremediation, is working. It is remediating the groundwater now. That in itself is working. But as part of this, you know, Waste Management we decided to take that a step further and remove the source of the contamination. So the current remediation system is working.

Q. And how do you know this?

A. I'm sorry, what?

Q. How do you know that it's working?

A. It's constantly monitored. Reports -- monitoring reports are sent into the IEPA and they have approved them. So it's through monitoring and maintenance of the system that we

know it's working.

Q. Who is doing that monitoring? Is that Waste Management?

A. I don't know exactly who's doing the monitoring of that system. We are not, so I don't know.

Q. When you say monitoring, you mean by those wells that you were talking about that are located around the property?

A. There's groundwater monitoring and then there's also the continued operation of that soil vapor extraction system, which that system is being operated by Waste Management. In terms of the groundwater monitoring, that's usually done by a third-party company. I'm not sure who it is, we can find out.

Q. Isn't it true that sometimes leaks can occur in between the monitoring wells and that the leak can be detected by monitoring wells? Doesn't that occur at some -- sometimes?

A. A liner leak you're asking about?

Q. Liner leak or other leaks from the landfill.

A. Well, again, I guess I want to clarify. There's a lot of different areas in the site. If you're talking about the old area, old fill



area there, I mean, yeah, it's possible that could leak in between well spacing areas.

Again, the newly lined depositing areas I -- over all the time I have worked on composite liners I have not seen a leak on all the sites I have worked with a composite liner. Very different from that old liner. So that -- I don't believe that that will ever happen myself.

Q. According to the studies that I have reviewed so far it shows that most of the leakage occurs about 46 years out or longer. Uhm, I am not sure how old you are, you don't look quite as old as I am. I would assume that some of your designs have not been in place for 46 years; is that correct?

A. What -- I'm not sure what study you're citing that from. I -- I mean it could be on old liner systems. There were a lot of studies on these older, unlined sites, which is very, very different from new composite liners. I mean, there's no evidence that I'm aware of -- I'm very active nationally in the solid waste industry, and I talked to a lot of people and none of us are aware of composite liner sites

that are leaking. So I -- without knowing where that -- where that was cited, I don't know if I can respond to that.

Q. Would you say that -- when did you say that these composite liners that you say have not leaked when have they first started to be used, would you say?

A. Well, I don't know when they first started to be used in the industry, but the ones that I have designed have been in place for at least 20 years. So there were some -- Subtitle D was the Federal regulation that talked and mandated composite liners, and the reason they did that -- there were all kinds of different State regulations -- they wanted to level the playing field and provide liners for every state, irrespective of geology or anything, and protect the design, and that's the design that the Federal government came up with.

But there were composite liners, and that started in 1991, that's when Subtitle D came in effect. But I worked on composite liner designs in Pennsylvania prior to the implementation of Subtitle D, and that's in excess of 20 years.

So, again, I am not aware of any -- I know of the sites I have worked on there are not leaks in these composite liners.

Q. You would have to say though that there is no leaks yet, right?

A. I don't believe they're going to leak at all.

Q. Ever?

A. No.

Q. I understand the manufacturer's warranty -- or it might not be called a warranty, but their expectation for this liner is to last how many years?

A. I don't recall. Are you talking about the HDPE material?

Q. Yes.

A. I don't recall. I have to look at what their current warranty is. But that's only part of -- part of the issue. As I mentioned, it's not just having a liner, it's the leachate collection system, and also over time this waste decomposes and a lot of the -- a lot of the organic fraction in the waste is gone. For instance, with the old area that waste -- even though it has this petroleum contamination in

there, that waste by in large decomposed almost completely. For one they burned it off, so there wasn't a lot of organic waste to begin with.

So I -- you know, it's more than just how long the liner lasts. These will last -- these liners will last for hundreds of years, and by that time this waste is going to be stabilized. And there's actually a lot of things that I may not have mentioned in my presentation about the decomposition of the waste and the acceleration of that decomposition that will improve on that. And that's a good thing, to accelerate that decomposition so that it stabilizes sooner. That's more of a modern landfill practice. In years past there was just a sand pit or whatever conveniently to dump the waste and that was it, there was no cover, there was no thought to stabilize this.

So there may be a time when the liner reaches its -- the end of its life, but the way we designed the sites now is that at that time by the time it happens the waste is going to be stabilized. That's the whole reason for the --

the post-closure areas. It needs to be monitored and maintained until it's shown that there's no environmental concern with that waste.

Q. You brought up a couple things I wanted to ask you about. One is back to the old area. Do you also intend to exhume all the contaminated soils in the groundwater and the groundwater management zone?

A. Well, as I noted, we would be over excavating that Henry formation, which is the sand and gravel which they excavated in the mine for the original sand pit. That is where the contamination is from the old area. So we're going to be excavating that all out, yes, down to the Tiskilwa Till, which is below that, which is a low permeability soil. So yes, we will be digging it out.

Q. And where will that be taken or will it be going?

A. That will be disposed of back in the active area. Since it's contaminated soil it's going to be disposed of as waste.

Q. Does the contaminated soils and groundwater

extend past our -- the property boundary -- the Waste Management property boundary?

A. Uhm, you know, I don't believe so just because their union ditch -- although the union ditch is not affected by -- I don't believe so, but I don't know for sure. That may be a better question answered by one of our other witnesses that's going to talk about geology.

Q. Do you plan on exhuming these soils and groundwater if they are -- if we do find out from the other witness that the soil beyond the property boundary is contaminated is there any plan to exhume that soil?

A. You know, I guess right now we don't expect that. We just expect that the Henry formation between the old area is what's contaminated and will be excavated. But as any part of these types of corrective actions, you know, you evaluate the soils as you excavate to see what's there, and that will be assessed at the time. Right now there's no plan just because we're -- we don't believe that's the case. But there could be.

Q. Thank you. Let's move to the north area. Is

there -- does the north area have a Subtitle D liner system?

A. No.

Q. Is there a groundwater management zone associated with the north area?

A. Uhm, again I -- I'd defer that question to another person.

Q. If the north area doesn't have a Subtitle D liner system then isn't it possible or isn't it also true that the north area is also leaking; isn't that correct?

A. There is no evidence of that. There's groundwater mounds around the site and in the undifferentiated a Lacustrine unit, which is the upper zone, and there's no evidence that that north area is leaking.

Q. Can you explain to a layperson like myself and maybe others in the room, how does the hybrid Poplar trees exactly remove contaminants from the soil?

A. Basically they're -- any vegetation, and in this case they're hybrid Poplar trees, take up water from the soil through their roots. Of course, that water in that area is contaminated,

and then those trees take that up and, you know, through the transpirations -- and I'm not a botanist so I don't understand fully all the operations, but through the transpiration and that soil that water -- contaminated water is removed and transpired through the life of the -- of these trees. That's as much as I understand about it, but it is working and it was an approved IEPA corrective.

Q. Once again I would just like to say it's working as far as we know, unless it leaks in between the monitoring wells; would you agree?

A. Well, there's still -- all those wells are still being monitored, yes.

Q. There is no groundwater impact assessment included in the application. This is unusual because Waste Management in the last 12 years has always included one. Why did you leave it out of this one?

A. Again, I'll refer that question to our geologist, Ms. Joan Underwood, which will be testifying later.

AUDIENCE MEMBER: Can you speak up, please?



AUDIENCE MEMBER: He needs a mic.

MR. NICKODEM: It is on.

AUDIENCE MEMBER: Put it to your mouth,  
please.

HEARING OFFICER MCCARTHY: Can you hold it  
so that --

MR. NICKODEM: Sure.

Q. (BY MR. KENNEY) Your Drawing No. 6 shows that  
you were planning to vertically expand over the  
north area; is that correct?

A. Yes.

Q. Do you believe expanding over a leaking  
landfill is a good idea?

A. Yes, we have an overlay liner, and as I noted  
in my testimony the function of the existing  
north area liner leachate collection system will  
not be affected. So yes, I do. It's a very  
common thing. I have done a lot of overlays of  
existing landfills. It's very common.

Q. The overliner design for vertical expansion  
does not contain a 3 foot clay liner; is that  
correct?

A. Yes.

Q. So the overliner and design is not as

protective to the environment as the proposed bottom liner designed for the east expansion unit; is that correct?

A. No, that's actually not true. As I noted, there's already existing soil cover, final cover on that north area.

Q. Excuse me. Is that existing soil cover clay?

A. Yeah, a portion of it -- there's actually 6 feet of cover I believe in that north area. Uhm, so all we're doing is placing -- stripping off the vegetation and placing a base area to lay that liner. So there is -- there is -- it is as protective, yes.

Q. Can you explain to me what is an SVE system?

A. That's the soil vapor extraction system.  
That's --

Q. I understand what the letters represent, but can you tell me what that means exactly?

A. That is a series of wells that are placed in the soil below the surface of the ground and extracts through a blower, it extracts the vapor from that soil to take any contaminants out of that soil.

Q. How long has it been installed?

A. Uhm, I believe 1997 or 1998. It was shortly after Waste Management upgraded the site to renew 8-11 regulations.

Q. How long will it be operating for?

A. I -- that I don't know how long it will be operating for, but it continues in operation.

Q. How effective has the SVE system been in removing contaminants?

A. To my knowledge it's been very effective. It continues to be monitored by the IEPA, and it is effective, so.

Q. Let's move on to the Union Ditch No. 1, which runs right through the property; is that correct?

A. Yes.

Q. And has Union Ditch No. 1 ever flooded?

A. Ever what?

Q. Flooded over its banks?

A. I -- it probably has, yes. Most water courses have at one time or another.

Q. So with your experience with Union Ditch No. 1 when it has flooded over its banks would you say that it has flooded more than, say, 200 feet?

A. Well, for one I -- since I have been involved

in this project it has not flooded over its banks. And I can't answer that, I don't know how far -- and it is not a floodplain, I just want to clarify that. I know that it was stated in my testimony that that is not a floodplain going through the site, so.

Q. You mentioned in your response that it's never flooded since the time you have been involved in this project. How long have you been involved with this project?

A. Uhm, since January, roughly, of 2009.

Q. So just a little over a year?

A. Yes.

Q. How many times have you visited the site and how many times during rainy conditions?

A. I was at the site I think probably four times during the design of it. I was there for initial visit, I was there during the hydrogeological investigation when they were drilling wells. I was there during -- I don't recall a date, but I was there -- try to always be at the sites during a significant rain event, that's hard to predict obviously. But I was there one day when it was raining in the spring

of 2009. And mainly I wanted to look at how the site, the existing landfill and all the existing water courses, including in the ditches, performed during rain. And actually at that time I saw no ditches over the top, and I don't know how significant a rain event that was but I was there during that time.

Q. Does Union Ditch No. 1 eventually lead to the east branch of the Kishwaukee River?

A. Yes.

Q. The groundwater management zone for the old fill area is shown on both sides of Union Ditch No. 1; is that correct?

A. I'm not sure where that's shown. Again, any groundwater management zone questions I would defer to our geologist.

Q. Well, no, I'm just saying that your design is for an east area and a west area, so there will be one area on one side, the east side of the union ditch, and one area on the west side of the union ditch; is that correct?

A. Well, for the east side it would be further over by the east unit. But yeah, it would be quite a ways further east than the ditch. Yes,

there would be one on the east and on the west.

Q. And your design calls for one bridge for 92 trucks a day to cross to the west side; is that correct?

A. Yes.

Q. Groundwater management zone for the old fill area -- I'm sorry, which means that contamination is on -- possible contamination I understand is on both sides of Union Ditch No. 1; is that correct?

A. I don't -- I don't believe it is, but I don't know the answer to that question. You know, I'll defer that question.

Q. If there is leakage occurring by the old area, which you agree there is, why don't you feel that that's polluting the union ditch and eventually going to the Kishwaukee River?

A. I'm sorry, what?

Q. You said that the old area was leaking now. Do you think the Poplar trees is the only reason it's not getting into the ditch, the union ditch?

A. The contamination is lower than that. It's -- because the site was excavated into the Henry

formation and the base of that old area is lower than the elevation of the ditch, so it's in that Henry formation sand which is a lower elevation, so that's why there's no contamination in the union ditch at all. It's in that Henry formation.

Q. Is the visibility of the landfill part of your design in terms of visibility of it to the outside?

A. Uhm --

Q. Okay, go ahead.

A. There will be another witness that will be talking about visibility of the site, if that's what you're asking.

Q. Well, maybe you can answer this question: Is it true that the landfill when completed will be the highest point in DeKalb County?

A. Again, I'll -- I'll defer that. I don't know for sure on that. We have another witness that will be talking about those issues.

Q. One thing you didn't mention that my 9 and 10 year olds that I teach mention whenever I talk about landfills and recycling and the importance of that is the odor issue. You didn't really

mention that. Because one of the things that the kids are saying right now at the elementary school right across the road, I-88, from the landfill is that it stinks. Can you explain why it stinks?

A. I'm -- you know, I'm not aware of any odor complaints.

Q. Maybe that's because you have only been to the county four times in the last year.

A. No, I'm not the operator of the site. That would be something that Mr. Hoekstra when he testifies will be talking about. I mean, I don't operate the site and I don't -- I don't receive the -- any complaints. And what they have told me is that, you know, the upgrades to the gas system that we have done these past several years and the landfill gas flare was moved, its location along 88 to the west side of the site have definitely addressed the odors, so.

Q. Well, I appreciate what you're saying. It doesn't match with what students on the playground are telling the teachers and what the school board president when he was out there



doesn't match with what he experienced when he was out there.

But can you elaborate on what causes an odor from a landfill?

- A. Uhm, well, it can be several potential things. One can be from the disposal of waste in the active area, but that's managed with cover and -- daily covers placed at the end of each operating day. Also it could be potentially from natural gas. Again, the site has upgraded and modified its gas system to address those concerns.

Those are things that as I mentioned too, the operation of a gas system if you constantly adjust the wells to ensure that you're collecting all the gas. So those are the two potential areas. But, again, Mr. Hoekstra will talk more about in his testimony.

- Q. You mentioned the flame. I know it's been moved out of sight from I-88; is that correct?

A. Yes.

- Q. What does a blue flame indicate? When I drove by there sometimes I would see mostly blue flames, sometimes orange and blue. Can you

elaborate on that in terms of what the color of the flame means?

A. It just -- sometimes the quality of the gas is a little bit different depending on, you know, wells. This isn't -- methane gas is one of the common ones of landfill gas. Depending on the composition of that gas, it may burn a little different color depending on -- it's not pure as a natural gas. So it may be due to the quantity of methane.

Q. Now, I realize you mentioned in your presentation just now that there's methane gas being burned off. Is there any other gases that are being burned in that same flame and in that same gas process?

A. Yeah, there's other components. There's nitrogen, oxygen, carbon dioxide, things like that that will burn. Those are the main components of landfill gas.

Q. Is there any hydrogen sulfide that's burned off at the site?

A. I'm not aware of that, although there is -- at times there can be some hydrogen sulfide generated from landfills that would be, in turn,

burned in flare as well.

Q. What produces hydrogen sulfide?

A. It's a variety of things. At times in landfills it can be some construction demolition materials, such as dry wall, that type of thing.

Q. The way I understand the application Waste Management has submitted, there will be construction material allowed into the site for disposal; is that correct?

A. Yeah, I would say every municipal solid waste landfill that I'm involved with accepts construction material.

Q. How familiar are you with hydrogen sulfide?

A. I am not a chemist, so I don't know what you're going to ask me about it, but I know what kind of gas it is.

Q. Well, according to a Medical Handbook on Poisons, hydrogen sulfide is half of that -- I mean is as poisonous as equal to half of what hydrogen cyanide is. And one of the studies that I have read about is that kids who are -- come in contact with that in the air -- well, first of all, let me back up.

On that flame you were talking about and

about not burning pure -- purely, is that what you said?

A. No, I -- I didn't necessarily say that. What I'm saying is the composition of the gas may not have as much methane in it at different times, but the destruction of the gas is very efficient in that flare, very, very efficient.

Q. So there's no gas left over to get into the air?

A. Apparently no, no.

Q. Primarily no?

A. There's a little bit, it's probably 96 or 97 percent efficient at destroying that gas. There may be traces.

Q. This is based on what, this 96 percent efficiency?

A. Designing -- I'm sorry, what?

Q. The 96 percent efficiency that you're saying is burning off the gas, that's based on what?

A. Experience with these flares over time, monitoring -- the flares are monitored to ensure that they're burning efficiently.

Q. Who monitors the burning?

A. Again, I'm not sure. It may be Waste

Management monitoring these flares, it may be a third party. I'm not sure who does that. We don't do the monitoring.

Q. I'm going to go back to Page 22 of your presentation. On Page 22 in my handout given to me by Mr. Moran shows a slide of a methane gas plant I guess that Waste Management operates. Where did you get that photo? I mean is it -- where is that plant located?

A. That would -- I would have got that from Waste Management.

Q. You got that photo from Waste Management. How many other photos did you get from Waste Management?

A. I got the Prairie View photos from them. Typically when we do a design and presentation like this we try to get photos from their sites, from that -- I work for a lot of other companies besides Waste Management, and we try to get particular photos. In this case we had construction photos from Prairie View and Settler's Hill. We actually had this photo for quite awhile. I would say most of these photos are from -- are taken from Waste Management

sites, yeah.

Q. Okay. Is this facility -- is a facility similar to this planned for the DeKalb site?

A. As I know it, you know, it depends on -- you have to have a sufficient quantity of gas, so we don't know yet what the quantity is going to be. Waste Management is planning to beneficially reuse the gas but we don't know if it will be a gas energy plant, a direct sales plant, what it could be. I mean that would be determined down the road based on market conditions at the time and based on the quantity of gas. So -- but it is planned, Waste Management is planning on reusing the gas.

Q. One of the other positions that I hold in the school district besides teaching is that of the energy manager. Do you know if there's any plan of the reclaimed energy of the methane gas being made available to the school district in terms of any energy reduction for the school district?

A. At this time no, I don't know of any plans. Again, that would have to be determined at the time. But, you know, things are actually done like using the waste heat from the engines to

heat adjacent buildings, things like that. I mean, that's always a possibility but at this time we don't know until we get that marketable quantity of gas.

Q. About how long would it take to get a marketable quantity of gas, would you say, based on your phased-in design facility development?

A. Well, again, it depends on the venues, because different types of venues, gas and energy, you know, can be -- need upwards of 800 to a thousand cubic feet per minute to just start that plant. Some of the other uses you might have a smaller quantity, if it's piped to a boiler or things like that. But that needs to be determined at the time.

Right now we're not getting that quantity of gas, and that's why we don't have a gas plant right now. I don't know, that -- you would have to currently -- you have to monitor the quantity of gas throughout the life of the site and then we make a determination at that time. So I guess I don't really know what that would be.

Q. Okay. Back up to a slide that's on Page 14 of my handout here about the side slope riser and

sump pump that captures leachate. What -- if this area where the sump pump's located, the leachate pump area that's going to pump it out, what if that were to malfunction during a heavy rain and that area was filled up?

A. Well, it pumps -- pumps do fail but they're -- each day these pumps are watched and actually they have an alarm light on there if there's a problem with the pump. And if they're -- there's spares that are kept on-site so that these pumps can be replaced fairly quickly if need be. You can also bring -- which is typical, you can also bring temporary pumps to pump out leachate or add an additional pump in there if you get a heavy rain event. But Mr. Hoekstra will actually discuss the operation and leachate management a little bit more of the site. But it's very typical in the operations that you may need to replace a pump or add another pump.

Q. You had mentioned about leakage around the gas wells. How's this -- about preventing leakage around the gas wells. How's this tested and how often is it tested for leakage?



A. Well, I think you're talking about in the final cover where I mentioned that there's boots or seals around the wells in the final cover. And those -- the reason you do that, you want to prevent oxygen infiltration into there, because you want to have -- for collection and complete efficiency of the gas system you want to have as high methane content as possible for it to flare properly. So we minimize the air infiltration, which is putting these boots around there.

You know, these wells they'll have a technician on-site looking at these wells and inspecting them I don't want to say every day but at least weekly, you know, they'll look at it on the site. The wells themselves will be monitored on a monthly basis for the decomposition of the gas. So they will be inspected fairly -- fairly regularly to ensure there's no leaks.

Q. And the technician will be employed by Waste Management, or you don't know?

A. Yeah, actually I believe in this case it will be a Waste Management employee.

Q. Are you aware of any of the lawsuits or fines

or penalties that have been assessed towards Waste Management for improper monitoring of their landfills?

A. No, not specifically, no.

Q. Well, I -- just for your information and for future site hearings that you are going to be a part of, if you would like to maybe want to take note of the fact that Waste Management has been fined many times by the IEPA for not monitoring their landfills properly.

MR. MORAN: Objection.

HEARING OFFICER MCCARTHY: Overruled.

Q. Who monitors -- well, let's go on to Page 29. Can you explain to me on this slide -- it's titled monitoring, if the person who's responsible for this slide to suddenly appear on the board if they could bring it up, it's right after the east unit final cover, it's on Page 29 of the handout that was given to us by Mr. Moran.

May I approach the stage? Mr. Hearing Officer, may I approach the stage?

HEARING OFFICER MCCARTHY: Say that again?

MR. KENNEY: Can I come up to the stage?

HEARING OFFICER MCCARTHY: Sure.

Q. These blue dots, are these the monitoring wells?

A. Yes.

Q. And they're in existence right now?

A. No, those are going to be -- some of them are. Some of them will be constructed as part of the expansion. So on the west side that's a mix of existing wells and new ones.

Q. I noticed that they're pretty fairly evenly placed around the new, except these are further apart. Why are these further apart here and why are these so far in this area?

A. Well, they're -- I'm going to actually defer that to our geologist, because she designed the monitoring well spacing and she'll discuss that placement and spacing of the wells.

Q. Okay. I just want to point out also up here in the west -- or north area there's a wide space between here and here. She'll also address that, you cannot address that?

A. Yes, she will address that.

MR. KENNEY: I'll defer to Mr. McIntyre.

MR. MCINTYRE: I have got a couple of

questions.

CROSS-EXAMINATION

BY MR. MCINTYRE:

Q. I want to go back to the hydrogen sulfide, because with the elementary school so close to the landfill that -- that is a big concern of mine. From what I understand hydrogen sulfide has a rotten egg smell; is that correct?

A. Yes.

Q. And then I guess from the people who live near there that's the smell they're describing is a rotten egg smell. That is -- can cause developmental problems in the children if they're constantly exposed to it. So -- and this comes from sheetrock is the primary cause of it. Isn't that a -- one of the main issues at the Countryside Landfill?

A. I don't know for sure what's -- what the issues are at Countryside Landfill. I'm not involved in that.

Q. Then does this facility have a plan to separate out the sheetrock from their construction materials prior to the disposal?

A. Actually, Mr. Hoekstra is going to talk more

about the operations of the site.

And one of the things with hydrogen sulfide, in the past few years the landfill industry has recognized that due to increased construction -- well, construction is down now but for a number of years it was very high -- a lot of acceptance of these materials, and they have recognized that that is an issue, the hydrogen sulfide gas, and they have taken steps to address that issue by the types of materials they receive, how they are received, things like that. And Mr. Hoekstra will talk about that in more detail, so.

Q. Okay, and you were -- you were talking about using soil, you put a layer of soil -- I'm not sure that I understood it, but as a -- is the term ADC, is that --

A. ADC?

Q. Yes.

A. That is actually alternative daily cover.

There's -- at the end of each operating day the active face, the face which means the area where they're disposing waste, has to be covered with either soil, 6 inches of soil, or an alternative

daily cover, which can be like a tarp material,  
and so ADC is just an alternative to soil.

Q. Is one of the types of ADC contaminated soil?

A. You know, I don't know what they use on the  
site. I believe they -- what I have seen Waste  
Management mostly uses tarps for alternative  
daily cover, that type of material. I -- I  
don't believe so, but that would be again a  
question for Mr. Hoekstra.

MR. MCINTYRE: Okay. Thank you very much.

CONTINUED CROSS-EXAMINATION

BY MR. KENNEY:

Q. Would you say that putting a landfill in an  
area that is full of sand and gravel is a good  
idea?

MR. MORAN: Objection, relevance.

MR. KENNEY: It's been established that  
this was -- that this area had sand and gravel  
in it and so -- and that underneath the ground  
there's sand and gravel, so we need to establish  
whether that's a good idea or not to put a  
landfill over an area with sand and gravel.

MR. MORAN: I don't think anybody's  
contested that perhaps at the time this was done

it was not advisable. Obviously, it's resulted in --

MR. KENNEY: Why isn't it relevant now, the sand and gravel?

HEARING OFFICER MCCARTHY: I am going to overrule the objection and allow the witness to answer, if he knows.

A. Can you re-ask the question, please?

Q. In your opinion is the putting of a landfill in an area that is full of sand and gravel a good idea?

A. If you're talking specifically about this site, uhm, you know, we're going to have a detailed discussion about geology that Ms. Underwood will talk about. And, you know, in terms of our design -- our engineering design, we are -- of course, in that old area we're removing that sand and gravel, that Henry formation material.

But I will also say this, as a design engineer, that composite liner is protective irrespective of the geology. I don't design a site -- we take geology into account for our grades and stability and we recognize the Henry formation that that needs to be removed. But I

don't design the protectiveness of that liner based on the underlying soil layers. The protectiveness is the composite liner.

So although I would -- I would probably over excavate sand and gravel underneath a liner when we construct it, I have done that many times, it doesn't mean to me that that's affecting the protectiveness. What it means is it's affecting the stability of the construction on the site.

Q. Were any soil borings taken of the soil under the north area or the active areas?

A. For -- I'm sorry, for what area?

Q. The north area and the active area.

MR. MORAN: Objection, beyond the scope of his direct.

HEARING OFFICER MCCARTHY: Sustained.

MR. KENNEY: So I'm to take it that that question should be deferred to another witness; is that correct, Mr. Hearing Officer?

HEARING OFFICER MCCARTHY: I think that would be appropriate.

Q. And the leachate design, does the landfill -- I'm assuming that if we have a larger landfill



it will have more leachate produced?

A. Yes.

Q. Can leachate recirculation itself cause an odor issue?

A. Not -- not if properly done, no. Leachate recirculation is -- that's what you're asking, right, about leachate recirculation?

Q. (Nods head.)

A. The best way to do that is to do that right at the active face, which is a small area of the landfill. And, again, that's covered at the end of the day. It's not done during, say, wet weather conditions, when it's pouring rain or anything like that so it can run off. So, no, if it's done properly it will not create odors.

Q. Could you elaborate on that, that it's not done during heavy rains?

A. Well, you want to -- the reason you recirculate leachate is to allow it to flow back through the waste material, and that's a benefit because it provides additional decomposition of that waste. Like I talked about stabilizing the waste, that's actually a benefit because it will stabilize the waste sooner by decomposing the

organic fraction in that waste. But you want to make sure that it gets on that waste and it gets in and seeps down through the waste. If it's raining hard it's just going to run off and that's -- that defeats the purpose of leachate recirculation, so that's why you wouldn't do it during a significant rain event.

Q. As everyone's obviously aware of, I am a novice at all this. So if 92 semi trucks are coming into this landfill facility, which I understand is what Waste Management predicted based on their host agreement and based on their earlier talks with the County, that would be approximately one truck every five minutes. So are you saying that on days of heavy rain there will not be any truck traffic and no dumping into the landfill?

MR. MORAN: Objection. This proposal does not include any reference and it does not propose to be taking in 92 semis. His basic assumption for the question is incorrect.

MR. KENNEY: Well, however, it was presented by Waste Management to --

HEARING OFFICER MCCARTHY: Mr. Kenney, I

don't think Mr. Moran was finished.

MR. MORAN: The other part of it is this is obviously a question that goes beyond the scope of his direct. He's not addressing traffic issues.

HEARING OFFICER MCCARTHY: Mr. Kenney, your response.

MR. KENNEY: I'll defer to another witness with that question.

Has this landfill ever had odor problems, the existing landfill? I think earlier -- I want to clarify, earlier you said there were no odor complaints that you were aware of?

A. Recent, recent complaints.

Q. What do you mean by recent? You have only been involved for a year; is that correct?

A. Yeah.

Q. So in the last year there's been no --

MR. MORAN: Mr. Hearing Officer --

HEARING OFFICER MCCARTHY: Mr. Kenney, you're going to have to let the witness answer the question. The court reporter will have difficulty when you speak over each other. Ask a question and allow him to answer it.

MR. KENNEY: Sorry.

A. I think I answered that before when I said I am aware of odor complaints in the past, but as part of the addressing of those complaints Waste Management upgraded the landfill gas system, moved the landfill gas from along 88 to the west side of the site.

You know, I asked Waste Management if they have had any recent complaints, and I don't know of the time frame of that, but they said there have been no formal complaints that were made, so no, I'm not aware of any recent complaints.

Q. Earlier we discussed the construction and demolition waste being brought in the landfill. Just for the record, would you say that would include sheetrock or dry wall?

A. I'm going to actually defer that question to Mr. Hoekstra when he talks about operations.

MR. KENNEY: No further questions.

CONTINUED CROSS-EXAMINATION

BY MR. MCINTYRE:

Q. Earlier in your testimony you said that part of the problem that seemed to be a significant part of the problem with the Hillside fiasco was that

it was a landfill put on top of a gravel pit; is that correct?

A. Of a what?

Q. Gravel pit, quarry.

A. It was -- it was a quarry, yes.

Q. Wasn't this the Elmer Arson (phonetic) gravel quarry?

A. Uhm, it's very different. The Hillside quarry was 350 feet deep, 55 acres in extent. This is not a deep quarry. I mean, they mine down to that Henry formation and then surface mine that sand. So it is different in that way. But we are going to be removing all that waste as part of the design.

MR. MCINTYRE: Okay.

HEARING OFFICER MCCARTHY: Mr. Campbell, do you have any questions of this witness?

MR. CAMPBELL: Please.

CROSS-EXAMINATION

BY MR. CAMPBELL:

Q. Sir, at the risk of being redundant here I just wanted to ask you a little bit about the odor. Do you know where the grade school is in proximity to the landfill?

A. Yes, north of 88.

Q. Do you know how close it is?

A. I don't know the exact distance, no.

Q. If there were reports at that school that they were smelling odor, that the students were smelling odor would that be something that might be brought to your attention?

A. Well, they would be -- they should be directed to Waste Management if there are complaints and they can address those complaints by, like I mentioned, modifying the gas system, by doing something else that would take care of that odor. They should be directed to Waste Management, yes.

Q. But as the design engineer for this large expansion of this particular site, do you take the time to look around the area and see what exactly is in the area so you can determine what affect the expansion of the site will have on those areas?

A. Yes, I have actually taken the time to drive around the area and look at the subdivision on the north side of 88, which includes the school there, yes, as well as other surrounding areas.

Q. And have you dealt with sites before that were emitting gas that people were smelling in the area?

A. Yes, I have, yes.

Q. And I think from your previous testimony, and correct me if I am wrong, it looked like methane was a lot of times the gas that was being emitted; is that correct?

A. Well, all those gases that I mentioned are a natural gas. Methane is just one part, but yes, that's true.

Q. And I think the one that was noted during the questioning, I think, mostly was this hydrogen sulfide; is that correct?

A. Mostly --

Q. Just referenced, not that it was being emitted mostly, but the gentlemen that just asked questions were making reference to that particular gas.

A. I don't think mostly is the correct word, but it is potentially one of the gases that can be emitted.

Q. If these gases are floating across the tollway and getting into the air of this elementary

school, would that be a concern to you as the design engineer?

A. Yes, yes, that would concern me.

Q. So it's possible that there might be some information out there in regards to gas getting over to that school that you're not aware of as you sit there today?

A. Uhm, again, if there are issues they should be directed to Waste Management. You know, I -- again, I worked on many of these sites and had on older sites in an old fill area is -- and the north area are older areas, and when we have complaints on any sites we try and act on them and upgrade the gas system or do whatever it takes to address the odor complaints, so.

Q. But it sounds like you're relying on Waste Management to provide you that information; is that a fair statement?

A. Because they -- they are really the ones that would receive the complaints, yes. I mean, I can receive them, that's fine, but Waste Management is the operator, is the one that needs to really act on the complaints, if there are any.



- Q. In your design of this expansion did you specifically ask anybody at Waste Management if anybody in the area has complained about odor?
- A. Yeah, I just mentioned that I asked if there were any recent complaints, formal, you know, written or complaints on the phone and they said no.
- Q. You're an independent -- you're hired by Waste Management to conduct these particular designs; is that correct?
- A. Yes.
- Q. But you yourself are not an employee per se of Waste Management; would that be a fair statement?
- A. Yes, right.
- Q. You're a consulting engineer hired by Waste Management to design this site?
- A. Yes.
- Q. Would it seem to make sense to try to get the information from outside of just Waste Management?
- A. In terms of the odors?
- Q. Absolutely.
- A. We typically get it from the owner because

that's -- in fact, we always get it from the owner because that's where the complaints are directed to. Typically each landfill has a concern line or a number that you can call to issue any complaints that you have, so typically that's logged with the owner and that's where we get it.

Q. Did you hear the laughter a little bit in the room when there was a discussion of odor earlier?

A. Yes.

Q. Did that make you think that there might be residents that are sitting here today that have smelled that odor and are wondering what affect it has on people, did that make you think that as an engineer?

A. It's possible, yes, but again, I'm not aware of that based on what I have heard.

Q. So if there's testimony in this public hearing in regards to odor, would that cause you to go back and perhaps investigate the source of the odor, which is perhaps a little tough, but more importantly the content of the odor?

A. Yes, I mean, if there is -- there is

complaints, you know, want to make sure that's addressed and want to make sure that the system is taking care of those odors.

Q. Especially involving children?

A. Yes, absolutely.

Q. How many sites have you designed?

A. 55 sites that I have designed and, like I said, I think 10 of those are in Illinois.

Q. Okay.

A. I have worked on many more, but those are -- the majority of my designs are those 55.

Q. How many have you designed for Waste Management?

A. I don't know the answer to that question. I work for a lot of different companies. I work for counties and municipalities that own solid waste facilities also. I don't know.

MR. KENNEY: According to your resuT, 15.

MR. NICKODEM: I'm sorry, what?

HEARING OFFICER MCCARTHY: Mr. Kenney.

Q. Does your resuT state that you have done 15 sites for Waste Management? If I told you that's what your resuT said, would that sound like a fair statement?

A. Yes.

Q. Okay. Have you ever testified in opposition to a site?

A. To a transfer station, yes, I have.

Q. Have you ever testified in opposition to a site like we're talking about here today?

A. Not a landfill, just a waste transfer station.

Q. And how many times was that? Once?

A. Once.

Q. Okay, so would it be fair to say that the bulk of your testimony that you provide is in support of the implementation or design or creation of a site?

A. Yes.

Q. Okay. I want to ask a little bit about the contamination removal. I think you called it the Henry formation; is that correct?

A. Yes.

Q. And, again, as a layperson it's my understanding that there is contamination in that particular site?

A. In the Henry formation, yes.

Q. Yes, sir. And I think that you said that was because of the way it was originally done, it

wasn't really done like it would be done if it was done today; is that correct?

A. Yes.

Q. Okay, and I think that you said that there is a -- the word escapes me here, remediation that's currently taking place in regards to that site; is that correct?

A. Yes.

Q. And if I could again just be a layperson, would it be fair to say that remediation is to take the contamination out of it slowly, trying to get the soil or the area clean? Would that be a fair statement?

A. Yes.

Q. And the process of remediation that's gone on so far, it's my understanding of your testimony, involved the planting of Poplar trees; is that correct?

A. It was that and the soil vapor extraction system, yes.

Q. Okay. Sorry.

A. Yes.

Q. And how long has this remediation process been going on?

A. Uhm, I think I noted approximately 10 years, because they discovered it in 1997 and then they implemented the corrective action soon after that. So I think about 10 years it's been in place.

Q. Okay, and during that 10 years, to your knowledge, why wasn't the soil -- or the contaminated area actually dug up like is being suggested now?

A. I don't know.

Q. Okay.

A. I don't know.

Q. Because clearly it sounds from your testimony the preferred method is to actually dig it all up and move it to another place on the site where it's done correctly and that cleans up the area that you have remediated and it also stores the contamination safely; is that a fair statement?

A. Uhm, well, actually typically in remediation any corrective action a lot of times you're not -- because of the quantity you do not remove the source, whether it's a manufacturing plant that's contaminated soil or a landfill.

Typically you will have an action around that -- around that area to -- like has been done here, to remediate the groundwater around that.

Source removal, like we're doing, is typically done on a smaller scale, not such a large scale. But because of the -- we have the opportunity here with the expansion to take it to that next step and remove that source we're going to do it.

Q. In your opinion could Waste Management have removed this contaminated area prior to the negotiations for this expansion?

MR. MORAN: Objection, relevance.

HEARING OFFICER MCCARTHY: How is that relevant?

MR. CAMPBELL: I'm trying to get at the fact that they're essentially trading in -- they could have done this originally, and instead they planted trees. And so now what they have done is bargained with the County to do it along with this project. And it's my assertion that they could have done that all along if they were real stewards of the land.

HEARING OFFICER MCCARTHY: Objection

overruled.

You can answer if you know the answer.

A. Well, as I noted, the corrective action system that's in place is working. It's not that you had to remove the source to clean up the ground water in that area. That corrective action was approved and is working. So without removing the source, that corrective action would just continue and it would continue to clean that area up until somewhere down the road the contamination is gone.

Q. How long would that be?

A. That I don't know how long.

Q. So right now we have a remediation system in place that we don't know when it's going to clean up the area. It's going to do it slowly over time, but we can't say for sure. Would that be a fair statement?

A. Yes.

Q. You indicated that it is working, the remediation is taking place, but I think you testified that you didn't know who was actually doing the monitoring of that remediation; is that correct?



A. Right, yes.

Q. Okay. Have you reviewed documents that indicate to you that that remediation is working?

A. Yes, I have reviewed IEPA reports and things like that in regards to the remediation system.

Q. And in reviewing those reports you weren't able to discern who it was that was actually doing the monitoring? And I'm not trying to catch you off guard, I'm just trying to see if there is a witness out there who maybe we can hear from since it is being stated that the remediation is working?

A. Well, actually when the geologist, Ms. Joan Underwood, is going to testify she can address that.

Q. She's going to have a lot of questions after you.

I'll try to conclude this. I wanted to ask you a little bit about the Hillside and the Willow Run, and it's only because I was a little bit confused. Did you work on the Willow Run application in Kendall County?

A. Yes.

Q. And was the work that you did on that project similar to the work that you have done here today on this one?

A. Not entirely. Willow Run -- and there were two Willow Runs. I was brought in on the first application. There was another company that had designed the site already, and I was brought in to do a peer review, bring the site up to siting application standards for this same process and then testify in support of the application.

Q. And you did actually testify?

A. Yes.

Q. And I can't remember what your answer was, was that application approved or denied?

A. It was denied.

Q. Okay. As the engineer that worked on that project, did you review the reasons why it was denied?

A. I knew it was not denied based on the design -- based on the engineering design, I know that. I don't recall the --

Q. And I am not trying to say it was refused because of you. I'm just asking a more general question, if you study the denials of

applications in other parts of the country, in other parts of Illinois to determine what it is that you could have done a little bit differently to maybe get it approved, do you do that?

A. Yes, actually we do that.

Q. Okay.

A. I do that almost every time I give my testimony, and yes, we do review each site.

Q. Okay. The Hillside site, did it sound to you as an engineer like the problem there, one of them was an odor problem?

A. Yes.

Q. They were getting complaints from -- and I'm asking you to your personal knowledge, not to guess. Were they getting complaints from people in the area that were smelling smells?

A. Yes.

Q. Were you able to discern what exactly the content of those odors was?

A. Uhm, well, again when I -- when I was actually working for Sexton and was over the technical aspects of that landfill we were not getting odor complaints at that time. Of recent there

were a lot of operational changes, and specifically there was a landfill developer, a gas and energy developer similar to that plant that we saw that was supposed to develop a gas energy plant. That was a third-party person. And essentially that gas was shut down for a period of time, and that created odors. And that was all after I left. But that's what really was the problem.

Q. And I want to make sure you understand I'm not trying to cast a dispersion on you as an engineer. I am just asking you a more general question. It seems to me that if garbage is being taken to dumps and dumped and Waste Management is running these facilities, or some other company, there's probably a lot of similar types of odors that come from landfills. Would that be a fair statement?

A. Uhm, yeah, not quite to the quantity at Hillside because of that problem.

Q. Were you able to determine when you reviewed that later on, if you happened to review the Hillside situation, what gases were being emitted? I mean, what was the source of the

problem?

A. It was primarily natural gas. Because the system had not been operated for a period of time, there was a lot of pressure built up because gas continued to be generated but it wasn't collected, so that was the problem.

Q. Specifically what type of gas?

A. It's just typical methane -- like I mentioned, methane, nitrogen, oxygen, carbon dioxide. The same type of natural gas that you would see at any site.

Q. So would it be fair to say that gas that is being emitted can lead to problems that cause complaints that kind of raise concerns to citizens as to, you know, the content of the gas?

A. Yes.

Q. You can understand why parents at Cortland Elementary School might wonder what it is exactly that their kids are breathing?

A. Yes.

MR. CAMPBELL: Okay. That's all I have, Mr. Hearing Officer.

HEARING OFFICER MCCARTHY: Thank you,

Mr. Campbell.

Mr. Steimel, do you have any questions of this witness?

MR. R. STEIMEL: (Shakes head.)

HEARING OFFICER MCCARTHY: Mr. Hass, do you have any questions?

MR. HASS: No.

MR. D. STEIMEL: Yes, Mr. Hearing Officer, I have some questions.

HEARING OFFICER MCCARTHY: What's your name?

MR. D. STEIMEL: My name is Dan Steimel. I spoke with you earlier.

HEARING OFFICER MCCARTHY: All right.

MR. D. STEIMEL: This should take just a couple minutes.

CROSS-EXAMINATION

BY MR. D. STEIMEL:

Q. Mr. Nickodem, on the west side of the landfill, the current landfill, you talked about there's going to be a new vertical expansion on the north side of that. What will be the height of that new vertical expansion?

A. It will be -- it's not going to be any higher

than the existing landfill. It's still going to be that elevation, 945.

Q. What is the height of the current dirt pile that's on Somonauk Road currently?

A. I know the stock pile you're talking about. I don't know the height of that.

Q. You don't have any idea?

A. No.

Q. You talked in your detailed explanation on your plan here of the leachate system and the whole expansion project. How much leachate is planned to be taken away in a given day or week with this design that you have put forth?

A. Well, we have got that in the application actually. I can look. I don't recall the exact number, but I can look it up if you'd like.

Q. Sure.

A. It will just take a minute.

We did calculations to determine the peak daily values of leachate generation, because there's several ways to look at this, but we looked at the peak daily values. And this isn't necessarily -- this would be the absolute peak, this isn't what would normally be in place. But

basically what we come out with on a peak daily basis -- let me just calculate this here, it doesn't necessarily have the daily number.

Roughly 164,00 gallons on a peak daily basis.

And, again, that could fluctuate depending on precipitation, things like that, but that's our peak amount.

Q. 16,400 gallon daily peak amount versus what is done currently?

A. You know, currently they have -- I don't know the current actual amount that they're extracting. They currently have an existing 50,000 gallon tank, and then they do take leachate off the site. I don't recall the exact number that they currently generate.

Q. You showed in your presentation that on the east side of the proposed expansion an enclosed flare versus what looks and sounds to be different than what's currently just been put up on the west side?

A. It is a little different, yes.

Q. Can you explain the difference in the two flares?

A. Both of these flares are typical operations of



a landfill. One is the open flare, that's the existing site. The other one is the enclosed flare, and all that is is the flame itself is enclosed. In terms of destruction of the gas, it does the same job, enclosed or open flare.

Q. Earlier in your presentation you talked quite a bit about the different parts of the existing landfill. And the old site, the 24-acre site, talked about how that has leaked, and that in this expansion project this area will be removed or exhumed and put into a new cell.

If this proposal is not approved will Waste Management exhume this whole site?

A. I -- I don't know what Waste Management's plans are if this doesn't get approved, I don't know.

Q. So this existing old area that has leaked and some of the rec -- or some of the projects that have been put into place to help take care of these leaks temporarily or at least intermediate term basis, you're not sure if they will be exhuming this site whether or not they get this expansion?

MR. MORAN: Objection, asked and answered.

HEARING OFFICER MCCARTHY: Sustained.

Q. Will there be another witness presented by Waste Management that can answer that question?

A. I don't know. Possibly, I don't know.

Q. I guess we'll find out.

Okay. Thank you very much.

HEARING OFFICER MCCARTHY: Okay. I asked the senior Mr. Steimel.

Mr. Hass, you had no questions?

MR. HASS: Correct.

HEARING OFFICER MCCARTHY: Okay.

Ms. Cipriano for the County, do you have any questions for this witness?

MS. CIPRIANO: I do, Mr. Hearing Officer. However, I -- just in looking at the time, if I may just share with you, I probably have I would say about a half an hour --

HEARING OFFICER MCCARTHY: Okay.

MS. CIPRIANO: -- worth of questions. I know there were a number of individuals and I believe the County Board members might have questions as well.

HEARING OFFICER MCCARTHY: Right, and we're obviously going to need -- you know, I'm sure there will be some redirect based upon the

cross-examination. So maybe at this time, due to the fact that it's about 4:22 or 4:23, we did indicate to a few people that they could make their public comment today. So why don't we do that now due to the fact that we have to leave this room by 5.

I'll start with Frankie Benson. There's a microphone there, and if you would state your name and give the court reporter your address and then you may proceed.

MS. BENSON: Again, I'm Frankie Benson, and I live at 18711 North Chase Road with my husband Bob.

We own 1.85 acres, and we're about one mile from the current landfill as the crow flies. The property we own was homesteaded from the government more than 150 years ago.

We are very alarmed about several aspects of Waste Management's proposed landfill but even more alarmed and appalled about the DeKalb County Board's handling of this whole situation. For us personally this mega dump will serve to further erode the quality of life we enjoy on our country property. As it is now, we have

endured increasing odors over the years from this landfill.

Mr. Moran came to our house one summer and asked us some questions without properly identifying himself off the bat until my husband expressly asked him, who do you represent, and he said Waste Management. But we wouldn't have given him any different answers than we did. We informed him we do endure smells there. I have smelled methane odors, not as bad as the true garbage odors though. And keep in mind, we're a mile away.

Of course it's an eyesore and it will continue to be one. But most importantly, as this landfill grows and grows older our worries escalate about our well. Our well goes into a deep aquifer. And we are aware that as landfills leak, which most of them do over time, the well water for us, our neighbors and descendants will be poisoned and unusable.

One of the nice things about living in the country is listening to the sounds of nature. The noise level from this dump will increase over time. Eventually the nature sounds will be

punctuated by the roaring, squeaking and rumbling of continual Waste Management trucks.

Yes, there will be a berm, but that does not resolve all of the noise issues and it will add immensely to the eyesore we already have. Keep in mind, folks, this is going to be 113 feet tall right in front of us. The folks that live on the road to the entrance would have to endure much more truck noise and constant road wear. Are you really going to make us and our heirs look at a 113-foot high pile of dirt and garbage?

19 years ago Bob and I went to the DeKalb County Planning Department to request rezoning from agricultural use to rural residence. We were planning to replace the old farmhouse with a new modern home on virtually the same footprint. We wanted to be sure that we would always be able to build a home on the property should some disaster strike. And it wasn't entirely clear that we would be approved to do so under that old zoning.

The Planning Department recommended denying this position, citing four reasons. The

most relevant reasons related to our discussion today center around the Comprehensive Land Use Plan of 1981 being surrounded by agricultural use and zoning in our area, and that the soils on our site are considered prime agricultural. However, we were able to secure a different zoning, namely agriculture permitted use, due to the facts we raised in the hearing centering around reality of what it would cost to return this property to tillable acreage and the family's history of ownership. However, they put up a pretty strong fight over just 1.85 acres.

We wonder why the Planning Department has seemingly remained silent on the idea of using at least 350 more acres of this prime farmland for dumping garbage from Waste Management's service area. The farming residents of DeKalb County are so proud of the beautiful prime farmland that produces so well for them. What impact will this have on their ability to earn their quality of life and their ability to bring food and products to our tables? Ah, it's only 350 more acres you might say, but in the big

scheme of things as our population continues to grow and expand into our farmland our future generations will bear the brunt of our poor stewardship.

We have no business taking care of other people's garbage. We generate tons of our own that must be dealt with. This means we need landfill space enough for many generations of DeKalb County residents. By allowing other counties to use this county as a dumping ground they really don't have to deal with their own waste and recycling issues.

Most of the counties in Waste Management service area could use their own land for this use, could finance some type of incinerator or explore other green opportunities.

The town of Cortland has signed an agreement, as stated by Matt -- thank you, very much earlier. Not only does this map an illegal bribe on the Cortland Board level, but it lets us know that our County Board is willing to do us a disservice, those of us that are taxpayers that live within a mile of the expansion but are not in the town of Cortland because, as we know,

those guaranties are only for a half mile, half mile for wells, half mile for property guaranties.

But the most incredible thing of all that we have heard here is the fact that the County Board was told not to discuss any of this with their constituents. Yes, we know the Board will ultimately vote on this. But they're not appointed judges. They are elected officials who should take our feedback into account in a transparent and democratic process to do the will of the residents in this county. The people's will has already been spoken in the failed referendums that have come up about the jail.

In conclusion, I urge the Board not to be swayed by the promise of big dollars. A jail and courthouse expansion may be needed, but a more acceptable way to go about that would be to thoroughly educate everyone as to why we need it and then ask us again if we want it.

Yes, we are in hard economic times and revenue is scarce, but please don't degrade and erode our County's resources and disrespect the



people of this county by selling our future to Waste Management.

Thank you.

HEARING OFFICER MCCARTHY: Sir, there is a microphone right there.

MR. BENNETT: Just want to bring you a copy.

HEARING OFFICER MCCARTHY: Okay. Just me?

MR. BENNETT: One for her too.

HEARING OFFICER MCCARTHY: Again would you state your name and address for the record.

MR. BENNETT: My name is Jack Bennett. I live at 221 Joanne Lane in DeKalb County.

As a preface to my very short written statement I would like to say that I do not disagree with most of the people who have objected to this landfill expansion. I think landfills are better than the old dumps of 70 years ago, but I think they are unsustainable on any long-term basis as a way of dealing with our waste.

I do not object, in principle, with the enlargement of the landfill at this time. I do request that approval be conditioned upon three

prior agreements.

Number one, the County Board commit to enlargement of the landfill at this time -- oh, excuse me, wrong paragraph.

The County Board permit to planning and instituting prior to the filling of the enlarged landfill a system of complete recycling. A federally supported test of such a system was completed in the 1970s in St. Louis and the information is still available.

I was particularly interested in that because the area that was subject to complete recycling had a population in St. Louis of 80,000 at the time, which is just about what DeKalb County's population was. So I was -- knew it was something that could be done for an area like our county.

It should be possible to do the job even more efficiently now. Adding up the farmland now covered and due to be covered by the enlarged landfill, it is obvious that not many life spans will be needed to make our county one large landfill. Thus it does not seem reasonable to plan further expansions beyond the

one proposed.

Number two, the burning of methane and other gaseous hydrocarbons that are produced in the landfill contaminates our atmosphere with no compensating benefits. Many landfills in the country collect all such gases and use them to fuel diesel generators to produce electricity. In Illinois the electric utilities are required to purchase such electricity to supply our needs. Obviously there will be carbon dioxide produced, but it will then at least reduce the amount of -- produced by conventional coal or natural gas fired electric power plants. Approval of the expansion should require such utilization of the gases produced by the existing and expanded landfill within one year of approval.

Number three, as I understand it Waste Management again proposes to dump about three times -- at the time I wrote this, and from what I saw on the paper today it looks like it might be seven times as much waste into the landfill from outside the County as it does from within DeKalb County. Thus we are asked to suffer from

the errors of other counties with little real extra compensation except that it will be received sooner. At a maximum I request that the agreement to allow expansion allow no more from outside the County than we produce ourselves.

I believe these requirements are essential for the long-term good of our people and our descendants.

Thank you for your attention.

HEARING OFFICER MCCARTHY: There was another gentleman that approached me, would you like to make your comment now?

MR. KEYS: I don't have a prepared statement. My name is Matthew Keys. I live on Lincoln Highway in DeKalb.

First off, I hope that if this would go through that they wouldn't phase in the berm system, because I think that's a really poor aspect of it if this should happen. I'd adamantly opposed to it happening. I really prefer that they didn't expand.

One of my main concerns is going to be transfer trucks traveling through DeKalb from

points northwest, because I know that a lot of trucks currently use 38 to avoid the tollway and will do so coming from other counties. Also from St. Charles and Geneva, for these folks I think that there should be some sort of a mandate that those transfer trucks that are coming from out of the County remain on 88 and don't bypass from 39 using 38.

And the odor issue is a big one. My house is over a mile away and there are days, plenty of days when you can actually smell it, just depends on which way it's going. And I think that Hillside is probably a prime example of what this is going to smell like.

I appreciate all of you folks over there for the effort that you're putting into this and I commend you for it.

That's about all I can say.

HEARING OFFICER MCCARTHY: Yes, ma'am.  
Again would you state your name and your address.

MS. LOVINGS: My name is -- is this on?

My name is Danica Lovings. I live at 21230 Virginia Road in DeKalb.

As a voting citizen I am offended by the way this process has seemed to leave me, my neighbors, friends and fellow citizens out of the process on an issue that significantly impacts us now and for generations to come.

Our County Board members have been prohibited from discussing the matter with the very constituents who voted for them to represent their interests. Something is wrong with this picture.

This process is neither democratic, nor transparent. If it was, Waste Management wouldn't have had the opportunity to influence our board prior to a public hearing while we, the voters and citizens, are forced to remain silent. If it was, the public hearing wouldn't have been scheduled on a work day between the hours of 9 and 5 p.m. when most of the public is at work. I had to arrange to leave work early just to be here for a little bit, and there are many who do not have that luxury and were therefore excluded. I do understand some of it is being continued to an evening, so that's good.

But I also understood that no decisions are supposed to have been made until all of the information was presented here at the hearing. But from what I can gather, it seems to me that minds were made up and money spent well ahead of that.

There's no question that we need money for a jail and other projects, but the way to go about it is not to sell out and compromise our County's health, future and reputation. How can anyone on our board in good faith support this proposal knowing that our children will be left having to seek sources for garbage disposal likely outside of our county at a much greater cost; knowing that there are many holes in the proposal and it lacks basic protections; and knowing that the citizens of DeKalb County were given no say in the matter?

I would have no qualms about supporting a landfill expansion for our own county's needs. Doing so would make sense. This does not.

Environmentally speaking, as a society we cannot continue to do business as usual when it comes to managing the use of our resources.

Aside from land and water pollution issues, methane gas produced from manmade landfills now accounts for 25 percent of all methane releases linked to human activity. Methane is 21 times more effective than carbon dioxide at trapping heat in the atmosphere according to the EPA. And we want to quadruple the amount we're putting into the air at our site?

The technology exists to harness the methane and use it to power other human activities so that we not only prevent it from impacting our atmosphere but we also reduce the amount used by other sources because they're using it as renewable energy. Waste Management is actually doing this now at sites. But they can't tell us -- they can't tell us when this proposed site would get to the point where we could produce the gas -- enough gas to capture it and reuse it or whether or not they would do so when we got to that point.

Many communities have been successful at having these measures implemented with the power of their voice, but to me it seems the DeKalb County voters have not been given a voice.



In regards to the odor, I drive west and east on Route 38 every day about a half mile north of the elementary school, and on any warm day you smell the rotten egg smell as soon as you hit Cortland from either the east or the west.

HEARING OFFICER MCCARTHY: Would anyone else like to make their public comment at this time? We do have a little bit more time.

Yes, sir.

MR. STAND (phonetic): Hello. This is a question.

HEARING OFFICER MCCARTHY: Would you state your name first, sir, and your address.

MR. STAND: Wesley Stand, and I live in DeKalb.

HEARING OFFICER MCCARTHY: Okay.

MR. STAND: That's an address.

Okay. I recall back in the '80s I was in Hinsdale on a -- doing some clearing and I was on top of a landfill, a waste deposit, but there was a park right next to the Hinsdale Hospital maybe two, three blocks away. Was that the same kind of a -- I recall a big pipe that was

burning fuel, you know, or exhaust. Was that the same kind of a waste site, or back in the '80s they didn't bother with those things?

HEARING OFFICER MCCARTHY: Are you asking the witness this question?

MR. STAND: Yes.

HEARING OFFICER MCCARTHY: Okay. I don't know whether you followed that but --

MR. NICKODEM: I don't know that particular site but, you know, the technology to collect gas -- I think was what you were talking about -- and clear it off has existed for many years, so it's possible it may have been in operation there, yes.

HEARING OFFICER MCCARTHY: Anyone else want to make their public comment at this time?

Yes, ma'am.

MS. WILCOX: My name is Lisa Wilcox, 1466 Moluf Street in DeKalb.

I wanted to speak to everyone in regard to this issue. I too am very distraught and dismayed at the way the County Board has handled this. Having served on a couple of referendum committees, I understand and respect the

concerns of not being able to have the funding or possible passing of a referendum for a jail. However, the way this process has been carried out is deplorable. It's disrespectful (sic) to the voters. It's disrespectful to the citizens of DeKalb County.

As a parent of a grade schooler I have a concern with the smell and the blowing garbage going across Cortland Grade School. My daughter is going to Malta, which is going to be closing, and they're looking at sending the kids to the Cortland Grade School, so my daughter will be greatly affected.

I am very distraught at this. I would ask you to reconsider and think of those children. Thank you.

HEARING OFFICER MCCARTHY: Anyone else at this time?

Yes.

MR. CARSON: Dan Carson, 17983 Hinckley Road.

And I would really like to ask a question of the witness, if that is possible?

HEARING OFFICER MCCARTHY: Go right ahead.

MR. CARSON: When you presented the map of existing water wells to my knowledge you had a well omitted. Was there any reason for not having all the wells on your map?

MR. NICKODEM: Well, they should be all on the plan. What we do to determine well locations is several things. We get well records from the Illinois State Water Survey, which is records of all the constructed wells. At times there may be some very old, old wells that are not on State records. We do try to verify -- field verify as much as possible those wells, but that's really the method of identifying those wells because that's the only records that we have.

You know, I would be certainly interested to know if there was a well that was omitted, but we didn't do anything intentionally. We take the records and, like I say, field verify it.

MR. CARSON: As a neighbor our health and welfare depends on you guys paying attention to details, and I hope you do.

HEARING OFFICER MCCARTHY: I believe there

was someone else that wanted to make a comment at this time.

Yes, ma'am.

MS. VEENEMAN: My name is Donna Veeneman, I live in Genoa, Illinois at 131 West Second Street.

When I read about this in the paper I was very dismayed and distraught because I think that we don't have any business accepting garbage from surrounding communities. I think I could make sense of it if it was for our own residents in DeKalb County.

And I just want to say to anyone here that is on our County Board that I think the fact that I can't speak to you about my concerns is totally -- I just -- I can't believe that we are not able to do that, and I don't think it's right and I am angry about it. And we are the ones who vote for you, we're the ones who put you in office, and we have a right to tell you how we feel about this. The only thing we can assume is you don't want to represent our best interests.

And like I would say, for our county,

fine, but we have no business accepting garbage from all the other counties, that's their business, they need to solve their own problems.

Thank you.

HEARING OFFICER MCCARTHY: Anybody else at this time?

Yes, sir.

MR. MELLOTT: My name is Greg Mellott. I live at 22872 Malta Road, just down the street here.

I wasn't able to be here this morning, so please -- if I repeat something that was said this morning, I am sorry, but I would like to say what I believe about this in any event.

I will also send in writing my comments to the County so that if there is an appeal or a lawsuit as a result of these proceedings that will be on record and be able to be used as evidence in any such proceedings.

My concern is more with the process than with the actual expansion. I will tend to agree with the folks that just spoke that we, as a county, have a responsibility to take care of our own waste needs. And so for that purpose I

can understand the expansion of the landfill for DeKalb County, although I understand what I have read so far in the newspaper that that's not required and may not, in fact, for another seven years.

Back to my main concern, that's the process of this whole proceeding. I first became aware of this about two weeks ago by way of a newspaper article, I believe it was the Daily Chronicle on the 18th of February pointed out that \$45 million worth of bonds had been authorized by an ordinance by our County Board. I subsequently began to dig and found out that that particular ordinance does authorize that 45 million for a future planned expansion of the courtroom, the courthouse and the jail.

Now, the problem and the connection that I see with the landfill expansion is that as I understand the Illinois Pollution Control Board's policies and procedures, the County Board members become the siting authority for this expansion. And today's hearing, as I understand it, will be part of the process in determining whether or not this expansion is

allowable, whether or not the Pollution Control Board will say yes or no to that.

Now, as an advisory board our elected representatives, our County Board members, are to be neutral in this situation so that they can assess all the evidence, all the witnesses, all the testimony that is brought forward regarding this landfill expansion.

Now, the problem is the connection between the ordinance which has already been passed by these very County Board members, save one who voted no on that particular ordinance, and that would be Ordinance 2010-05, and in that particular ordinance there is something that concerns me regarding the landfill expansion, and that is that in the revenue source section of that ordinance the County is relying on fees from the landfill in order to pay down those \$45 million worth of bonds.

Now, in my mind, because the County members -- the County Board members have already voted that ordinance through, that is now effective, that they then have prejudiced themselves with respect to how they see the



landfill expansion. I don't quite understand how you can vote through an ordinance that authorized \$45 million in bonds to be paid for in part at least by a landfill expansion and then the very same persons that voted that ordinance are supposed to be neutral, not prejudiced as a siting authority for this landfill expansion.

So with that logic, I would like to see this decoupled. I would like to see the process start all over again. I would like to see that ordinance struck, and I would like to see the County Board -- the administrator Mr. Bockman, and the County Board members revisit this situation and look at it again so that it can be decoupled so that there is not a prejudiced siting authority making the decision on this landfill expansion.

Now, there may be other things -- as I said, I have only been at this for about two weeks now. It's my understanding from what I have learned so far that the Board has been at this for at least since the early fall and perhaps since before then. There are perhaps

many more things that I would like to comment on, but that's what I know at this point.

And I would like the officers of this hearing to consider the complications of a pre-existing ordinance vote on the prejudicial considerations of the siting authority, our County Board members, on this landfill expansion.

Thank you.

HEARING OFFICER MCCARTHY: Anyone else at this time?

Yes, sir.

MR. O'BRIEN: My name is Patrick O'Brien. I live at 230 North Sacramento Street in Sycamore.

I just want to put my name on the record as being opposed to this project for pretty much all the reasons that everybody else has said and said better than I can, so thank you.

HEARING OFFICER MCCARTHY: Anyone else?

Yes, sir.

MR. MADDICK (phonetic): My name is Dean Maddick. I live in DeKalb on Pleasant Street.

Advertising executives know that people

think by simple association. I'm addressing here the reputation of DeKalb. People think by association. As you approach DeKalb from the east you have the stench of the landfill, you have the DeKalb exit sign. It's only going to get more -- it's going to expand in scale, in size. The stench is going to increase in intensity probably and raunchy. DeKalb will be known as the place where Chicagoland sends all its garbage. The stench of that landfill, it's going to be our handshake to anyone who approaches our town. We're going to be the laughing stock of Chicagoland.

HEARING OFFICER MCCARTHY: Anyone else at this time?

Yes, sir. We got a few more minutes.

MR. STYZANSKI (phonetic): Name is Ron Styzanski. I live on Willrett and Gurler Road.

I just want to mention to the County Board, they did approve our horrible wind farm now that we're having many problems with, looks like they're going to do it again.

Thank you.

HEARING OFFICER MCCARTHY: Anyone else?

Yes, ma'am.

MS. VOSS: I'm Lolly Voss. I signed up ahead of time. I live at 136 Ilehamwood Drive in DeKalb.

I would just like to publicly thank Dan and his committee for all their work on our behalf. Could we have an applause for them.

HEARING OFFICER MCCARTHY: Anyone else?

Okay. We will adjourn. It's about five to 5. We'll reconvene tomorrow morning at 9 o'clock. We'll start with Ms. Cipriano's cross-examination of the witness. If any members of the committee then have a question we'll go to them, and then any members of the County Board, and then we'll go to redirect by Mr. Moran.

(The hearing recessed for the day  
at 4:58 p.m.)

STATE OF ILLINOIS

IN RE: THE APPLICATION )  
FOR APPROVAL OF THE DEKALB )  
COUNTY LANDFILL EXPANSION, )  
 ) Kishwaukee Community  
 ) College  
 ) DeKalb, IL  
 ) March 1, 2010

We, Julie K. Edeus and Callie S. Bodmer,  
hereby certify that we are Certified Shorthand  
Reporters of the State of Illinois; that we are the  
ones who, by order and at the direction of the  
Hearing Officer, JOHN J. McCARTHY, reported in  
shorthand the proceedings had or required to be kept  
in the above-entitled case; and that the above and  
foregoing is a full, true and complete transcript of  
our said shorthand notes so taken.

Dated at Dixon, Illinois, this 1st day of  
March, 2010.

Julie K. Edeus  
IL License No. 084-3820  
Callie S. Bodmer  
IL License No. 084-004489  
Certified Shorthand Reporters  
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