

1 D-15115
 2 STATE OF ILLINOIS)
) SS:
 3 COUNTY OF KENDALL)
 4 BEFORE THE PUBLIC HEARING OFFICER
 5 In The Matter Of:
 6 APPLICATION FOR LOCAL SITING APPROVAL
 PROPOSED WILLOW RUN RECYCLING AND DISPOSAL FACILITY
 7 KENDALL LAND & CATTLE, L.L.C.
 WASTE MANAGEMENT OF ILLINOIS, INC.
 8 KENDALL COUNTY, ILLINOIS
 9
 10
 11
 12 REPORT OF PROCEEDINGS had and
 13
 14 testimony taken at the hearing of the above-entitled
 15
 16 matter before PATRICK M. KINNALLY, Hearing Officer,
 17
 18 taken by Kathleen M. Grove, CSR 84-002197, and Janet
 19
 20 L. Galasso, CSR 84-112167, on Thursday, September 18,
 21
 22 2008 at 6:00 p.m., at 6617 Chicago Road, Plattville,
 23
 24 Illinois.

1 ALSO PRESENT: (Cont'd.)
 2 LAW OFFICES OF DANIEL J. KRAMER, by
 MS. KELLY A. KRAMER
 3 1107A S. Bridge Street
 Yorkville, Illinois 60560
 4 Appeared on behalf of Old Second National
 Bank of Aurora Trust 8932.
 5
 ALSO PRESENT:
 6
 MS. RENNETTA MICKELSON, Kendall County Clerk;
 7 MR. ROBERT E. DAVIDSON, County Board Member;
 MS. JESSIE HAFENRICHTER, County Board Member;
 8 MS. NANCY MARTIN, County Board Member;
 MS. ANNE VICKERY, County Board Member;
 9 MR. JEFF WEHRLI, County Board Member;
 MR. BILL WYKES, County Board Member.
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 21
 22
 23
 24

1 PRESENT:
 2 MR. PATRICK M. KINNALLY, Hearing Officer;
 3 PEDERSON & HOUPY, by
 MR. DONALD J. MORAN
 4 161 North Clark Street, Suite 3100
 Chicago, Illinois 60601-3242
 5 Appeared on behalf of Waste Management of
 Illinois, Inc.
 6
 JEEP & BLAZER, LLC by
 7 MR. MICHAEL S. BLAZER, and
 MR. DEREK B. RIEMAN
 8 24 North Hillside Avenue, Suite A
 Hillside, Illinois 60162
 9
 KENDALL COUNTY STATE'S ATTORNEY, by
 10 MR. BRIAN LABARDI
 807 West John Street
 11 Yorkville, Illinois 60560
 Appeared on behalf of the County of
 12 Kendall;
 13 HINSHAW & CULBERTSON, LLP, by
 MR. RICHARD S. PORTER
 14 100 Park Avenue, P.O. Box 1389
 Rockford, Illinois 61105
 15 Appeared on behalf of the County of Grundy;
 16
 MUELLER & ANDERSON, P.C., by
 17 MR. GEORGE MUELLER
 609 Etna Road
 18 Ottawa, Illinois 61350
 Appeared on behalf of Kankakee Regional
 19 Landfill, LLC;
 20
 LAW OFFICES OF DANIEL J. KRAMER, by
 21 MR. DANIEL J. KRAMER
 1107A S. Bridge Street
 22 Yorkville, Illinois 60560
 Appeared on behalf of Village of Minooka;
 23
 24

1 I N D E X
 2
 3 WITNESS:
 4 LESLIE POLLOCK
 5 EXAMINATION BY: DX CX RDX RCX EX
 6 Mr. Moran 1275
 Ms. Kramer 1282
 7
 8 WITNESS:
 9 MAYOR JASON BRISCOE
 10 EXAMINATION BY: DX CX RDX RCX EX
 11 Statement by Briscoe 1285
 Board Member Davidson 1294
 12 Board Member Wehrli 1296
 Board Member Vickery 1297
 13 Board Member Martin 1297
 14 WITNESS:
 15 J. CHRISTOPHER LANNERT
 16 EXAMINATION BY: DX CX RDX RCX EX
 Ms. Kramer 1300
 17 Mr. Moran 1321
 Mr. Mueller 1325
 18 Board Member Davidson 1328
 Board Member Vickery 1330
 19 Board Member Wehrli 1332
 Mr. Milliron 1335
 20 Mr. Blazer 1336
 Hearing Officer Kinnally 1345
 21
 22
 23
 24

1 I N D E X (Cont'd)
 2
 3 WITNESS:
 4 JAMES STEPHEN VAN HOOK
 5 EXAMINATION BY: DX CX RDX RCX EX
 6 Mr. Porter 1351 1462
 7 Ms. Moran 1390 1466
 8 Mr. Kramer 1408
 9 Mr. Mueller 1411
 10 Board Member Hafenrichter 1422
 11 Board Member Wehrli 1423
 12 Board Member Davidson 1431
 13 Mr. Milliron 1441
 14 Mr. Karafiat 1448
 15 Mr. Blazer 1450
 16
 17 EXHIBITS: ID REC'D
 18 Petitioner's Exhibit No. 10 1279 1284
 19 Village of Minooka Exhibit No. 1 1303 1305
 20 Village of Minooka Exhibit No. 2 1321
 21 Grundy County Exhibit Nos. 1-5 1351
 22 Grundy County Exhibit No. 1 1356
 23 Grundy County Exhibit Nos. 2-5 1390
 24

1 MR. MORAN: Joan Underwood.
 2 HEARING OFFICER KINNALLY: All right. We may
 3 quit early tomorrow night, I've been informed, or at
 4 least it's been suggested, so we'll see how it goes.
 5 But, in any event, Mr. Moran, I think
 6 you have the floor at this point, unless somebody else
 7 has something.
 8 MR. MORAN: Thank you, Mr. Hearing Officer.
 9 Our next witness would be Mr. Les Pollock.
 10 HEARING OFFICER KINNALLY: State your name.
 11 THE WITNESS: My name is Leslie Pollock.
 12 (Witness sworn.)
 13 HEARING OFFICER KINNALLY: Okay. Go ahead
 14 Mr. Moran.
 15 MR. MORAN: Thank, Mr. Hearing Officer.
 16 LESLIE POLLOCK
 17 called as a witness herein, having been first duly
 18 sworn, was examined and testified as follows:
 19 DIRECT EXAMINATION
 20 BY MR. MORAN:
 21 Q. Mr. Pollock, what is your business or
 22 occupation?
 23 A. I'm a city planning consultant.
 24 Q. Are you employed?

1 HEARING OFFICER KINNALLY: All right. Could
 2 everybody take their places so we could get started.
 3 We got another one someplace?
 4 There's Jeff.
 5 All right. This is the reconvened
 6 hearing from September 17th for the Willow Run Siting
 7 Application.
 8 Could the County Board please
 9 introduce themselves?
 10 BOARD MEMBER DAVIDSON: Bob Davidson.
 11 BOARD MEMBER VICKERY: Anne Vickery.
 12 BOARD MEMBER MARTIN: Nancy Martin.
 13 BOARD MEMBER HAFENRICHTER: Jessie
 14 Hafenrichter.
 15 BOARD MEMBER WYKES: Bill Wykes.
 16 HEARING OFFICER KINNALLY: All right. We have
 17 a quorum.
 18 There was one thing that came over
 19 the -- with the Clerk, and that was a correction in
 20 the record which was made. It was a wording thing.
 21 Instead of effected, I think it was supposed to be
 22 effective or vice versa. That change has been made in
 23 the record. Someone requested that. I don't remember
 24 which witness it was.

1 A. Yes, I am.
 2 Q. By whom?
 3 A. By Camiros, Limited, C-A-M-I-R-O-S.
 4 Q. What is the nature of the business of
 5 Camiros, Limited?
 6 A. It renders city planning and development
 7 consulting to both public and private sector clients.
 8 Q. How long has Camiros been in business?
 9 A. About 34 years.
 10 Q. What is your position at Camiros?
 11 A. I'm a principal consultant.
 12 Q. Now, Mr. Pollock, you're here today to
 13 talk with respect to Criterion 8, and that would be
 14 whether Willow Run is consistent with the Kendall
 15 County Solid Waste Plan?
 16 A. Yes.
 17 Q. Before I go and address that testimony
 18 with you, let's cover your qualifications a little bit
 19 more.
 20 What is your education?
 21 A. I hold a bachelor's degree in architecture
 22 from the University of Illinois. I hold a master's in
 23 urban and regional planning from the University of
 24 Illinois.

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1 Q. Could you briefly describe for us your
2 employment history.

3 A. Yes. Upon completion of my master's
4 degree, I taught for a while on the faculty of urban
5 and regional planning at University of Illinois
6 Urbana.

7 After that I went to work for a
8 consultant, Barton-Aschman Associates, B-A-R-T-O-N,
9 hyphen, A-S-C-H-M-A-N, and after working there for
10 about eight years I, along with another individual,
11 formed the firm of Camiros, Limited, where I've been
12 employed ever since.

13 Q. Would you describe for us your planning
14 experience.

15 A. Yes, I have experience at both -- at the
16 state and the county, city, and project levels
17 preparing a range of plans and reviewing other's
18 plans, both including comprehensive plans, area plans,
19 development proposals, zoning ordinances and the like.

20 Q. Could you describe for us your solid waste
21 planning experience?

22 A. Yes. I have experience in preparing need
23 statements and preparing, investigating land use
24 impacts of landfills and waste transfer facilities,

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1 and assisting in the entitlement of waste transfer
2 facilities.

3 Q. Do you have teaching experience?

4 A. Yes, I do.

5 Q. Could you describe that for us?

6 A. Yes, as I mentioned, I was early on the
7 faculty at the University of Illinois at Urbana, and
8 during the bulk of my professional career, I've been
9 serving as an adjunct faculty at various schools,
10 including adjunct professor at Loyola University of
11 Illinois in Chicago in urban studies, and for the last
12 15 years at the University of Illinois Chicago
13 teaching courses in planning, plan review,
14 comprehensive planning.

15 Q. Do you hold any professional
16 certifications?

17 A. I do.

18 Q. What do you hold?

19 A. I'm a member of the American Institute of
20 Certified Planners and a member of the College of
21 Fellows.

22 Q. Are you a member of any professional
23 societies or organizations?

24 A. Yes.

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1 Q. Could you identify those?

2 A. The American Planning Association, the
3 Urban Land Institute, Land Economics -- International
4 Land Economics Honorary Society.

5 Q. Do you hold any positions of authority
6 within these organizations?

7 A. Yes. Currently I serve as the
8 international president of the Illinois Land Economics
9 Society.

10 MR. MORAN: Mr. Hearing Officer, if I may
11 approach the witness?

12 HEARING OFFICER KINNALLY: You may.
13 (Petitioner's Exhibit No. 10
14 marked.)

15 MR. MORAN: Thank you.

16 BY MR. MORAN:

17 Q. Mr. Pollock, let me show you what we've
18 marked Petitioner's Exhibit No. 10.

19 HEARING OFFICER KINNALLY: Thank you.

20 BY MR. MORAN:

21 Q. Mr. Pollock, could you tell us what
22 Petitioner's Exhibit 10 is?

23 A. Exhibit No. 10 is my resume.

24 Q. Does it truly and accurately reflect your

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1 educational background, professional experience, and
2 teaching positions?

3 A. Yes.

4 Q. Now, Mr. Pollock, have you prepared a
5 written report that sets out your evaluation of
6 whether Willow Run is consistent with the Kendall
7 County Solid Waste Plan?

8 A. I have.

9 Q. And is that report contained in the Siting
10 Application?

11 A. Yes, it is. It's in Volume II.

12 Q. Have you reviewed the Kendall County Solid
13 Waste Plan, the plan updates, and any plan amendments?

14 A. Yes, I have.

15 Q. Can you describe those for us.

16 A. Yes. The Kendall County Solid Waste Plan
17 was first prepared in 1995. There have been several
18 updates, five-year updates in 2000, 2005. In 2006
19 there were several amendments passed by the County
20 Board and incorporated into a 2006 update.

21 Q. Okay. Could you identify for us the
22 salient provision of the plan, the updates, and the
23 amendments?

24 A. Yes. The plan covers a host of factors

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1 related to solid waste within -- managing solid waste
2 within the County. Specifically, though, the plan
3 understands that there's a continuing need to dispose
4 of waste that can't be reduced, recycled, or reused,
5 that there's a reliance -- the reliance on
6 out-of-county landfills may not be in the County's
7 best long-term interest; that consideration of a solid
8 waste landfill is appropriate; and should it be
9 considered, there should be a Host Benefit Agreement;
10 and that landfill should be only located within the
11 unincorporated portions of the County.

12 Q. Mr. Pollock, based upon your experience
13 and your review of the plan, do you have an opinion
14 whether this proposal for the Willow Run Recycling and
15 Disposal Facility is consistent with the Kendall
16 County County Solid Waste Plan and plan updates and
17 the plan amendment?

18 A. Yes.

19 Q. What is your opinion?
20 A. The plan is consistent.
21 Q. What is your reasons?
22 A. Well, there's three key reasons: First,
23 it's consistent because it addresses the need for
24 disposal capacity, provides disposal capacity within

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1 Kendall County; secondly, that it is located within
2 unincorporated Kendall County; and the third is that a
3 Host Community Agreement is in place.

4 MR. MORAN: Thank you, Mr. Pollock. I have no
5 further questions of this witness.

6 HEARING OFFICER KINNALLY: Okay. Thank you,
7 Mr. Moran.

8 Mr. Dan Kramer?
9 MR. KRAMER: Mr. Kinnally, we have no questions
10 of this witness.

11 HEARING OFFICER KINNALLY: Miss Kelly Kramer.

12 CROSS-EXAMINATION
13 BY MS. KRAMER:

14 Q. Isn't it true that in preparation for
15 tonight's testimony you reviewed the Host Agreement
16 between Kendall County and the Petitioner?
17 A. Generally, yes.
18 Q. And are you familiar with the property
19 value guarantee within -- which I believe is
20 Attachment B in that document?
21 A. It is what I would call the equity
22 guarantee, yes.
23 Q. And in that equity guarantee, isn't it
24 true that the property must be listed on the Multiple

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1 Residential Real Estate listing, if you know?
2 A. I'd have to review that in detail to know
3 that point.
4 Q. And in your review of that, do you know if
5 farmland or vacant property was ever listed through
6 the MLS?
7 A. No, I do not.
8 MS. KRAMER: No further questions.
9 HEARING OFFICER KINNALLY: Thank you.
10 Mr. Porter is with us tonight. Do
11 you have any questions?
12 MR. PORTER: Believe it or not, no, I do not.
13 HEARING OFFICER KINNALLY: And how about anyone
14 from the County Board? Do they have any questions of
15 Mr. Pollock?
16 COUNTY BOARD MEMBER DAVIDSON: I don't.
17 HEARING OFFICER KINNALLY: No? Hearing none,
18 how about any participants?
19 Okay. Mr. Blazer?
20 MR. BLAZER: No, sir.
21 HEARING OFFICER KINNALLY: All right. I don't
22 have any questions, either. And thank you for coming,
23 Mr. Pollock, and you're excused.
24 THE WITNESS: Thank you.

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1 (Witness excused.)
2 MR. MORAN: Mr. Hearing Officer, I would just
3 move Petitioner's Exhibit 10 into evidence.
4 HEARING OFFICER KINNALLY: Any objection?
5 (No response.)
6 MR. BLAZER: No objection.
7 HEARING OFFICER KINNALLY: Okay. That will be
8 admitted.
9 (Petitioner's Exhibit No. 10
10 admitted.)
11 HEARING OFFICER KINNALLY: Do you have any
12 other witnesses Mr. Moran?
13 MR. MORAN: No, Mr. Hearing Officer. This
14 concludes our presentation of witnesses.
15 HEARING OFFICER KINNALLY: Okay. Are there any
16 exhibits that you haven't offered that you want to
17 offer now? I'm not saying you should, I'm just asking
18 if you do.
19 MR. MORAN: At this time we have no further
20 exhibits to offer.
21 HEARING OFFICER KINNALLY: All right.
22 Mr. Kramer, you said you had the Mayor here who wanted
23 to make public comment, or is he coming in later?
24 MR. KRAMER: No, he was here at 6:00, strictly

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1 public comment.
2 HEARING OFFICER KINNALLY: Well, you can come
3 on up.
4 Do you want to be sworn, or do you
5 just want to make a statement?
6 MR. BRISCOE: Whichever.
7 HEARING OFFICER KINNALLY: It doesn't matter to
8 me. I'm just the Hearing Officer.
9 MR. BRISCOE: I'm fine to answer questions if
10 need be.
11 HEARING OFFICER KINNALLY: Okay. Do you want
12 to be sworn?
13 (Witness sworn.)
14 HEARING OFFICER KINNALLY: Can you state your
15 name.
16 MR. BRISCOE: Jason Briscoe.
17 HEARING OFFICER KINNALLY: Can you spell your
18 name for the court reporter.
19 MR. BRISCOE: Jason, J-A-S-O-N, Briscoe,
20 B-R-I-S-C-O-E.
21 HEARING OFFICER KINNALLY: Okay. Mr. Briscoe,
22 go ahead.
23 THE WITNESS: I'd just like to start with a
24 prepared statement.

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1 I would first like to start with
2 thanking everybody in attendance tonight, especially
3 the County Board members of Kendall County. Like so
4 many other public servants, they sacrifice countless
5 hours away from their families and jobs in order to
6 make a difference in many people's lives.
7 I'd also like to thank the Kendall
8 County Board and its staff for the partnership and
9 cooperative efforts of each and every one of them that
10 they have shown to the Village of Minooka. I
11 personally look forward to building and maintaining
12 upon that cooperation for many years to come as
13 Minooka continues to grow and expand into Kendall
14 County.
15 A little known fact about Minooka is
16 that a full build-out, a majority of the estimated
17 85,000 people that will call Minooka home, will also
18 call Kendall County home. It is based on that fact
19 and our strong relationship is why I'm here tonight.
20 Before I outline Minooka's objection
21 to the proposed landfill, I'd like to first take a
22 minute to address the reasons and perhaps concern of
23 some of the County Board members of why Minooka did
24 not object to the last application but why we are

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1 objecting to this Application.
2 At the time of the last application,
3 Minooka was actively engaged on two fronts. The first
4 front we were engaged in, we were in active
5 conversation and negotiations with the City of Joliet
6 to obtain a boundary agreement.
7 The second front was that Minooka was
8 actively working through the process of the facilities
9 planning amendment, also known as the FPA, through the
10 former Northern Illinois Planning Commission, NIPC,
11 and the Illinois Environmental Protection Agency, also
12 known as the IEPA, to amend our facilities planning to
13 service all of our boundary-agreed areas.
14 Since the removal and the removal of
15 the last application, the hence voting down of this
16 very same Board, Minooka has been granted the full
17 request to FPA by both NIPC and the IEPA and is now in
18 full control of our town's build-out and without
19 conflicting pressures of outside communities.
20 Minooka -- that is why when this
21 current Application was submitted, Minooka's Board
22 felt it imperative that we expend any and all
23 necessary resources to preserve the integrity of our
24 future vision of all of Minooka.

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1 I am here tonight on behalf of the
2 Bored of Trustees and all the current and future
3 residents of the Village of Minooka in objection to
4 the proposed landfill.
5 Minooka's objection is based on three
6 particular concerns. While it is easy for anybody to
7 stand in front of you and say not in my backyard, I
8 know that Minooka's objections are based on real and
9 probable consequences.
10 I am here not only as a Village
11 President of Minooka but also the fifth generational
12 resident of Minooka and a father to the sixth
13 generation of Briscoe, of the Briscoe family, who
14 proudly live, work, and actively participate in
15 Minooka; and it is because of that unbreakable bond
16 that my family has to this area that I cannot in good
17 conscious face my son, let alone the great people of
18 Minooka, and hope the experts are right and that this
19 landfill will never, ever contaminate the water
20 resource for the entire Village.
21 We have heard a lot this election
22 cycle about hope, but this is not the kind of hope any
23 of us can afford to be wrong about. The Village fully
24 understands the importance of the aquifer which is

1 right beneath our feet and the impact it has on the
2 Village in order to provide our residents with
3 healthy, clean, and adequate drinking water. This is
4 why at the Kendall County's request Minooka gladly and
5 without hesitation financially participated and has
6 continued to financially participate in a County-led
7 research study of this very same aquifer.

8 Leaking of this landfill into the
9 vital water source is a real concern and a distinct
10 possibility.

11 I know firsthand how difficult your
12 job as County Board members is and what it is like to
13 walk in your shoes with the vitally important task of
14 weighing out pros and cons and -- pros and cons of
15 many long-lasting decisions. It is with that
16 experience I ask you to ask yourself, are you, each
17 and every one of you, willing to look into my son's
18 eyes or any eyes of any other children if the
19 unthinkable does occur, and if it does occur what
20 would you tell them about the decision that you could
21 render here?

22 The proposed landfill and the
23 potential for contamination of our water supply is
24 something we cannot leave to hope. The risks are

1 real, and the consequences are devastating.

2 I have taken time to reflect upon the
3 decision you will make -- you'll have to make, and I
4 thought it -- thought it through to myself, is there a
5 potential compromise that could potentially satisfy
6 everybody? I believe in this case there is.

7 If the County is so inclined to
8 recommend this landfill, then it should be recommended
9 only with the acceptance and commitment of the
10 Petitioner to supply, at their expense, not the
11 taxpayers, Lake Michigan water to every municipality
12 served by this aquifer. If this compromise is not
13 acceptable to the Petitioner, then the roll call of
14 this County Board should be a simple, fast, and
15 unanimous no.

16 Minooka's objection goes beyond the
17 aquifer, but nothing else in my mind is more
18 compelling. But for the record, Minooka also objects
19 on the basis of traffic and land use.

20 To briefly address traffic, my
21 understanding of the proposal is that Waste Management
22 will clean up within a mile down the road. What good
23 is that when these trucks are coming from miles
24 around? I have been behind garbage trucks many times

1 on their way to the dump in Pontiac and have seen bags
2 and other debris blowing about. This idea of cleaning
3 within a mile is just plain insufficient.

4 Minooka also has concerns about the
5 proposed routing of the trucks. On paper it appears
6 to be adequate to limit the trucks to taking Route 47,
7 but every one of us in this room knows that the truck
8 drivers will take the path of least resistance.

9 I hope this Board is ready to extend
10 the sheriff's department to patrol Holt, Wildy,
11 O'Brien, Sherrill and East Willow every hour of every
12 day to stop these drivers that may be lost on their
13 way to the landfill.

14 One other item to think about as
15 you're considering the traffic and impact it will have
16 is to remember the cooperative effort between this
17 very County Board and the Village of Minooka not more
18 than two years ago when the two governmental agencies
19 agreed to reconstruct Ridge Road north of I-80. This
20 improved roadway is a shining example of two separate
21 taxes bodies recognizing a concern and working
22 together to fix it.

23 The proposed location of this
24 landfill will, without a doubt, cause increased truck

1 traffic on Ridge Road and reduce the road's efficiency
2 and longevity.

3 Minooka also places an objection due
4 to the overall effect of the land use. The Village
5 has gone through an extensive -- extensive process to
6 update its comprehensive plan in 2005.

7 Minooka has tried to follow the great
8 example of you folks in Kendall County of looking into
9 the future and planning. Minooka, as Kendall County,
10 has considered the need for new and upgraded roads,
11 water supplies, park and open space conservation, but
12 we did not stop there.

13 Minooka, with the joint agreement of
14 its planning and zoning commission, as well as the
15 Board of Trustees, unanimously voted approval of our
16 20-year comprehensive land use plan, and it takes into
17 account the mature framework of our area and the most
18 appropriate land use for every square mile of our
19 future.

20 I personally believe that the -- that
21 plans do not fail but failure to plan will only lead
22 to undesirable results. With that said, Minooka
23 looked long and hard at what we are today and what we
24 want to be in the future, and through this process it

1 resulted in planned residential uses immediately
2 across the road from the now proposed landfill.
3 Throughout our comprehensive planning
4 process, Minooka took great steps in setting design
5 guidelines to all land use categories to bring
6 high-quality homes and businesses into the Village and
7 Kendall County. This plan is the cornerstone of our
8 Village's future, and I sincerely hope that each and
9 every County Board member and staff takes time to
10 review our plan to be used as guide as we continue to
11 develop and grow.

12 I would also encourage Waste
13 Management to review Minooka's plans and respectfully
14 withdraw their Application and consider a more
15 suitable area for their site.

16 In conclusion, I would once again
17 like to just thank the County Board members for their
18 time, professionalism, dedication, and friendship to
19 the Village of Minooka and pray that each one of you
20 will reflect upon my comments here tonight and find
21 yourself able to deny this proposal.

22 On behalf of the entire Village of
23 Minooka, thank you for the opportunity to speak to you
24 this evening. Thank you.

1 HEARING OFFICER KINNALLY: Okay. Thank you,
2 Mayor.

3 Is there anyone that has any
4 questions for the Mayor? Bob?

5 EXAMINATION

6 BY BOARD MEMBER DAVIDSON:

7 Q. Bob Davidson.

8 Good evening, Mayor. How are you?

9 A. Very good. Thank you.

10 Q. Good. I think your and the Davidson
11 family, I think we got quite a bit of time down there
12 in Minooka.

13 A. We're probably a contest between who's
14 there longer.

15 Q. We'll have to go back into some history on
16 that.

17 Mayor, in your comments did you or
18 your counsel secure experts on any of the facts or
19 three complaints that you have? I mean, did you
20 secure people to --

21 A. We did.

22 Q. -- research?

23 A. We did. We retained -- the first thing we
24 did is retain outside legal counsel, Mr. Kramer and

1 his law firm. We went and did our own aquifer and
2 hydrologist professional to look at the situation,
3 which I believe is already -- already maybe
4 testified --

5 HEARING OFFICER KINNALLY: He's coming up,
6 Mayor. I think he's coming in next week.

7 BY THE WITNESS:

8 A. Okay. (Continuing.) -- that will be
9 testifying in front of you, a professional land use to
10 evaluate not only our comprehensive plan but the
11 impact it would potentially have on our comprehensive
12 plan, and then, of course, the traffic and the impacts
13 of building onto, at this point, unimproved county
14 roads.

15 BY BOARD MEMBER DAVIDSON:

16 Q. One of the statements that you made, now
17 that you kind of clarified, that you would prefer lake
18 water to municipalities or supply rather than well
19 water?

20 A. No, we don't prefer it. We have no
21 problem with our water. However, the fact that our
22 water supply is the aquifer, that is the same aquifer
23 that has the potential of contamination if this
24 landfill leaks. At that point we would have no other

1 way of getting clean drinkable and usable water short
2 of Lake Michigan water. So, you know, it's something
3 that I look at.

4 If the Petitioner wants to avoid the
5 situation ahead of time, supply us with clean
6 drinkable water that we know will be clean and
7 drinkable via Lake Michigan water now, but I don't
8 think it's worth the risk of waiting for the
9 unthinkable to happen.

10 BOARD MEMBER DAVIDSON: Okay. Thank you, sir.

11 THE WITNESS: Thank you.

12 HEARING OFFICER KINNALLY: Anyone else on the
13 County Board?

14 All right. Mr. Jeff Wehrli.

15 EXAMINATION

16 BY BOARD MEMBER WEHRLI:

17 Q. How close is the proposed landfill site to
18 your planning area?

19 A. Across the street.

20 Q. Directly across Whitewillow?

21 A. Actually, Brisbin.

22
23
24

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1 BOARD MEMBER WEHRLI: Okay. Thank you. That's
2 all the questions I have.

3 EXAMINATION

4 BY BOARD MEMBER VICKERY:

5 Q. My name is Anne Vickery.
6 When you talked about asking the
7 Petitioner to supply you Lake Michigan water, correct
8 me if I'm wrong, but I don't think the Petitioner -- I
9 think Plainfield is the last town that can get
10 Lake Michigan --

11 A. Shorewood is currently working on getting
12 Lake Michigan water, and that will be the closest that
13 it would be to the Village of Minooka at that point,
14 which is directly, obviously, adjacent to us.

15 BOARD MEMBER VICKERY: No more questions.

16 EXAMINATION

17 BY BOARD MEMBER MARTIN:

18 Q. Nancy Martin.
19 How deep are your wells, your
20 municipal wells?

21 A. Well, we have eight of them, and I can't
22 tell you the depth of each one. I know we have
23 shallow wells as well as deep wells. And we do that
24 to help blend for part of the radium removal and

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1 reduction of radium.
2 I am certainly not an expert in
3 radium and radium removal; however, I do know that
4 over the last two years that we've built two new water
5 towers and two new deep wells, both of them having
6 radium removal treatment to the tune of millions of
7 dollars in order to make the water that we pull out of
8 the ground from the aquifer and from the shallow
9 sources drinkable and usable by all residents.

10 Q. But you have no idea how --

11 A. The depth, I do not, without making a
12 complete guess.

13 Q. Okay. And do you really think that
14 anybody at this point can get any more Lake Michigan
15 water? I thought we were filled up, all we could get
16 in Illinois.

17 A. I look at it --

18 Q. You don't know?

19 A. I look at it, that's not really my concern
20 in being here. My concern in being here is not to
21 have the Petitioner give us Lake Michigan water; it is
22 the fact that while we have a very good and, at this
23 point, a very state-of-the-art water system in the
24 Village of Minooka, we have taken great strides -- our

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1 water system, as well as our sewer, is roughly about
2 20 years ahead of what our projected growth rate is at
3 this point.

4 Q. But you did bring it up, and I don't know
5 if, in fact, it would be available even.

6 A. I brought it up in my comments.
7 I often have to sit in your shoes and
8 have to weigh pros and cons and try to find is there a
9 way to satisfy everybody. That is something working
10 through staff, you know, that one thing that we felt
11 could be a potential compromise.

12 Ultimately, I believe that the
13 compromise is just a simple vote no.

14 Q. You really felt that was a compromise?

15 A. Certainly.

16 BOARD MEMBER MARTIN: Okay. No more questions.

17 THE WITNESS: Obviously, I think the overall
18 cost of that may be a little bit too much to bear for
19 the Petitioner, but that's not my dollars to spend.
20 But we'll be glad to take it if they're going to do
21 it.

22 HEARING OFFICER KINNALLY: Anyone else have any
23 questions for the Mayor?

24 BOARD MEMBER WYKES: No. He answered my

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1 questions.

2 HEARING OFFICER KINNALLY: Okay. Thank you,
3 Mayor, for coming and sharing with us your information
4 and your views.

5 MR. BRISCOE: Thank you for having me.
6 (Witness excused.)

7 HEARING OFFICER KINNALLY: Okay. Mr. Kramer,
8 do you want to call a witness?

9 MR. KRAMER: I would, Mr. Hearing Officer.
10 Christopher Lannert, please.
11 Do you want him over at the table.

12 HEARING OFFICER KINNALLY: Yeah, that would be
13 a good idea. Probably the easiest, you know.
14 Okay. Can you raise your right hand.
15 (Witness sworn.)

16 HEARING OFFICER KINNALLY: And you're Chris
17 Lannert; right?

18 THE WITNESS: That's correct.

19 HEARING OFFICER KINNALLY: Go ahead,
20 Mr. Kramer.

21 MR. KRAMER: Thank you, Mr. Kinnally.

22 J. CHRISTOPHER LANNERT
23 called as a witness herein, having been first duly
24 sworn, was examined and testified as follows:

<p style="text-align: right;">Page 1301</p> <p>1 DIRECT EXAMINATION 2 BY MR. KRAMER: 3 Q. Mr. Lannert, would you state your name for 4 the record, please, and spell your last name for the 5 court reporters. 6 A. My name is the initial J. Christopher 7 Lannert, L-A-N-N-E-R-T. 8 Q. Mr. Lannert, where are you employed? 9 A. I am employed by The Lannert Group which 10 is located at 215 Fulton Street in Geneva, Illinois. 11 Q. And that's a business that you operate; is 12 that correct? 13 A. Yes, it is. 14 Q. How long have you operated that business? 15 A. In various forms for about 30 years. 16 Q. Mr. Lannert, could you tell the members of 17 the Hearing Board and counsel what your past 18 experience in the planning field has been? 19 HEARING OFFICER KINNALLY: I don't want to cut 20 you off, Mr. Kramer, but Mr. Lannert was qualified in 21 a prior hearing, and if there's a stipulation, I mean, 22 to his qualifications, I think he was qualified the 23 last time. But if you want to go into that, that's 24 fine.</p>	<p style="text-align: right;">Page 1303</p> <p>1 HEARING OFFICER KINNALLY: No, I think we're 2 okay. 3 BY THE WITNESS: 4 A. In the early '80's, I moved to St. Charles 5 and started practicing with Sellig, Stevens, 6 Peterson & Flach and then started my own firm in 7 Geneva and have moved about three times since starting 8 the firm. 9 BY MR. KRAMER: 10 Q. When you mentioned William Lawrence 11 planning firm, does that have any particular 12 significance here in Kendall County? 13 A. Only he was the planner for Kendall County 14 for about 20 years. 15 Q. And, in fact, created the first 16 comprehensive plan in this County, did he not? 17 A. Yes, he did. 18 MR. KRAMER: Mr. Hearing Officer, if I could 19 approach the witness, please. 20 HEARING OFFICER KINNALLY: You may. 21 (Village of Minooka Exhibit No. 1 22 marked.) 23 BY MR. KRAMER: 24 Q. Mr. Lannert, I have tendered to you what</p>
<p style="text-align: right;">Page 1302</p> <p>1 MR. KRAMER: Just a couple on the number of 2 years is all, if I may. 3 HEARING OFFICER KINNALLY: Sure. Absolutely. 4 BY THE WITNESS: 5 A. Upon graduation from Michigan State in 6 1970, I came to the Chicago metropolitan area and 7 started working in the planning profession. I worked 8 downtown with some of the planning consulting firms, 9 Carl Gardner & Associates and William Lawrence & 10 Associates. 11 In the early '70's, I moved out to 12 St. Charles, Illinois, and started working with a firm 13 that did landscape architecture planning, interior 14 design, and landscape architecture-- 15 HEARING OFFICER KINNALLY: Talk into the 16 microphone. 17 THE REPORTER: And slow down, please. 18 HEARING OFFICER KINNALLY: And please slow down 19 a little bit because we're doing this realtime thing. 20 I don't think you were aware of this at the beginning. 21 They're doing realtime transcript, so if you could 22 just talk a little bit slower that they get it. 23 THE WITNESS: Should I backtrack on some of 24 those comments?</p>	<p style="text-align: right;">Page 1304</p> <p>1 we've marked as Village of Minooka Exhibit No. 1. 2 Are you familiar with that? 3 A. Yes, I am. 4 Q. Is that your curriculum vitae? 5 A. Yes, it is. 6 Q. Is it true and accurate? 7 A. It would be if I would make two small 8 corrections or additions to it. 9 Under the Professional Organizations, 10 I have recently been elected chair of the Illinois 11 Department of Professional Regulations; and the last 12 testimony here in Kendall County, the Willowhill, is 13 not on the resume yet. 14 Q. Other than those two minor changes, it is 15 accurate and complete? 16 A. Yes, it is. 17 MR. KRAMER: Mr. Hearing Officer, I'd move that 18 we move to admit Exhibit No. 1, please, for the 19 Village of Minooka. 20 HEARING OFFICER KINNALLY: Is there any 21 objection? 22 (No response.) 23 HEARING OFFICER KINNALLY: Hearing none, that 24 will be admitted.</p>

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1 MR. KRAMER: Thank you.
2 (Village of Minooka Exhibit No. 1
3 admitted.)
4 BY MR. KRAMER:
5 Q. Mr. Lannert, have you ever testified in a
6 siting proceeding for a landfill before?
7 A. Yes, I have.
8 Q. Do you know roughly how many times,
9 please?
10 A. As shown on my resume, 25 to 30 times.
11 Q. Mr. Lannert, with respect to Willow Run
12 No. 1, you, in fact, testified for the Petitioner; is
13 that fair to say?
14 A. Yes, I did.
15 Q. And prior to you being retained by the
16 Village of Minooka in this particular petition, did
17 you have occasion to look at the Application that was
18 filed by Waste Management for the Willow Run
19 Application?
20 A. Yes. I looked at it online shortly after
21 it was posted.
22 Q. Did you review it thoroughly before
23 determining whether you felt comfortable to be
24 retained to render an opinion herein?

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1 A. Yes, I believe I did.
2 Q. And were you retained by the Village of
3 Minooka to render a Criterion 3 opinion?
4 A. Yes, I was.
5 Q. Now, as part of your review of that
6 Application, did you have occasion to review the
7 Criterion 3 report of RCCA, Rolf Campbell &
8 Association?
9 A. Yes, that was one of the reports that I
10 reviewed.
11 Q. And with regard to that investigation,
12 what was your review in terms of any existing
13 condition report in the Rolf Campbell report?
14 A. I think as my letter reviewing those
15 reports states, I was taking issue with the fact that
16 the compatibility was based upon zoning and future
17 land use reports as opposed to existing conditions.
18 Q. And do you feel that it's paramount to
19 fulfill the Criterion 3 review that you must look at
20 existing conditions as opposed to zoning
21 classifications?
22 A. As you heard the other night, zoning is
23 excluded from the Criterion 3 evaluation, and so it
24 should be focused on the character of the surrounding

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1 area.
2 Q. What focus, if any, did the RCCA report
3 have with respect to future planning in the area as
4 opposed to existing uses?
5 A. The report went into great detail
6 chronicling the updates for the land use plan here
7 in Kendall County, and they cross-referenced on one of
8 their exhibits the future land use plan, comprehensive
9 plan for Morris.
10 Q. Now, with respect to your review of the
11 RCCA plan, did you find an actual landscape plan filed
12 with the Application as part of it?
13 A. There was an exhibit that was referenced
14 to the landscape plan in that report.
15 Q. And did it reference the landscape design
16 as being examples as opposed to a full-blown landscape
17 plan that had quantities, distances, and so on?
18 A. As part of my review of that material, one
19 of my difficulties was that it was not very specific
20 and it referenced things in a very general way, not
21 being specific enough to aid in the implementation
22 upon completion or approval of this Board of this
23 facility.
24 Q. Mr. Lannert, with respect to Criterion 3,

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1 you're not suggesting that an element that's required
2 of Criterion 3 is that somebody must have a landscape
3 plan, are you?
4 A. No, you don't need a construction document
5 type of landscape plan, but you do need some kind of a
6 model or a guide that you can use in the future for
7 the plans when they are appropriately done at the
8 proper phase of construction.
9 Q. Now, with respect to the Roth Campbell &
10 Associates' report, is it fair to say that the plan
11 had many inconsistencies in terms of performance
12 standards?
13 MR. MORAN: Objection; leading.
14 HEARING OFFICER KINNALLY: Oh, I don't think
15 that's a big deal. I'm going to overrule that. We'll
16 see if he keeps doing it; then I'll revisit it.
17 You can go ahead and answer.
18 BY THE WITNESS:
19 A. In my review of the report, I go into a
20 number of different examples where there are
21 inconsistencies both in the Rolf Campbell report as
22 well as in the CDF report.
23 Q. Let's focus first on the Rolf Campbell or
24 RCCA report.

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1 With respect to Willow Run -- excuse
2 me, Whitewillow Road, could you describe what you
3 observed in the report, please.

4 A. Well, without reviewing my total report
5 tonight, I think the biggest issues that I had were
6 dealing with the way the buffers were proposed along
7 Whitewillow Road, the quantity of plant material that
8 they were suggesting but not quantifying, the portion
9 in their report where they indicated they would be
10 protecting the existing trees along the rights-of-way
11 but yet those trees were not designated on their
12 plans, the way they suggested supplementation to the
13 hedgerows, and then some of the perspectives of their
14 plans that were drawn in terms of the end-use did not
15 match this plan that we're speaking of.

16 Q. Specifically in terms of trees, for
17 instance, along Whitewillow, the narrative of the plan
18 contained references to clusters?

19 A. That's correct.

20 Q. And what did the drawing in Figures 9 and
21 10 on the RCCA plan, which the members of the County
22 Board have in their computer, what did they show
23 contrary to clusters, if anything, along Whitewillow?

24 A. The plan which was part of the report,

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1 ended up showing what I would call a ranking of trees
2 along the south side of Whitewillow. I did not see
3 any grouping of trees. And so, therefore, I would
4 call that a row as opposed to a grouping.

5 Q. And when you say a grouping, you mean more
6 than one together rather than a straight row or
7 straight line of trees?

8 A. Yes, that's how I would characterize it.

9 Q. With respect to the east boundary of the
10 property, that would face the direction of the Village
11 of Minooka; is that fair to say?

12 A. That's correct.

13 Q. Was there anything in the RCCA report to
14 indicate the expert even looked at the Village of
15 Minooka comprehensive plan?

16 A. In the text of their report they did not
17 highlight the land use plan for either Channahon or
18 Minooka. They only referenced the Kendall County Land
19 Resource Management Plan, and then by reference on
20 their exhibits, the Morris comprehensive plan.

21 Q. Now, with respect to the Village of
22 Minooka to the east, was there any screening or
23 berming component suggested in the RCCA report?

24 A. There's none shown on the plan.

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1 Q. Were, in fact, the actual buildings as
2 they were to be constructed shown on the plan other
3 than representations as just little square blocks or
4 rectangles?

5 A. The maintenance facility and the buildings
6 on the southeast side of the site next to the
7 retention pond were shown on the plans, but they were
8 not shown on any of the illustrative views or the
9 future views of the site.

10 Q. Now, would it be fair to say that the
11 theory or the report that was given by RCCA was that
12 landscaping, berming, and so on were being used to
13 screen the use to minimize its impact on surrounding
14 properties?

15 A. The reference in the report is that they
16 included that in their opinion in terms of their
17 minimizing techniques.

18 Q. Since you saw no screening, no buffering
19 around the industrial-type buildings in the southeast
20 corner of the plan, was there anything, as an expert,
21 that you could see in the written report or in the
22 plan that showed any minimization of that impact on
23 surrounding properties?

24 A. There didn't seem to be anything other

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1 than the setback from the roadway that would be able
2 to be construed as any kind of a minimization
3 technique. And based upon the report, I'm not sure
4 they were aware of the recent plan by Minooka to annex
5 into that zone.

6 Q. Mr. Lannert, looking straight east from
7 the footprint of the landfill if you looked at
8 Figure 3 from the RCCA plan, what is the general
9 nature of the topography looking eastward?

10 A. It's mostly flat.

11 Q. Until you get to Ridge Road almost five
12 miles away, is there any appreciable rise in the
13 topography?

14 A. It's gently rolling farmland.

15 Q. And, again, when you're standing at the
16 east edge of the footprint from the landfill in
17 Figure 3, you can clearly see Village of Minooka water
18 towers and houses, can you not?

19 A. Yes, you can.

20 Q. Has anything in any of the exhibits you've
21 ever seen in reference to the Willow Run Application
22 made any minimization of that visual impact as to the
23 Village of Minooka from the east boundary of the
24 landfill?

1 A. There's nothing specified in the report.
 2 Q. Now, you have had a chance, as you've
 3 indicated, also to look at the Conservation Design
 4 Forum report, as well.
 5 A. That's true.
 6 Q. And, again, did you find an actual
 7 landscape plan there?
 8 A. No.
 9 Q. Did you find, in fact, many examples of
 10 prairie-type plants, prairie restoration, and things
 11 that could be done at the site?
 12 A. Yes, I did.
 13 Q. Did you find any document in the overall
 14 Application that would tell you, as a Criterion 3
 15 expert, that the Applicant was going to follow either
 16 or both recommendations from RCCA or CDF?
 17 A. The report seemed to have conflicts
 18 between them, and there was no specificity in terms of
 19 which one would take precedence over the other when
 20 there were conflicts identified.
 21 Q. Was there any difference in terms of even
 22 a basic feature of this particular Application as to
 23 where the entrance to the landfill would be located?
 24 A. Yes, there was a conflict in terms of an

1 alternate entrance plan which was presented in the CDF
 2 report which Mr. Yocca spoke of last night, and that
 3 did show a different configuration than the one which
 4 was in the Rolf Campbell report.
 5 Q. Mr. Lannert, looking from the south --
 6 excuse me. Looking northward from Sherrill Road to
 7 the south edge of the landfill footprint, did you
 8 notice any landscaping, berming, or anything proposed
 9 that would minimize the impact of the proposed
 10 landfill on property owners to the south?
 11 A. There is nothing specifically shown from
 12 that view. In addition to that, even some of the
 13 existing hedgerow trees that are on those fence lines
 14 were not clearly identified in their plans.
 15 The only element which is visible
 16 from that angle is the berm which supports the haul
 17 road on the south side of the landform.
 18 Q. And, again, would you, as a professional
 19 land planner with 30-some years of experience, treat a
 20 haul road that had a gravel surface at the top that
 21 was raised at the level of 25 feet from the ground
 22 level as a buffering feature from a landfill use?
 23 A. I would not think that that would
 24 correctly satisfy the minimization techniques, and

1 only in accordance with what Mr. Yacco mentioned last
 2 night, that additional plantings could be put on that
 3 berm that would start to address it, or they clearly
 4 could have planted a hedgerow along the south side to
 5 start to filter that view at whatever point was
 6 appropriate.
 7 Q. Mr. Lannert, you've had some experience in
 8 your 30 years with rural or semirural communities and
 9 farm and non-farm type conflicts, have you not?
 10 A. Yes, I have.
 11 Q. Is woven wire fence a term you've ever
 12 heard of before?
 13 A. Yes.
 14 Q. You're familiar with it?
 15 A. Yes.
 16 Q. And would you consider a woven wire fence
 17 an instrument of screening that would lessen the
 18 impact of a landfill on surrounding real property?
 19 A. No, I don't think the fence is a screening
 20 technique. But when I heard the presentations, I
 21 think they were talking about that as their security
 22 measure, not as a screening measure.
 23 Q. Okay. Now, with respect to if you were on
 24 Sherrill Road at the southeast corner of the landfill

1 looking south towards Sherrill, did you see any
 2 proposed landscaping berming that would lessen the
 3 impact of the landfill on adjoining non-Wasteland
 4 Management owned property to the southeast?
 5 A. There are no screens or buffers shown on
 6 the plans.
 7 Q. In fairness, there is a detention or a
 8 sedimentation pond separating?
 9 A. There is some -- well, in the borrow area
 10 that they're going to use fill for.
 11 Q. Okay. And with respect to the landowners
 12 that are not Wasteland Management owned to the
 13 southwest corner of the Applicant's site, did you see
 14 any screening or buffering to protect the -- not
 15 protect but minimize the impact on that adjoining
 16 owner?
 17 A. There's none shown.
 18 Q. Mr. Lannert, again, you've indicated
 19 you've testified in quite a number of landfill siting
 20 hearings at the local level; is that correct?
 21 A. That is true.
 22 Q. Now, with respect to that, have you always
 23 testified for petitioners?
 24 A. Yes, I have.

1 Q. You've never been hired or approached by a
 2 municipality or a county, have you?
 3 A. No, I have not.
 4 Q. And have you ever been approached and
 5 turned down the assignment of an adjoining owner or a
 6 community before you were retained by the Village of
 7 Minooka in this particular instance?
 8 A. I don't know if I understand that
 9 question.
 10 MR. KRAMER: May I rephrase it, Mr. Kinnally?
 11 HEARING OFFICER KINNALLY: You sure can,
 12 because I didn't understand it, either.
 13 BY MR. KRAMER:
 14 Q. Okay. Have you been asked to be retained
 15 by any governmental bodies to testify in this type of
 16 hearing before where you declined the representation?
 17 A. I've never been asked previously.
 18 Q. And the same question with respect to any
 19 individual objectors or objectors' groups.
 20 A. I've never been asked.
 21 Q. So the fact that you've testified for
 22 petitioners exclusively in the past is a product of
 23 never having been asked by any other type of party?
 24 A. Possibly.

1 Q. Mr. Lannert, you don't believe that all
 2 landfills lessen the impact on surrounding land
 3 owners, do you, or minimize that impact?
 4 A. I think I believe in the criterion that
 5 there is an assumed incompatibility that through this
 6 process is supposed to be discovered and minimized.
 7 Q. Okay. And, again, in the times that
 8 you've rendered your opinion, you've always been able
 9 to make that finding on the basis of your training and
 10 experience?
 11 A. Based upon those particular cases and
 12 those situations and the techniques employed for a
 13 minimization, that is a true statement.
 14 Q. And in terms of ones that you've not
 15 testified in and maybe had familiarity either from
 16 seeing the site, you wouldn't necessarily say that's
 17 true of all landfills, would you?
 18 A. No, it's not true of all landfills.
 19 Q. Now, Mr. Lannert, based on your review of
 20 the Applicant's petition and based on your training,
 21 your experience, your site visits, were you able to
 22 form an opinion as to Criterion 3 of whether the
 23 Applicant has met its burden of minimizing impact on
 24 surrounding property owners?

1 A. Yes, I have.
 2 Q. And what is that opinion, Mr. Lannert?
 3 A. That opinion in this case is that the
 4 character into the surrounding area relied too heavily
 5 on zoning requirements and on comprehensive plans and
 6 does not -- he did not evaluate the character of the
 7 surrounding land uses, and it also is based upon the
 8 inconsistencies of the mitigation measures that were
 9 proposed in the conflicts between the reports.
 10 Q. And, again, was it partially based on the
 11 fact that you believe that failure to have a
 12 consistent plan failed to minimize the impact of this
 13 proposed landfill on surrounding property owners?
 14 A. Obviously I think that somewhat speaks for
 15 itself that I'm here this evening. When you
 16 approached me as related to Minooka's standpoint and
 17 when I became familiar with their land use plan that
 18 proposes traditional use neighborhoods adjacent to
 19 Brisbin on the east side of the road, obviously it
 20 required some kind of minimization along that corridor
 21 to protect those future plans even though they are
 22 far-reaching in terms of when Minooka would actually
 23 reach that point of annexation.
 24 Q. Mr. Lannert, when you testified for the

1 Applicant in Willow Run 1, there was a significant
 2 difference in the amount of acreage of the footprint,
 3 was there not?
 4 A. There was a difference.
 5 Q. And there was a creek called Walley Run
 6 that ran through the initial footprint?
 7 A. In that original presentation, we were
 8 directing Walley Run around the landform.
 9 Q. And what did you do to protect Walley Run
 10 when you designed that or gave your impressions as a
 11 landscape designer?
 12 A. In that particular case in the rerouting
 13 of Walley Run, we ended up creating a bioswale with
 14 mainly the same characteristics that Mr. Yocca was
 15 talking about last night, and so we were revegetating
 16 that and planting that and using a wider flatter
 17 corridor to run that drainage feature around that
 18 proposed landform at that time.
 19 Q. Mr. Lannert, did you notice anything in
 20 the Conservation Design Forum report that had any
 21 special protection or design with respect to Walley
 22 Run?
 23 A. No, there was nothing in the report that
 24 dealt with Walley Run.

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1 MR. KRAMER: Thank you, Mr. Lannert.
2 Mr. Hearing Officer, I would like to
3 mark as Petitioner -- excuse me, not Petitioner,
4 Village of Minooka No. 2 Mr. Lannert's report that was
5 filed with the Clerk and have that admitted into
6 evidence, give counsel a copy, certainly.
7 HEARING OFFICER KINNALLY: Is there any
8 objection to that?
9 (No response.)
10 HEARING OFFICER KINNALLY: All right. Hearing
11 none, that will be -- this is a report dated
12 September 4th from The Lannert Group signed by Chris
13 Lannert, Review of Willow Run Recycling & Disposal
14 Facility Application Criterion No. 3. That will be
15 admitted.
16 (Village of Minooka Exhibit No. 2
17 admitted.)
18 MR. KRAMER: Thank you.
19 HEARING OFFICER KINNALLY: Anything else?
20 MR. KRAMER: No further questions.
21 HEARING OFFICER KINNALLY: Okay. Mr. Moran?
22 MR. MORAN: Thank you, Mr. Hearing Officer.
23
24

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1 CROSS-EXAMINATION
2 BY MR. MORAN:
3 Q. Good evening, Mr. Lannert.
4 A. Good evening.
5 Q. Good to see you again.
6 Mr. Lannert, there were four siting
7 applications that have been filed in Kendall County
8 since, I believe, January of 2007; would that be
9 correct?
10 A. That's true.
11 Q. And those include the application for the
12 Fox Moraine facility which was filed, I believe, in
13 December of 2006?
14 A. That's about correct, yes.
15 Q. There was the first Willow Run application
16 that was filed in February of 2007?
17 A. That's about correct, yes.
18 Q. There was the Lisbon Development siting
19 application filed in May of 2007?
20 A. That was the last one before this filing.
21 Q. Yes. And did you have any role to play in
22 each of those three previous siting applications?
23 A. Yes. We were the expert hired for the
24 Criterion 3 evaluation.

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1 Q. And you've been retained here on behalf of
2 the Village of Minooka to address this proposed
3 Application; correct?
4 A. That's correct.
5 Q. Would it be fair to say that you're the
6 only expert who has participated as an expert in each
7 of those four siting applications?
8 A. That appears to be so, yes.
9 Q. Okay. Now, with respect to the first
10 Willow Run siting application, you were, in fact,
11 retained by this Applicant to review Criterion 3;
12 correct?
13 A. That's correct.
14 Q. And your evaluation and testimony with
15 respect to that site was that it was, indeed,
16 compliant with requirements of Criterion 3; correct?
17 A. That was my testimony.
18 Q. And this site, indeed, is the same site as
19 was proposed in the first Willow Run siting
20 application; is that correct?
21 A. It's a different configuration than that
22 original siting.
23 Q. Well, would it be accurate to say that
24 this proposed facility, the 368 acres, is entirely

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1 included within the larger facility that was proposed
2 in Willow Run?
3 A. Yes, that's true.
4 Q. Okay. And it's located in the same
5 location?
6 A. That's correct also.
7 Q. And your conclusion in that proceeding was
8 that this site was compatible with the character of
9 the surrounding area; correct?
10 A. That's correct.
11 Q. Now, with respect to the testimony that
12 you provided in the Lisbon Development APPLICATION --
13 which, by the way, was a site located essentially
14 right across the street from this site?
15 A. Kitty-corner, yes.
16 Q. Okay. You testified, again, that that
17 site was compatible with the character of the
18 surrounding area?
19 A. That also was correct.
20 Q. And you're aware at the conclusion of that
21 testimony, the County, through its lawyer and through
22 its staff, prepared recommendations based upon the
23 testimony presented at that hearing?
24 A. Yes, I'm aware of that.

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1 Q. And are you aware that the County's
2 recommendation with respect to your testimony on
3 Criterion 3 is that it did not, in fact, track the
4 language of Criterion 3 that required a showing that
5 the facility was so located as to minimize
6 incompatibility with the character of the surrounding
7 area?
8 A. Yes, I'm aware of that.
9 Q. And, in fact, the County, in its
10 recommendations to the County Board, found that your
11 testimony in that case was not credible?
12 A. I believe that's the exact words they
13 used.
14 MR. MORAN: Thank you, Mr. Lannert. I have
15 nothing further.
16 HEARING OFFICER KINNALLY: All right. Thank
17 you, Mr. Moran.
18 I think Mr. Mueller, do you want an
19 opportunity?
20 MR. MUELLER: I just have a couple of
21 questions.
22 CROSS-EXAMINATION
23 BY MR. MUELLER:
24 Q. Mr. Lannert, the 2007 application in this

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1 case included the borrow areas, did it not?
2 A. It included additional land than what's
3 shown on this Application, but I don't know if I'd
4 know where all the borrow areas of this present
5 Application are located.
6 Q. And some of that land, though, was
7 designated to be areas from which the Applicant would
8 borrow or take soil for construction and liner
9 purposes; is that right?
10 A. That was true -- you're talking about the
11 landfill siting that I participated in?
12 Q. Yes.
13 A. Yes, I was aware of that.
14 Q. The one where you testified on behalf of
15 Waste Management.
16 A. That's correct.
17 Q. And did you propose certain landscaping
18 and visual enhancements to those areas, as well, in
19 order to minimize incompatibility?
20 A. We did that within the facility area as
21 part of that petition.
22 Q. And are you aware that this facility -- or
23 this Application, I should say, excludes the borrow
24 areas from the facility boundary?

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1 A. I'm only aware of that from having heard
2 some of the testimony. I was not aware of that when I
3 reviewed the report.
4 Q. But you're aware of it now?
5 A. I'm aware of it now, yes.
6 Q. And do you believe that failing to have a
7 landscape and visual diversion plan for the borrow
8 areas constitutes a failure to minimize
9 incompatibility?
10 A. It certainly is an opportunity that they
11 did not take advantage of.
12 MR. MUELLER: Thank you. That's all I have.
13 HEARING OFFICER KINNALLY: Okay. Thank you,
14 Mr. Mueller.
15 Mr. Porter?
16 MR. PORTER: No questions. Thank you.
17 HEARING OFFICER KINNALLY: All right. Thank
18 you, Mr. Porter.
19 Ms. Kramer, did you have any
20 questions?
21 MS. KRAMER: None at this time.
22 HEARING OFFICER KINNALLY: Okay. I didn't
23 think so.
24 How about -- who did I miss? Anyone

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1 from the County Board have any questions?
2 COUNTY BOARD MEMBER DAVIDSON: Sure.
3 HEARING OFFICER KINNALLY: Go ahead.
4 EXAMINATION
5 BY BOARD MEMBER DAVIDSON:
6 Q. Bob Davidson.
7 Mr. Kramer made a statement, and I
8 think you agreed with him, that you could see rooftops
9 and the water tower at Minooka from the southeast
10 corner of this landfill site; correct?
11 A. I heard him say water towers. I didn't
12 hear him say rooftops. You would not be able to see
13 rooftops.
14 Q. I'm just checking the clarification.
15 I don't know how many people -- do
16 you know how many people get on top of the Minooka
17 water tower and look to the west?
18 A. Probably not many.
19 Q. Thank you. I agree there, too.
20 So a berm of 25, 30 feet isn't going
21 to cover up 138 feet of a mountain, will it?
22 A. Again, I didn't get the thrust of the
23 question in terms of that area. I think that --
24 Q. Well, the statement was that there's --

1 you know, there's no berming in the south or southeast
2 corner of this facility.

3 A. That's correct.

4 Q. So -- but a berm would not cover anything
5 up for people living in Minooka?

6 A. The berms aren't intended to cover
7 anything up. They're used to reduce the impact, and
8 the -- as identified in my report, and the question I
9 think that Mr. Kramer was asking me, and he can
10 clarify it for you, is that with the comprehensive
11 plan which has just been recently adopted by Minooka,
12 and with their intention to develop residentially
13 immediately on the other side of Brisbin Road, a berm
14 would help the potential homeowners that would be put
15 in that area. And that's the context of the comments
16 in my report, and I think that's the thrust of his
17 question.

18 Q. I think there's no question the people on
19 Sherrill Road, a berm would help immensely there.

20 What is the distance from the
21 existing city limits right now to Brisbin Road, do you
22 know?

23 A. Probably in excess of three,
24 three-and-a-half miles. I don't know exactly, but

1 it's -- they're annexed north of Ridge and then coming
2 over to Brisbin. It would be a good three,
3 three-and-a-half miles.

4 COUNTY BOARD MEMBER DAVIDSON: Okay. Thank
5 you.

6 EXAMINATION

7 BY BOARD MEMBER VICKERY:

8 Q. Hi, Mr. Lannert. My name is Anne Vickery.

9 Mr. Kramer asked you about a number
10 of inconsistencies, and you kind of went down your
11 grocery list there.

12 A. Uh-huh.

13 Q. Do you think that any of those
14 inconsistencies that you mentioned are -- do you think
15 they're fixable? I mean, can they be instituted in
16 the plan? Is there anything there that just couldn't
17 be done?

18 A. I think they should all be fixed. That's
19 the -- I would like to characterize my testimony this
20 evening is to recommend to you that you get those
21 things fixed.

22 Q. When you were -- Mr. Moran brought up the
23 fact that you worked on their side last time; right?

24 A. That's correct.

1 Q. Did you think your plan was that much
2 better?

3 A. I think that my plan was precise, I think
4 that my plan gave you the direction that you needed,
5 and I believed in all of those points that I made
6 based upon the plans.

7 The character of the bioswale of the
8 Walley Run, switching around the property, would have
9 provided those screening and buffering techniques that
10 have been the discussion of the last few nights, and I
11 guess what I am talking about in terms of this
12 document relating to Criterion 3 is those
13 inconsistencies.

14 And if, in fact, your report says
15 you're going to maintain the existing trees along the
16 right-of-way and you don't even identify them -- and
17 that is a very simple paraphrasing of my report -- I
18 don't think you're going to protect those trees if you
19 haven't even identified them.

20 And my bottom line is that I think
21 that what you say and what you do has to match, and at
22 the present time this report does not match the
23 previous testimony and the testimony from the previous
24 nights, nor is there any teeth or any direction for

1 you relating to these features which they're speaking
2 of.

3 Q. That was a long answer.

4 But everything is fixable; right?

5 A. Everything is fixable.

6 BOARD MEMBER VICKERY: Okay. No more
7 questions.

8 BOARD MEMBER HAFENRICHTER: No questions.

9 EXAMINATION

10 BY BOARD MEMBER WEHRLI:

11 Q. Mr. Lannert, Jeff Wehrli. Just one
12 question.

13 By the very fact that the Applicant
14 is not disturbing areas adjacent to Walley Run and it
15 appears to be maybe a couple hundred foot away, isn't
16 that, in effect, protecting the creek?

17 A. Yeah. Well, to what degree, I guess, is
18 the question.

19 Q. Well, for example, in our zoning we have,
20 for silt protection, just in the regular county
21 application, if you can show a grass buffer area, we
22 don't require the silt fence, and that only needs to
23 be about a 25-foot area in order to let the natural
24 grasses get the silt away from the area.

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1 If there's a 200-foot buffer -- and
2 I'm approximating that because I don't have a
3 dimensional drawing here -- would that not, in effect,
4 do a fairly good job of protecting the creek?
5 A. Yes, it could.
6 I think the point that I made in my
7 report, and the point that Mr. Kramer was making, is
8 that none of that specificity is identified.
9 And if you look at the work that CDF
10 has done throughout the Chicago metropolitan area in
11 other places, in most cases they have very elaborate
12 creek protection corridors and plans.
13 As Mr. Yocca was stumbling with last
14 night, the best he could come up with is their prairie
15 planting techniques would, in essence, incorporate
16 some of those features, but they did not come in with
17 even a 10- or 20- or 50-foot corridor protection plan
18 as part of their creeks.
19 And they are well-known, as Mr. Yocca
20 pointed out, in terms of doing that type of water
21 resource development and improving water quality on
22 the projects that they're involved in. So it's the
23 inconsistency I'm talking about.
24 HEARING OFFICER KINNALLY: Time out a minute.

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1 First of all, Mr. Yocca is not here,
2 and I don't think it's fair to say that he stumbled in
3 his testimony. I'm not here to defend him, but he
4 gave us the best information that he had, and that
5 comment is going to be stricken from the record.
6 Go ahead.
7 BOARD MEMBER WEHRLI: Okay.
8 BY BOARD MEMBER WEHRLI:
9 Q. Regardless of the fact whether they
10 brought up the protection or not, would you say that
11 this plan fairly adequately protects Walley Run Creek?
12 A. The mere fact that you have substantial
13 prairies on both sides of that creek means that you
14 could add to the clarity and protect the creek. It's
15 not going to be impacted by the development.
16 BOARD MEMBER WEHRLI: All right. Thank you.
17 No more questions.
18 BOARD MEMBER WYKES: I have no questions.
19 HEARING OFFICER KINNALLY: Bill, did you have
20 any?
21 BOARD MEMBER WYKES: No.
22 HEARING OFFICER KINNALLY: All right. Is there
23 any participants that would like to ask some
24 questions? Come on up and state your name.

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1 MR. MILLIRON: Just one question. Todd
2 Milliron, 61 Cotswold Drive, Yorkville.
3 CROSS-EXAMINATION
4 BY MR. MILLIRON:
5 Q. Mr. Lannert, how would you minimize the
6 effects of the haul road that is at least 25 feet high
7 to surrounding property owners? Is there something
8 that can be done to, whatever, buffer or screen or
9 whether, I guess -- I don't know, 25 feet up in the
10 air is quite a bit of distance.
11 A. I think two techniques that could be used
12 is you could start with a hedgerow or a ranking of
13 trees along the property line which would start to
14 filter that view, and then as was stated last night
15 from Mr. Blazer's comments, you could plant the side
16 of that berm which was the containment for the haul
17 road.
18 Q. And would that be considered a fix?
19 A. I think that that would satisfy the
20 minimizing incompatibility portion of the criterion.
21 MR. MILLIRON: All right. Thank you.
22 HEARING OFFICER KINNALLY: Thank you, sir.
23 Anyone else? All right. Mr. Blazer,
24 I think it's your turn.

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1 MR. BLAZER: I just have a few, Mr. Kinnally.
2 CROSS-EXAMINATION
3 BY MR. BLAZER:
4 Q. I want to make sure I got a piece of your
5 testimony right, Mr. Lannert, and fortunately we have
6 the benefit of this realtime thing.
7 Mr. Kramer asked you some questions
8 about zoning and the reference to zoning in the Rolf
9 Campbell report.
10 Do you remember those questions?
11 A. Yes, I do.
12 Q. And I just want to make sure we got this
13 right. I believe you said that you took issue with
14 the fact that the compatibility -- and by that I
15 assume the conclusions in the Campbell report -- was
16 based upon zoning and future land use reports as
17 opposed to existing conditions.
18 Do you remember that?
19 A. Yes, I do.
20 Q. And then Mr. Kramer asked you if you feel
21 that it's paramount to fulfill the Criterion 3 review
22 that you must look at existing conditions as opposed
23 to zoning classifications.
24 Do you remember that question?

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1 A. Yes, I do.
2 Q. And you answered as you heard the other
3 night zoning is excluded from the Criterion 3
4 evaluation and so it should be focused on the
5 character of the surrounding area.
6 Did I get that right?
7 A. Yes, generally.
8 Q. Well, then I'm confused.
9 A. Okay.
10 Q. Because I'm looking here at the report
11 that you submitted when you were working for Waste
12 Management in the first Willow Run application, and
13 here's what you said:
14 "Section 39.2(g) of the Act
15 provides that local zoning
16 requirements are not applicable
17 to the local siting process.
18 However, local zoning
19 classifications are helpful when
20 reviewing existing land uses on
21 surrounding properties to
22 determine how such properties may
23 be developed in the future.
24 The Lannert Group analyzed zoning

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1 classifications adjacent to and
2 surrounding the subject site for
3 the purpose of determining
4 compatibility with surrounding
5 land uses. Specifically The
6 Lannert Group analyzed zoning
7 classifications within a one-mile
8 radius of the subject site?"
9 So could you explain to me why zoning
10 was important to you when you were representing this
11 Applicant but it's not important to you when you're
12 not?
13 A. I think the short answer, Mr. Blazer, is
14 that the zoning analysis is the second part of our
15 analysis not the only part of our analysis. And prior
16 to those sections that deal with zoning, we do deal
17 with the land uses and the measurement of the land
18 uses and description of land uses.
19 The reason that we check the zoning
20 is that the zoning surrounding the property are uses
21 as a matter of right, and I think in order to form an
22 opinion as to compatibility, you have to make sure
23 there's not a conflict in terms of uses which are
24 zoned not used. You can have a farm field that's

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1 zoned for residential that is still being used as a
2 field.
3 So I would paraphrase our analyses of
4 the character of the surrounding areas as being one of
5 land use supplemented by those provisions for zoning
6 to look at what the history and what the adjacent uses
7 are prior to going into the minimization techniques
8 and forming the compatibility opinion.
9 Q. Are you done?
10 A. Yes.
11 MR. BLAZER: Move to strike as unresponsive.
12 Ask that you direct the witness to answer the
13 question.
14 HEARING OFFICER KINNALLY: Well, you can ask
15 him another question. I mean, it's in the record.
16 MR. BLAZER: All right. That's fine.
17 BY MR. BLAZER:
18 Q. Now, I believe it's been established you
19 also testified for Lisbon Development; correct?
20 A. That's correct.
21 Q. That was the proposed Willowhill Landfill,
22 as you put it, kitty-corner from here?
23 A. That is correct.
24 Q. Now, I noticed on your resume that

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1 Mr. Kramer handed out you listed everything through
2 Willow Run. You didn't list Willowhill.
3 Why is that?
4 A. Because the resume has not been updated.
5 I corrected that by statements that the -- when
6 Mr. Kramer handed me my resume.
7 Q. Between last year and this year, has the
8 character of the area surrounding this site changed,
9 generally speaking?
10 A. The character has not changed.
11 Q. Has the zoning surrounding this area
12 changed, as far as you know?
13 A. Not that I'm aware of.
14 Q. And there was a Host -- there's a Host
15 Agreement in place for this facility, correct, with
16 this Applicant?
17 A. Yes, I believe there is.
18 Q. And there was a Host Agreement in place
19 with Lisbon Development as well; correct?
20 A. Yes, I'm aware of that.
21 Q. And do you recall that in general terms
22 the two Host Agreements were essentially identical?
23 A. I have not seen this Host Agreement, so I
24 don't know that.

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1 Q. Well, you saw this Host Agreement when you
 2 were involved the first time around with Waste
 3 Management, weren't you?
 4 A. If it's the -- if it's similar to that
 5 agreement, then they were similar.
 6 Q. All right. And I'll represent to you it's
 7 the same Host Agreement.
 8 A. Okay.
 9 Q. Okay. Now, I'm looking at your testimony
 10 from Lisbon Development.
 11 A. Uh-huh.
 12 Q. Question -- this is from Miss Harvey, who
 13 was representing Lisbon Development in that one.
 14 Do you remember that?
 15 A. Yes, I do remember.
 16 Q. "Do you have an opinion regarding
 17 whether the proposed landfill is
 18 so located as to minimize
 19 incompatibility with the
 20 character of the surrounding
 21 area?
 22 "Answer: Yes I do.
 23 "Question: And what is that
 24 opinion?"

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1 "Answer: My opinion that I have
 2 is this is so located to minimize
 3 the incompatibility with the
 4 character of the surrounding
 5 area.
 6 "Question: What are the bases
 7 for that opinion?
 8 "Answer: The basis is my
 9 testimony here today, and
 10 hopefully as I have described
 11 these photographs to you, you
 12 have been able to see it also.
 13 The character of the surrounding
 14 area is agriculture and has been
 15 farmed historically and will
 16 continue to be farmed. The
 17 agricultural uses within the
 18 one-mile study area represented
 19 96 percent, and as I pointed out,
 20 the adjacent townships ranged
 21 from 87 percent agricultural to
 22 95 percent agricultural uses.
 23 Residential land uses account
 24 for less than one percent of the

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1 study area. The zoning is
 2 compatible in terms of the zoning
 3 surrounding the subject site 99
 4 percent. The conceptual land use
 5 plan for the subject site
 6 compliments the agricultural land
 7 and blends with the surrounding
 8 at the base. Hopefully that was
 9 just modeled in terms of the last
 10 slide. And, finally, the end-use
 11 plan as required by the Host
 12 Agreement will provide for 436
 13 acres of mixed use recreational
 14 areas surrounding a 284-foot
 15 landform."
 16 Do you recall those questions and
 17 answers?
 18 A. Yes, I do.
 19 Q. Well, what's different between that one
 20 and this one?
 21 A. I don't know if there is a difference
 22 between the two.
 23 Q. All right. Now, just a couple of final
 24 questions.

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1 Mr. Moran asked you about the finding
 2 that this Board made at the end of the Lisbon
 3 Development proceeding.
 4 Do you remember those questions?
 5 A. Yes, I do.
 6 Q. And I want to be specific so we make sure
 7 we're talking about the same finding, so I'm going to
 8 read it to you and then I'm going to ask you a
 9 question about it.
 10 "Lannert could have tried to face the
 11 issue of minimization head-on acknowledging the
 12 evident incompatibility and then focused on his
 13 efforts to minimize the incompatibility and thus
 14 conform to the requirements of the siting statute. By
 15 so substantially overstating his positions as he did
 16 and supporting them with evidence manufactured to
 17 create an illusion of compatibility, Lannert did
 18 irreparable harm to his credibility. His testimony
 19 simply cannot be believed."
 20 Do you recall that, Mr. Lannert?
 21 A. I remember reading that, yes.
 22 MR. BLAZER: All right. That's all I have.
 23 HEARING OFFICER KINNALLY: I just have a couple
 24 of questions.

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1 EXAMINATION
2 BY HEARING OFFICER KINNALLY:
3 Q. When you worked for Waste Management on
4 the first application, how much time did you spend on
5 it?
6 A. Oh, a substantial amount. I mean --
7 Q. Okay. You put a lot of work into it,
8 didn't you?
9 A. Yes.
10 Q. You had guys and ladies that were working
11 for you and spending a lot of time trying to come up
12 with the opinions that you gave to the Board; true?
13 A. That's correct.
14 Q. And when Ms. Harvey hired you for Lisbon,
15 you spent a lot of time on that application as well;
16 correct?
17 A. That's correct.
18 Q. Maybe not as much as the first application
19 because you were pretty much familiar with the
20 location down here. Is that a fair statement?
21 A. Probably not as much because of the
22 locational aspects of it, but because of the
23 difference in terms of that site extending further to
24 the north, we had to include more field observation

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1 and also because we did more berming, buffering, and
2 landscaping on that plan. So I would say the times
3 were probably comparable.
4 Q. To 300 hours?
5 A. I would say 300 hours, easily.
6 Q. And your assignment in this case is much
7 more limited; isn't that true?
8 A. My assignment in this was much more
9 limited. I was looking at the reports and the context
10 of the reports.
11 Q. Right. So you spent, what, 30 hours?
12 A. 30 to 40.
13 Q. Okay. So you spent one-tenth of the time
14 on this particular Application that you did on those
15 other two applications. Fair statement?
16 A. That's correct.
17 Q. All right. Now, if I understand your
18 testimony correctly, your principal criticism of the
19 Rolf Campbell and Conservation Design reports has to
20 do with the specificity of those reports and their
21 inconsistency with each other; fair statement?
22 A. That's generally true, correct.
23 Q. Okay. You read the Siting Ordinance when
24 you prepared your application for Waste Management and

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1 Lisbon and the work that you did in this particular
2 case; right?
3 A. I didn't reread it for this case.
4 Q. Well, you're familiar with it; true?
5 A. I'm familiar with it.
6 Q. And our Siting Ordinance in Kendall County
7 says this with respect to a proposed landscaping plan.
8 I'll read it to you. This is all it says: "A
9 description of the proposed landscaping plan and
10 facility screening." It's Section 4.6, Paragraph 3.
11 That's in the Rolf Campbell report; true?
12 A. Yes, it is.
13 Q. But it's not with the specificity that you
14 like; true? You would have put more specificity in
15 it, just like you did with respect to the work that
16 you performed for Waste Management originally and the
17 Lisbon Development people. True statement?
18 A. I would put more specificity in it, that
19 is correct.
20 Q. So with respect to your opinions here
21 tonight, you're not saying that the Applicant has
22 failed to meet Criteria 3, are you?
23 A. No, I'm not saying that.
24 HEARING OFFICER KINNALLY: Thank you,

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1 Mr. Lannert.
2 Mr. Kramer, do you have any further
3 questions?
4 MR. KRAMER: I have no further redirect.
5 HEARING OFFICER KINNALLY: Mr. Lannert, thank
6 you for coming tonight and sharing your information.
7 You're excused.
8 THE WITNESS: Thank you.
9 (Witness excused.)
10 HEARING OFFICER KINNALLY: Okay. Who has
11 another witness? I know you don't. You told me your
12 geology man's daughter had appendicitis.
13 MR. KRAMER: Emergency appendectomy.
14 HEARING OFFICER KINNALLY: Yeah, that's too
15 bad.
16 MR. KRAMER: Mr. Blazer talked to me about that
17 before the hearing tonight --
18 HEARING OFFICER KINNALLY: That's okay.
19 MR. KRAMER: He's the one we disclosed, and he
20 had a gentleman who worked with him on the report.
21 Mr. Blazer asked me what was the possibility of
22 getting that man earlier, and I probably have access
23 to him quicker. But obviously it's not the same name
24 I disclosed, so I don't know the position of other

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1 counsel, but I could certainly get him here by Monday.
2 HEARING OFFICER KINNALLY: That's okay. Don't
3 worry about it. You told me about it.
4 Mr. Porter has told me he has a
5 witness and he's ready to go, and we appreciate that.
6 So, Mr. Porter, on behalf of Grundy County, do you
7 want to present a witness?
8 MR. PORTER: Thank you. Yes, we do. I call
9 Stephen VanHook to the stand.
10 HEARING OFFICER KINNALLY: All right. Do you
11 want to come on up.
12 Now, we have a podium here if you
13 want to stand or you can sit down, but the only rule
14 is you have it talk into the microphone.
15 THE WITNESS: Sitting's fine.
16 HEARING OFFICER KINNALLY: All right. And do
17 you want to raise your right hand and state your name.
18 THE WITNESS: James Stephen VanHook.
19 (Witness sworn.)
20 MR. PORTER: Mr. Kinnally, we have five
21 exhibits that we're going to use during this direct
22 examination, all of which were produced prior to the
23 hearing except for his resume.
24 May I pass those out?

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1 HEARING OFFICER KINNALLY: You surely may.
2 This is fine. Are these all the
3 exhibits that you're going to use here, Mr. Porter?
4 MR. PORTER: Yes.
5 HEARING OFFICER KINNALLY: Are we going to mark
6 these?
7 MR. PORTER: They have already been marked.
8 HEARING OFFICER KINNALLY: Okay. While he's
9 doing that, let me identify these for the record.
10 This is Grundy Exhibit 1. It's a
11 curriculum vitae or resume for Mr. VanHook.
12 Grundy Exhibit 2 is a description of
13 geologic materials from a book or something.
14 Grundy Exhibit 3 is a Table 1,
15 Willow Run Landfill Summary of Predicted Groundwater
16 Concentration. And that's several pages.
17 And then Grundy 4 is Table 2,
18 Sensitivity Analysis on Key Input into Patrick Base
19 Models. That's several pages.
20 And then finally we have a map which
21 is not -- it's a map of Kendall County and Grundy
22 County. I think we've seen this before in various
23 siting hearings.
24

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1 (Grundy County Exhibit Nos. 1-5
2 marked.)
3 HEARING OFFICER KINNALLY: Okay. Do you want
4 to go ahead?
5 MR. PORTER: Thank you.
6 JAMES STEPHEN VAN HOOK
7 called as a witness herein, having been first duly
8 sworn, was examined and testified as follows:
9 DIRECT EXAMINATION
10 BY MR. PORTER:
11 Q. Please state your name for the record.
12 A. James Stephen VanHook.
13 Q. And how are you employed?
14 A. I'm employed at Patrick Engineering in
15 Springfield, Illinois.
16 Q. And how long have you worked there?
17 A. 19-plus years.
18 Q. What's your title there?
19 A. I'm a senior hydrogeologist and a senior
20 project manager.
21 Q. And if you would briefly describe your
22 educational experience.
23 A. I've got a bachelor's degree in geology,
24 and I've done graduate work for my master's in

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1 hydrogeology.
2 Q. And after you graduated with your
3 bachelor's degree in geology, where did you go to
4 work?
5 A. For a little over three years, I worked at
6 Illinois EPA.
7 Q. And what did you do there?
8 A. For the first couple years, I did
9 groundwater reviews for all of the solid waste
10 disposal facilities in Illinois, and then after that I
11 did hydrogeologic investigations at Superfund sites.
12 Q. And after working at the EPA, where did
13 you go next?
14 A. I've been at Patrick for 19 years.
15 Q. And what have you done at Patrick over
16 those 19 years?
17 A. Well, for -- in regard to landfills, I've
18 done three hydrogeologic investigations for siting
19 applications for the Applicant. I've done probably
20 about a half dozen site investigations for
21 applications for Illinois EPA for expansions. I've
22 probably done, it's got to be, at least 20 siting
23 reviews for landfill expansions for siting authorities
24 like what we're doing here.

1 I've also worked for -- I'm the
2 senior project manager for Illinois EPA, and we've
3 remediated over the last ten years probably about 80
4 different landfills for the Illinois EPA as our
5 client.

6 Q. What do you mean by remediated?

7 A. Just basically they're abandoned landfills
8 that have been left -- you know, the owners have
9 walked away from, don't care for them, and the states
10 come in and basically fixed them, capped them, done
11 remediation systems to them.

12 Q. In general, have you or your firm
13 represented applicants at landfill siting hearings?

14 A. Yeah. Recently we've kind of gone more
15 for the application side. We've worked predominantly
16 for the siting review committees for the siting
17 authorities like counties or municipalities that are
18 going through an expansion and for Illinois EPA.

19 And, also, I still do some landfill
20 permitting for municipalities that have closed
21 landfills. I've got a couple of those, two or three
22 that I do.

23 Q. Since working at Patrick, have you been
24 hired by the EPA?

1 A. Yes. We've had a contract for ten years.

2 Q. What is the nature of that contract?

3 A. It's -- as well as doing the landfills,
4 which, you know, we seem to do quite a bit of that.

5 Q. I'm sorry. What do you mean by doing the
6 landfills?

7 A. Just doing site investigations at the
8 landfill, determine what the problems are, coming up
9 with corrective actions for capping, installing gas
10 systems, retrofitting leachate collection systems,
11 building forcemains, a variety of different things
12 with the remediation.

13 Q. Now, you're a senior hydrogeologist. In
14 addition to the landfills, what other relevant
15 experiences have you had regarding hydrogeology?

16 A. I worked at just a variety, I guess, of
17 different environmental and mining-type facilities.
18 I've done hydrogeologic investigations for coal mine
19 refuse disposal areas, for aggregate mines, for
20 refineries, chemical plants, brown fields.

21 Q. Do have any experience with
22 hydrogeological modeling?

23 A. Yes, I've done some and had staff do some.

24 Q. And what modeling programs are you

1 familiar with?

2 A. The ones that you typically see for
3 landfills in Illinois, the Pollute, MIGRATE and then
4 MODFLOW and MT3D.

5 Q. And are you associated with any
6 professional organizations?

7 A. Yeah. I'm a member of the National
8 Groundwater Association.

9 Q. Have you spoken to that association?

10 A. Yeah. I did a presentation on Paxon at
11 one of the Midwest Groundwater Institutes and also I
12 did a presentation for Illinois Groundwater
13 Association about a year or two ago for a horizontal
14 remediation system they put in at Carthage.

15 Q. I have presented to the Board and yourself
16 several exhibits. The first one is marked Grundy
17 Exhibit No. 1.

18 Is that a true and accurate copy of
19 your current resume?

20 A. Yes, that's my current resume.

21 Q. Is there anything you'd like to add to it?

22 A. No.

23 MR. PORTER: Mr. Kinnally, so I don't forget
24 I'd move for admission of that.

1 HEARING OFFICER KINNALLY: Is there any
2 objection?

3 (No response.)

4 HEARING OFFICER KINNALLY: Grundy 1 will be
5 admitted.

6 (Grundy County Exhibit No. 1
7 admitted.)

8 BY MR. PORTER:

9 Q. What have been your most recent landfill
10 projects excluding this one?

11 A. For doing the siting reviews, I've done --
12 I just did one for Tazewell County for expansion. We
13 did one for Peoria County for expansion of hazardous
14 expansion waste facility. We did one for City of
15 Rochelle, and then obviously we did one recently here
16 for the Willow -- the other Willow facility here in
17 town. Willowhill.

18 Q. And the Rochelle facility, who hired you
19 for that facility?

20 A. That would be for the City of Rochelle,
21 for Mr. Moran.

22 Q. In this case, obviously you were hired by
23 Grundy County?

24 A. That's correct.

1 Q. Were you given any direction as to what it
 2 is we expected?
 3 A. No. We just did a focused review of the
 4 Siting Application as pertains to Criteria 2.
 5 Q. Criterion 2 being whether or not the
 6 facility is designed and located to protect the public
 7 health, safety, and welfare?
 8 A. That's correct.
 9 Q. And when you were hired to do that review,
 10 were you directed as to any preferred outcomes of your
 11 analysis?
 12 A. No. Basically our first scope was just do
 13 a basic overview of that criteria and come up with an
 14 opinion.
 15 Q. Did you come up with an opinion concerning
 16 whether or not the facility has met Criterion 2 of
 17 Section 39.2 requiring the facility be designed,
 18 located, and proposed to be operated such that the
 19 public health, safety, and welfare be protected?
 20 A. Yes.
 21 Q. What is that opinion?
 22 A. Well, we don't believe that it's located
 23 to be protective of public health, safety, and welfare
 24 under Criterion 2.

1 Q. So is it your opinion that Criterion 2 has
 2 not been met?
 3 A. That's our opinion.
 4 Q. And, in general terms, what is the bases
 5 of that, and I'll eventually ask you to elaborate.
 6 But in general terms, what is your basis?
 7 A. Well, basically it's similar to what we
 8 presented previously; that the area is really
 9 sensitive to groundwater contamination, especially
 10 from solid waste disposal facilities.
 11 Q. And what is the basis of that opinion that
 12 the area is sensitive -- well, strike that.
 13 Before we go there, what do you mean
 14 by sensitive as far as hydrogeologic sensitivity?
 15 What are you talking about?
 16 A. Well, basically that the groundwater
 17 aquifer is -- can be contaminated by surface sources
 18 of contamination like landfills or surface
 19 impoundments, et cetera.
 20 Q. And what is your opinion that this is a
 21 sensitive area based upon?
 22 A. Well, I mean, an easy way to look at it
 23 is, and we're going to get to, I guess, exhibit -- the
 24 Exhibit 2 for Grundy County.

1 I mean, a good way to look at it is
 2 Berg did just a ranking scale for just the kind of --
 3 to look at different types of facilities on their
 4 susceptibility. If you look at it, the facilities for
 5 highest potential for groundwater contamination are
 6 rated at the top.
 7 If you look at Exhibit 2, A-1, and
 8 then go all the way down to G, and that just kind of
 9 lumps them together. It makes it a little simpler I
 10 think for lay people to understand how sensitive an
 11 area is for groundwater contamination.
 12 Q. And is it your testimony that this
 13 particular area is an A-1 area, using Exhibit 2?
 14 A. Yeah. If you look at it, the description,
 15 and if you read the report, that's the Berg report,
 16 they go into detail on the description. If you have
 17 fractured bedrock within 20 feet of the ground
 18 surface, the area is highly susceptible to groundwater
 19 contamination.
 20 Q. And how do you know that there's fractured
 21 bedrock within 20 feet of the ground surface here?
 22 A. Just based upon the site investigation
 23 that was done and the descriptions that were done of
 24 the rock cores.

1 Q. And we kind of skipped the foundation, but
 2 Exhibit 2 is a Berg --
 3 A. Right. It's a Berg report. It's by the
 4 Illinois State Geologic Survey.
 5 HEARING OFFICER KINNALLY: Wait a minute. Who
 6 is Berg?
 7 THE WITNESS: He's one of the authors for the
 8 report.
 9 HEARING OFFICER KINNALLY: How do you spell his
 10 name?
 11 THE WITNESS: B-E-R-G.
 12 HEARING OFFICER KINNALLY: What's his first
 13 name?
 14 THE WITNESS: I can look it up.
 15 HEARING OFFICER KINNALLY: Well, I'd like to
 16 know it. I think the Board would like to know it,
 17 too.
 18 BY MR. PORTER:
 19 Q. Mr. VanHook, Mr. Mueller believes his name
 20 is Richard. Does that refresh your recollection?
 21 A. Maybe. I don't want to get in trouble by
 22 getting anybody's name wrong.
 23 Q. That's fine.
 24 A. Yeah, it's Richard Berg.

1 HEARING OFFICER KINNALLY: Thank you.
 2 THE WITNESS: Here's a copy of the report,
 3 but...
 4 BY MR. PORTER:
 5 Q. Now, the Berg report also uses Exhibit 5
 6 in some degree; is that correct?
 7 A. Yes.
 8 Q. And describe for the Board what Exhibit 5
 9 is, please.
 10 A. Well, Grundy County Exhibit 5, which is
 11 the last one, basically what this shows is obviously
 12 you'd rather have site-specific data to characterize a
 13 specific site, but Figure 5 shows Grundy County.
 14 And if you look at it, over half of
 15 Grundy -- I'm sorry. Strike that. It should be
 16 Kendall County.
 17 Over half of Kendall County would be
 18 classified as a low-potential for groundwater
 19 contamination because it has very thick till deposits
 20 over the top of the aquifer that offer a natural
 21 protection for the aquifer that we don't see at the
 22 proposed site.
 23 Q. Now, did you use Exhibit 2 and 5 -- strike
 24 that.

1 Q. So do you believe that this is an
 2 appropriate location, then, for a proposed landfill?
 3 A. No. I mean, there's plenty of alternative
 4 sites in the County. Over 50 percent of the County
 5 has, you know, thick deposits of till to offer natural
 6 protection. It just would seem logical to utilize
 7 that protection to protect the aquifer.
 8 Q. Now, we've heard testimony that the lower
 9 formation of the Galena aquifer and the Platteville
 10 Formation create a confining unit to the upper Galena
 11 aquifer and St. Peter's Sandstone aquifer.
 12 Do you agree with that
 13 characterization?
 14 A. I don't agree that there is enough data to
 15 reach that conclusion that it's a confining unit.
 16 Q. Why not?
 17 A. One, the -- in the Application it was
 18 based upon a lithological description of the unit,
 19 that it contained some shale layers and some chert.
 20 Q. I'm sorry. Lithological description, what
 21 does that mean?
 22 A. Basically when the core sample comes out
 23 of the ground, the geologist logs it, he just looks at
 24 it, is it dolomite, and then you get into descriptions

1 Did you use Exhibit 2 as a guide to
 2 what the hydrogeologic conductivity is for this area
 3 in conjunction with the map, or did you use
 4 site-specific analysis?
 5 A. No. We relied upon the site-specific
 6 information, and I think that the table is just kind
 7 of a good reference for people to look at and just
 8 kind of get a feel for how susceptible an area is.
 9 Q. And within the Application, what
 10 site-specific information did you review to come to a
 11 conclusion that this was A-1?
 12 A. Well, you look at the soil boring logs,
 13 the geologic and hydrogeologic descriptions of the
 14 units at the site, the aquifer test data. There's
 15 been a groundwater modeling done at the site. There's
 16 also been testing for inorganic constituents naturally
 17 in the groundwater quality, and there's also been some
 18 tritium testing, too.
 19 Q. And so using this Berg report, this A-1
 20 area is the area that is most susceptible to aquifer
 21 contamination; is that correct?
 22 A. Yeah, I believe so. I mean, fractured
 23 bedrock close to the ground surface is highly
 24 susceptible.

1 of it. And it's actually -- it's logged on the logs
 2 as a dolomite, but the descriptions -- the detailed
 3 descriptions they describe some shaley layers within
 4 it as well as some chert layers within that formation.
 5 Q. And what's wrong with that?
 6 A. Well, the problem is if you look at the
 7 logs and you look at the -- at the hydraulic
 8 conductivity of the whole aquifer, the
 9 dolomite/limestone, it's primarily fractures and what
 10 we call a secondary permeability in it.
 11 If you have like a low-permeability
 12 material like the shales or the chert, I mean, there's
 13 been aquifer testing done in the overlying Galena
 14 limestone in areas where it's been extremely low
 15 hydraulic conductivity if you look on some of the
 16 cross-sections. And it's just a matter of hitting one
 17 of these fractures or partings or fissures or
 18 something else, whatever you want to call it, in the
 19 limestone. That's where the water typically comes
 20 from.
 21 And if you look at some of the angle
 22 coreholes that were done on the site, they're
 23 described as, you know -- there's some vertical
 24 fractures that were encountered in it. I would expect

1 that, you know, there would be some type of hydraulic
2 conductivity there.

3 There was no aquifer testing or
4 packer testing done of the formation itself to see
5 if -- that it did not have hydraulic conductivity to
6 it to act as a confining unit.

7 Q. If you'd briefly explain, what is a packer
8 test?

9 A. Well, a packer test is similar to what you
10 saw with the single-well aquifer tests which I believe
11 was described earlier. You screen an area across an
12 interval, you reduce the pressure and measure a
13 response, and basically that tells you how readily the
14 formation yields or doesn't yield water.

15 Q. The single-well aquifer test, is that a
16 slug test?

17 A. Yes, that would be a slug test.

18 And basically a packer test is the
19 same thing except you don't build a well. You
20 would -- you go in with a piece of drilling equipment,
21 you'd seal off an area of the formation you want to
22 test, you'd pressurize it with water, and you'd
23 measure the flow into the formation either with a drop
24 of pressure or measure the amount of water that flows

1 down there, and you just do a calculation and see
2 basically how much water flows in or flows out.

3 Q. So why is it important that packer tests
4 be done when one is characterizing an area as a
5 confining unit?

6 A. Well, I think if you're going to call
7 something that -- the -- the boring logs that have
8 gone through it would indicate that it's permeable and
9 you would expect it to be classified as an aquifer,
10 you know, I'd expect you do some testing on it to
11 verify that.

12 Q. Is there an explanation in the Application
13 as to why packer tests were not done of this purported
14 confining unit?

15 A. No. From my review of the Siting
16 Application, it just referred to the descriptions, the
17 lithologic, the descriptions of the shaley units or
18 the chert.

19 Q. So in other words, someone's visual
20 observation?

21 A. Correct. And the secondary -- the
22 fractures that were done in the angle -- the angle
23 boreholes were not considered.

24 Q. Earlier you mentioned you had some

1 experience with hydrogeological modeling.

2 Did you do any modeling in this case?

3 A. Yes, we did. We did a MIGRATE model to
4 try to reproduce what was done in the Application.

5 Q. And is that contained in one of the
6 exhibits that we have handed up today?

7 A. Yes, Grundy Exhibit 3.

8 Q. And briefly explain what was accomplished
9 with Grundy Exhibit 3.

10 A. Basically what we did is in the model
11 output, if you look at the next page, the top of it
12 says WR-PEI-R. We basically did the same MIGRATE
13 model. I believe it was the same version that was
14 done in the Application.

15 And all we changed in it was we used
16 different molecular diffusion which is a property of
17 the HDPE liner, and then we used a different diffusion
18 coefficient for the GCL, basically the top part of the
19 liner system, that top, you know, less than one-inch
20 thick area, we used a different diffusion coefficient.

21 Q. Why did you use different diffusion
22 coefficients?

23 A. Well, the values that were used in the
24 Application, there was no backup for where they came

1 from. So we went back and did the -- we recently did
2 a Laraway review, and a couple years back we did a
3 Kankakee County review, and they did a Pollute model,
4 and they --

5 Q. "They" being who?

6 A. "They" being Waste Management and Earth
7 Tech.

8 Q. Okay. Keep going.

9 A. And they used a diffusion coefficient for
10 the HDPE liner, and so we just basically took that and
11 plugged it in to their base model. And that's
12 actually included in one -- in the back here. I took
13 this right out of the siting application.

14 If you read it, it's got some of my
15 handwriting on the upper right-hand corner. That's
16 got -- this shows their diffusion coefficient that
17 they used from their -- let's see. That would be from
18 Laraway.

19 Q. That's the second-to-last page of --

20 A. Yes.

21 Q. Exhibit No. 3 --

22 HEARING OFFICER KINNALLY: Time out. One
23 person talks at a time, okay. Let's do it that way.

24

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1 BY MR. PORTER:
2 Q. That's the second-to-last page of
3 Exhibit 3; is that right?
4 A. That's this one right here. (Indicating.)
5 And then the last one, this is a
6 table that had pretty good documentation of the input
7 parameters on the Kankakee, and this shows it here.
8 The next table is the diffusion coefficient they used
9 for HDPE. (Indicating.)
10 Q. Is there an explanation in the Application
11 as to why the normal diffusion coefficients were not
12 used?
13 A. None that I could find.
14 Q. And when you used the usual diffusion
15 coefficients that are used by Waste Management, what
16 was the result of the model run?
17 A. Well, I also did -- there was no backup
18 for the GCL layer that's between it, so we just went
19 and I got -- you know, there was a wealth of diffusion
20 coefficients that were much higher than what was used
21 in the model, and, you know, we plugged that in there.
22 And once we ran the model using their base model, the
23 model failed for like 13 different parameters.
24 Q. And what do you mean by the model failed

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1 for 13 parameters?
2 A. Well, basically if you look at the first
3 table, it says Table 1, this kind of summarizes it
4 right here.
5 I mean, we basically -- if you look
6 at the model predicted concentrations, this whole
7 table of chemical compounds on the left side, this is
8 where they had leachate concentrations. And basically
9 the next column over where it says leachate
10 concentrations, they took the default leachate
11 concentrations from an EPA guidance document. This is
12 typical leachate concentrations.
13 And then the model output
14 concentration, basically you take the leachate
15 concentration, you model it by this model predicted
16 concentration output, it's on the top left where it
17 says right there the 0 -- 0.9971 --
18 Q. Under arsenic?
19 A. Yeah, it's right above routine parameters.
20 Q. Okay.
21 A. You multiply that times the leachate
22 concentration and you get the modeled output
23 concentration.
24 Basically the MIGRATE model is

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1 predicting, based on what you're telling it to do,
2 what the groundwater concentration is going to be.
3 And in this instance, it's 100 years after the
4 projected closure date, and 100 years -- or 100 feet
5 downgradient from the waste boundary.
6 Q. And when you used the appropriate
7 diffusion coefficients, you ended up with the model
8 failing?
9 A. Right.
10 Q. And what does that mean in layman's terms?
11 A. The MACP/AGQS, that's what the Applicant
12 is saying is the background concentration of the
13 groundwater out there. And basically if you're
14 predicting the concentration is over what they say the
15 background is, or in a couple cases we didn't agree
16 with the way they calculated it for some of the top --
17 I think it was the top parameters, the routine
18 parameters, you get a fail. If you look down, I
19 believe there's 13 of the parameters that fail.
20 Q. And fail meaning that you're going to have
21 those dangerous chemicals --
22 A. Yes.
23 Q. -- in levels in exceedance of that which
24 is safe; correct?

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1 A. The model, which is based -- the model is
2 basing -- the model is predicting that there will be
3 an impact over background groundwater concentrations
4 100 years after closure 100 feet downgradient from the
5 waste boundary.
6 Q. Did you perform any investigation of the
7 well logs to determine whether or not this
8 characterization of a confining unit was appropriate?
9 A. Well, I also had some of our staff --
10 there was a magnitude of private groundwater use in
11 the area around the site. I just instructed them, I
12 said, you know, typically a homeowner is not going to
13 want to spend anymore on their well than they have to,
14 but typically some of the homeowners or farms may need
15 more water, they'll go deeper.
16 So I'm like find me the wells closest
17 to the site that go down through the Galena aquifer
18 into the deeper aquifer, and if they're needing more
19 water, they're going to go all the way through what
20 the Application called the confining unit, and they
21 wouldn't draw water -- take water from a confining
22 unit.
23 And what we found is that I think it
24 was like 13 or 14 of the nearest wells that we found

1 extended down into the, what the Application calls, a
 2 confining unit.
 3 Q. And what is the significance of that?
 4 A. Well, I mean, if you have private wells
 5 that are obtaining water from what's being called as a
 6 confining unit in the Application.
 7 Q. So, in reality, if a well is drawing water
 8 from that location, what is that location?
 9 A. I think it would be an aquifer.
 10 Q. Are any of the wells completely obtaining
 11 water from a purported confining unit?
 12 A. Yeah. There was a couple of the wells
 13 that were -- that on the well logs they said were
 14 entirely -- it says water obtained from, and they were
 15 at a depth that was consistent with what's called an
 16 aquitard -- or not an aquitard, but a confining unit.
 17 Q. So, again, is that clear evidence to you
 18 that that is not aquitard or an aquiclude?
 19 A. It would be an aquifer.
 20 Q. And an aquifer is an area where you draw
 21 water and aquitard is when it retards water and
 22 aquiclude is one that excludes water; is that correct?
 23 A. Correct.
 24 Q. Have you reviewed any literature -- well,

1 strike that.
 2 Where would one find --
 3 HEARING OFFICER KINNALLY: I get to tell who
 4 strikes or not.
 5 MR. PORTER: I'm sorry.
 6 HEARING OFFICER KINNALLY: Go ahead.
 7 BY MR. PORTER:
 8 Q. Where in the Application would one find
 9 those logs that you relied upon to determine that this
 10 purported confining unit is actually an aquifer?
 11 A. I think they were all in Volume V, I
 12 believe.
 13 Q. And have you reviewed any literature
 14 concerning the area that Waste Management has
 15 characterized as a confining unit?
 16 A. Yeah. I had my staff just do a literature
 17 search on the Galena-Platteville, and basically
 18 everything described it as, you know, part of that
 19 regional aquifer.
 20 Q. Now, you briefly mentioned the angled
 21 boring logs. Why are they relevant to your opinions
 22 that this is a highly sensitive area?
 23 A. Well, I mean, it would have to -- the
 24 angle boring logs that went through -- the angle

1 borehole logs are important because they're going to
 2 detect vertical fractures or cracks in the formation
 3 that are going to allow downward movement of
 4 groundwater, and the angle borehole encountered a
 5 number of vertical fractures, especially in what was
 6 described as a confining unit.
 7 Q. What relevance does tritium and chloride
 8 have to your opinions, if any?
 9 A. Well, the tritium was found pretty
 10 commonly in the shallow aquifer, and I believe that
 11 was discussed quite a bit at length. But there were
 12 also detects of tritium in what's called the deep
 13 wells. It was above the detection limit, over one,
 14 but it was still detection of something that shouldn't
 15 be there unless it was downward, unless -- you know,
 16 it had to get there within a set amount of time since
 17 tritium, the source of the tritium has only been
 18 around for about 70 years.
 19 Q. You mentioned that there was tritium in
 20 the upper aquifer. What's the significance of that?
 21 A. Well, there's tritium and there's also --
 22 when they did the background calculations, they did --
 23 they had to calculate what the background groundwater
 24 quality was. They collected groundwater samples from

1 the monitoring wells around the site, and the ones
 2 they selected to use to calculate their background
 3 were all shallow.
 4 What you see is, you saw a pretty
 5 good range of chloride concentrations, also. Chloride
 6 is a good indicator parameter of a lot of shallow
 7 impacts. I think it ranged from like 25 to maybe 85
 8 milligrams per liter. So you had a pretty good range
 9 of chloride in the shallow zone.
 10 And if you look deeper, I think there
 11 was one well, one or two wells, possibly, where they
 12 took deeper chloride samples, the chloride
 13 concentrations dropped significantly.
 14 That indicates that the shallow
 15 aquifer is fairly sensitive to contaminates at the
 16 surface like you'd see in road salting or something
 17 like that. Since there's no landfill there now,
 18 commonly you'll get the chloride in there from surface
 19 contaminates.
 20 And in the tritium, same thing. You
 21 have pretty high surface concentrations of tritium in
 22 the shallow bedrock, and then you also see it at
 23 depth. You know, I think it's like 50 to 70 feet into
 24 the bedrock, approximately, you're seeing detection of

1 tritium concentration which indicates that you're
2 getting some mixing, some vertical movement and some
3 mixing of the shallow groundwater in the aquifer with
4 the deeper flow system.

5 Q. Waste Management has suggested that that
6 might be explained by horizontal flow.

7 Do you have an opinion regarding that
8 suggestion?

9 A. I don't believe so because of the -- from
10 what I saw, the recharge area was several miles off,
11 and with the seepage velocities described in the
12 Application, there's no way that tritium could have
13 gotten to -- especially to the deep areas without some
14 type of mixing from a vertical source.

15 Q. And approximately how long would it take
16 to get from that recharge area to the area where the
17 tritium was found?

18 A. I mean, I've seen -- I haven't sat down
19 and measured it. I don't think there was a real map
20 showing where -- I think it was the Newark they were
21 describing as a recharge area. It's several miles
22 away.

23 HEARING OFFICER KINNALLY: Eight miles.
24

1 what the material is, and one of the trickiest things
2 is to look at fractures or secondary permeability.
3 You have to decide what's a mechanical break, what's
4 natural.

5 Sometime with the drill rig as it
6 spins down or if you're using rotosonic if you're
7 driving it, it will induce a break in the sample. So
8 you have to make a decision in the field is this a
9 mechanical break, is it something that wasn't there
10 when it was in place or it was something that was
11 there.

12 And then -- so the geologist, you
13 know, logs it, and then basically in the original
14 application they accepted what was there. And then to
15 go back one or two years later and start pulling out
16 old core samples and trying to log fractures from
17 samples that have dried out and deteriorated, it's
18 just -- you know, it would be extremely difficult to
19 do.

20 I mean, I would -- you could possibly
21 go back and look at the descriptions, is it a
22 limestone, is it a dolomite, but to go in and try to
23 characterize what the fractures are from something
24 that's just been allowed to dry out for a period of

1 BY THE WITNESS:

2 A. Eight miles away.

3 I mean, you're talking about -- I
4 could sit down and do the calculation. You're talking
5 thousands of years for it to get there, and -- you
6 know, at best, and, you know, the tritium has only
7 been around for 70 years to where it's in
8 concentrations that we're seeing in the groundwater on
9 the site.

10 BY MR. PORTER:

11 Q. Do you have any criticisms regarding how
12 the boring logs were recharacterized by Waste
13 Management?

14 A. Well, I wasn't -- I wasn't involved with
15 the first siting application for the site, but it's my
16 understanding from just looking at transcripts that
17 there was some changes done to the boring logs that
18 were originally presented in the first application for
19 the site.

20 Q. And what happened?

21 A. Well, I mean, basically the best time to
22 log a sample, especially a rock core, is when it first
23 comes out of the ground. The geologist, you know,
24 pulls the sample out, he looks at it, he describes

1 several years. I mean, if you're that interested in
2 it, you should go back out and redo the core sample.

3 Q. Did you run any sensitivity analyses?

4 A. Yeah, we did, and that's I believe Grundy
5 Exhibit 4. We ran a sensitivity analysis for, you
6 know, what we thought were a good sweep of the input
7 parameters in the model.

8 Q. And briefly explain what a sensitivity
9 analysis is.

10 A. Basically what you do is -- a computer
11 model is just estimating. You're predicting what's
12 going to happen in the future. And, you know,
13 basically if it's garbage in, it's garbage out.
14 You're kind of evaluating the reliability of the data
15 that you're plugging into the model.

16 And so if you know, you know, the
17 input on the model, you got a decent idea what the
18 range should be for each input, you usually plug it
19 in, with a sensitivity run you run the high and the
20 low and see if that affects the output of the model
21 significantly or if you can reach the conclusion or
22 not.

23 And based upon that, you go back and
24 you say, okay, we've got enough information for this

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1 input parameter or we don't have enough information on
2 this input parameter.
3 So that's basically what you run a
4 sensitivity analysis for is just to validate your
5 input data and make sure that the data that's going
6 into the model is reliable.
7 Q. Okay. On Exhibit 4, did you run a
8 sensitivity analysis changing the clay depths?
9 A. Yeah. That was the one parameter that we
10 found was the most sensitive. We basically went in a
11 quarter magnitude change each way. And the base model
12 ran about five -- a little over 5.2 feet of clay --
13 Q. If you would, please, use Exhibit 4 while
14 you're explaining this. That way the Board can follow
15 along.
16 A. Okay. If you look at Table 2, if you look
17 under description where you -- you have description,
18 that's describing the input parameter. If you go to
19 file, the second column over, where there's like 1a,
20 1b, the 1b run I found interesting because what we did
21 there is we increased the -- we increased the
22 thickness of the upper confining unit, that clay
23 Equality Formation which is about five feet -- or 5.2
24 feet as its model. We increased it in order of

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1 magnitude, which would be 52 feet.
2 Q. Why did you do that?
3 A. Well, we were going in, doing things order
4 of magnitude so that's the way we did it.
5 Q. And what happened when you increased the
6 clay layer to 50 feet as opposed to five feet?
7 A. If you look at the far right column or the
8 results, that basically tells you what is the
9 reduction in the contaminant concentration in the
10 aquifer that's predicted in the model.
11 And you can see that by increasing
12 that upper confining unit to over 50 feet, you knock
13 down the predicted concentration about a billion times
14 or so than what's predicted in the base model.
15 Q. It's a billion times safer?
16 A. It's something like that. It's just the
17 model is predicting a significantly lower impact by
18 having that natural clay layer there that's about 50,
19 50-plus feet.
20 If you look at Figure 5, you have
21 over half of Kendall County has tilt thicknesses that
22 offer a lot of protection to the aquifer that you just
23 don't see on the site. That just goes to show how
24 sensitive the site is to surface contamination and how

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1 much more protection you get of the aquifer from the
2 natural geology by having over 50 feet of glacial
3 till.
4 HEARING OFFICER KINNALLY: Time out for a
5 minute.
6 With respect to 1a, is that the model
7 that was used by Waste Management?
8 THE WITNESS: No. 1a I actually decreased to
9 like -- 1a would be like instead of five feet, it
10 would be about a half a foot thickness.
11 HEARING OFFICER KINNALLY: And with respect to
12 that result, is the result the incidents or the likely
13 incidents of contamination to the aquifer based on the
14 model that you ran there?
15 THE WITNESS: Basically the result -- if you
16 look on the top underneath Table 2 where it says
17 original input result, that's our base model. That's
18 what we're saying you're going to multiply that number
19 by your leachate concentration and get what the --
20 HEARING OFFICER KINNALLY: Right. No, I
21 understand that.
22 THE WITNESS: Okay.
23 HEARING OFFICER KINNALLY: I want to know what
24 0.35 times 10 to the minus one in terms of a

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1 probability, what is that?
2 THE WITNESS: Well, you basically would plug
3 that in to Table 1 on Grundy Exhibit 3. You could
4 plug that in, you'd probably have more parameters
5 fail.
6 HEARING OFFICER KINNALLY: Well that's because
7 you've decreased the thickness of the --
8 THE WITNESS: Right. Of that layer there. So
9 that's basically showing how -- how sensitive the
10 model is to that particular input parameter.
11 HEARING OFFICER KINNALLY: Yeah, but I mean,
12 can you tell us, can you tell the Board what the
13 probability is other than using -- I mean, 35 times --
14 let's do it this way: 0.47 times 10 to the minus 14th
15 is zero.
16 THE WITNESS: Correct.
17 HEARING OFFICER KINNALLY: Okay. Between that
18 number, zero, and .35 times 10 to the minus one, what
19 is that probability?
20 THE WITNESS: It's not a probability. It's
21 just predicting a concentration. I mean, there's no
22 statistical or probability into it. It's just the way
23 this modeling -- as far as the Illinois EPA is
24 concerned is it's either a pass/fail for them to issue

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1 a permit.
2 HEARING OFFICER KINNALLY: Well, can anybody
3 tell us what the probability of this aquifer being
4 invaded by contaminates is? Can you tell me what that
5 is? Is it one percent, is it two percent, is it zero?
6 What is it, do you know?
7 THE WITNESS: I can't tell you, and I would be
8 suspect if anybody sat and tried to tell you that.
9 HEARING OFFICER KINNALLY: Somebody ought to be
10 able to tell us that. Isn't there a statistician or
11 somebody that can tell us what that probability is?
12 Isn't that the issue is here?
13 THE WITNESS: Well, there's a lot of people
14 from the insurance company, they're unemployed, maybe
15 they could do that for us.
16 HEARING OFFICER KINNALLY: I'm sorry to
17 interrupt. I just wanted to try to... Go ahead.
18 BY MR. PORTER:
19 Q. What we do know is if you were increase
20 the thickness of that layer to 50 feet, it would be
21 approximately a billion times --
22 A. Yeah. You know, it's just a good
23 illustration of how much more protective having good
24 geology for the site is to place a landfill. I mean,

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1 you can build liners to try to make up for it, double
2 composite liner.
3 Earth Tech did a study for Illinois
4 EPA, and they concluded that there was really no
5 cost-effective advantage to doing these double
6 composite liners, and they reference where in states
7 that required it, the geology was -- you know, was
8 sensitive. So basically they don't have any choice.
9 But here I think Kendall County has a
10 choice. You've got areas that are highly susceptible,
11 you've got a lot of area that isn't. And I think to
12 meet Criteria 2 and be protective of, you know,
13 health, safety, and welfare to locating a facility,
14 you need to consider the geology for the site.
15 Q. Did you consider the prior Willowhill
16 Landfill application? Did you review that one?
17 A. Yes.
18 Q. You did. And hydrogeologically is that
19 site any different?
20 A. Yeah, it's the same site basically.
21 Q. Why is that?
22 A. Well, I mean, it's sensitive, fractured
23 bedrock close to the ground surface. I mean, the
24 design of the facility is different but the

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1 hydrogeologic setting is very similar.
2 Q. Once again, is it your opinion that
3 Criterion 3 of Section 39.2 has not been met?
4 A. Yes, that's my opinion.
5 MR. PORTER: I would move for admission of
6 Exhibits 2 through 5, Mr. Kinnally.
7 HEARING OFFICER KINNALLY: Well, we're going to
8 take a break. Why don't you move them in afterwards.
9 MR. PORTER: Thank you.
10 (Recess taken.)
11 HEARING OFFICER KINNALLY: All right. I'd like
12 to get started again. Okay. We have a quorum.
13 I want to take a poll from the
14 lawyers as to whether or not we have any witnesses
15 available for tomorrow night, because if we don't, I'm
16 probably inclined to cancel the hearing for Friday and
17 take a three-day weekend and come back on Monday.
18 I don't think there's anybody that's
19 got a witness available for tomorrow night; is that
20 accurate?
21 MR. BLAZER: That is accurate.
22 And I can speak for Mr. Belt, he has
23 indicated that Logan would be available Monday or
24 Tuesday.

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1 HEARING OFFICER KINNALLY: Well, he better get
2 him available.
3 Ms. Kramer, Minooka has one more
4 witness?
5 MS. KRAMER: That's correct.
6 HEARING OFFICER KINNALLY: You don't have any?
7 MR. BLAZER: Not at this juncture.
8 HEARING OFFICER KINNALLY: Mr. Porter?
9 MR. PORTER: We may call Mr. Shue. That
10 decision has not been made yet. If we do call him, I
11 believe he's available Monday.
12 HEARING OFFICER KINNALLY: And so that leaves
13 us with Mr. Vogen, the geologist for Minooka.
14 MR. BLAZER: Do we know if George is calling
15 Norris?
16 HEARING OFFICER KINNALLY: George told me that
17 Norris would be here Monday. So I think I'm going to
18 cancel the hearing for tomorrow night, then, because
19 we'll have enough time next week, and we've been going
20 at it pretty hard. So unless somebody has -- I guess
21 that's my prerogative. Okay. So I'm going to cancel
22 tomorrow night. We won't meet Saturday, and we'll
23 reconvene Monday.
24 I'd like --

1 MR. BLAZER: We'll post that on the Web site
 2 tomorrow morning.
 3 HEARING OFFICER KINNALLY: I understand. And
 4 I'd like the lawyers to give me an idea -- and I think
 5 I asked for this before -- how long these witnesses
 6 are going to be, because it doesn't sound like we have
 7 too many more.
 8 I think, then, we can start public
 9 comment Tuesday and Wednesday and Thursday and Friday,
 10 if we need it, and I don't know if Mr. Moran is going
 11 to have any rebuttal. He may. But that should give
 12 us sufficient time next week to complete the entire
 13 hearing, I would assume.
 14 So, all right. That's my order, I
 15 guess, or my -- we're going to cancel tomorrow night.
 16 We won't meet Saturday, and we'll start again on
 17 Monday.
 18 So, Mr. Porter, you were moving into
 19 evidence your exhibits. Is there any objection to
 20 these?
 21 (No response.)
 22 HEARING OFFICER KINNALLY: I have one question.
 23 With respect to Exhibit No. 3, is this the same
 24 exhibit that was filed before the hearing started,

1 because it says the run is September 12th of 2008. Is
 2 this a different one?
 3 MR. PORTER: This is the supplemental one --
 4 THE WITNESS: Right.
 5 MR. PORTER: -- that was filed before the
 6 hearing started but after the September 5th date.
 7 HEARING OFFICER KINNALLY: Okay. Any objection
 8 to these exhibits?
 9 (No response.)
 10 HEARING OFFICER KINNALLY: All right. They're
 11 in. They'll be admitted.
 12 (Grundy County Exhibit Nos. 2-5
 13 admitted.)
 14 HEARING OFFICER KINNALLY: Mr. Moran, do you
 15 want to go first?
 16 MR. MORAN: I'd be happy to. Thank you,
 17 Mr. Hearing Officer.
 18 CROSS-EXAMINATION
 19 BY MR. MORAN:
 20 Q. Mr. VanHook, did you consider any of the
 21 information in the Application that described the
 22 aquifer tests that were done?
 23 A. Yes, I looked at single-well aquifer
 24 tests.

1 Q. And did you consider all of the text that
 2 had described the results of those aquifer tests?
 3 A. I reviewed it, and, yes.
 4 Q. Have you ever performed an aquifer test?
 5 A. Yes.
 6 Q. Okay. On how many occasions?
 7 A. I've done single-well aquifer tests on --
 8 I wouldn't even count. You know, hundreds. And then
 9 I've done a few single-well pump tests.
 10 Q. You didn't mention the fact that you
 11 considered the aquifer testing here in any of your
 12 testimony.
 13 A. Right.
 14 Q. Was that intentional, or did you just --
 15 A. No, I think I mentioned some of the
 16 hydraulic conductivities in the cross-sections. One
 17 of the hydraulic conductivities was real low in the
 18 Galena aquifer, it was like 10 to the minus eight
 19 centimeters per second, and right above it or below
 20 it, it was 10 to the minus four. So you had a wide
 21 variety of hydraulic conductivities in the aquifer.
 22 Q. Aren't those the slug tests you were just
 23 referring to?
 24 A. Yes, those are single-well aquifers --

1 slug tests.
 2 Q. Now, you mentioned you did this
 3 hydrogeological modeling; right?
 4 A. Right.
 5 Q. Now, that hydrogeological modeling you
 6 did, essentially that's part of the model which is
 7 presented to the IEPA as part of the groundwater
 8 impact assessment?
 9 A. Correct.
 10 Q. And is there a name for that program that
 11 is run and presented as part of the groundwater impact
 12 assessment that is done for the agency?
 13 A. You mean MIGRATE, the computer model?
 14 Q. Not the computer model, but what the
 15 actual model is that's presented that is part of the
 16 groundwater assessment.
 17 The contaminant transport model, does
 18 that ring a bell?
 19 A. Yes, yes.
 20 Q. Now, have you had any experience in
 21 submitting permit applications to the agency which
 22 contain such computer -- I'm sorry, contaminant
 23 transport models?
 24 A. Yes.

1 Q. On how many occasions have you submitted a
 2 groundwater impact assessment in connection with a
 3 permit application to the agency?
 4 A. I did -- let's see. We did one -- when
 5 the regulations first came out, we did one for City
 6 Water, Light, and Power in Springfield, for Brickyard
 7 Landfill in Danville. Oh, let's see. I think we did
 8 one for -- I'm trying to think, for Saline County
 9 Landfill. I think that is another Allied site.
 10 I'm trying to think if I did one up
 11 for -- I mean for groundwater impact assessment, I
 12 can't remember if we did one for the Landcomp
 13 facility up in Ottawa or no. I mean, I did a lot of
 14 the hydrogeo fieldwork on that, and I can't remember
 15 if we did that one or not. It's been so many years
 16 ago.
 17 Q. So it's your best recollection you've done
 18 three of these models for purposes of submitting a
 19 permit application to the agency?
 20 A. That's probably fair, yes.
 21 Q. Do you have any experience outside the
 22 State of Illinois with submitting permit applications
 23 to regulatory agencies?
 24 A. Not for landfill, no.

1 Q. Now, the groundwater impact assessment
 2 that's done, that's a process, isn't it? Isn't it
 3 defined in the regulations as a process?
 4 A. Yes.
 5 Q. And the way it works is you will prepare
 6 your version of a groundwater impact assessment or
 7 contaminant transport model, and you'll submit that to
 8 the IEPA as part of the permit application; correct?
 9 A. Yes, I believe that sounds correct.
 10 Q. Okay. And normally what will occur is the
 11 agency will then provide comments on the specific
 12 model that you've submitted; is that correct?
 13 A. That's correct.
 14 Q. Okay. And in your experience, is it --
 15 has it been common that you will normally receive a
 16 number of comments with respect to the various
 17 submissions of that model submitted to the agency?
 18 A. Right. It's a -- it's an iterative
 19 process, I think, with the agency to get that through,
 20 especially with a new facility.
 21 Q. Right. And at some point the model
 22 ultimately will be made to pass with the
 23 recommendations that the agency makes; is that
 24 correct?

1 A. That's correct.
 2 Q. And also this groundwater impact
 3 assessment, contaminant transport modeling, is not a
 4 process that is required as part of the siting
 5 process; is that your understanding?
 6 A. Unless it's required by the Siting
 7 Ordinance.
 8 Q. And it is not required here, is it?
 9 A. Not to my knowledge.
 10 Q. Now, Mr. VanHook, you've been involved in
 11 a number of different reviews of proposed landfills.
 12 I know you've testified here about the depth of the
 13 in situ material beneath the bottom of the liner.
 14 A. Correct.
 15 Q. And I believe you've indicated that the
 16 greater the thickness of that in situ material, the
 17 more protective it is?
 18 A. Depending upon the hydraulic
 19 characterization of the material. I mean, if it's a
 20 low-permeability till material, it would be
 21 protective.
 22 Q. In your view, would a landfill that's
 23 proposed that had in certain areas of the facility
 24 in situ material of two feet in thickness, would that

1 be adequate, in your view, to be protective of the
 2 underlying aquifer?
 3 A. It's going to depend upon the situation.
 4 It's hard to generalize something.
 5 Two feet over an aquifer, I mean,
 6 what do you mean by an aquifer? I mean, is it
 7 something that no one uses? Are you talking just
 8 meets the definition of Class 1 groundwater aquifer?
 9 I think you have to have more
 10 information before you can make that determination.
 11 Q. Well, let's assume we have at this
 12 proposed facility an aquifer similar in
 13 characteristics and quality that we're dealing with
 14 for this site.
 15 A. I'd have to look at the specifics to make
 16 a conclusion on that.
 17 Q. So your view is simply because there's two
 18 feet of material between the bottom of a liner and the
 19 top of an aquifer, that in and of itself does not
 20 suggest that that facility could not be built and
 21 operated to be protective of that aquifer?
 22 A. It's going to depend on the aquifer.
 23 Q. Okay. And, in fact, you have reviewed
 24 applications for facilities where portions of a

1 landfill have no more than two feet of in situ
 2 material between the bottom of the liner and the top
 3 of the aquifer; isn't that correct?
 4 A. I've reviewed landfills where the liner
 5 sits right on top of the aquifer before.
 6 Q. Okay. So that the thickness of that
 7 in situ material is not a critical element in
 8 determining whether the operation of that facility can
 9 be protective of the aquifer?
 10 A. Well, I think as far as locating --
 11 meeting the location standard to be protective, it
 12 doesn't make sense to me to locate a landfill over an
 13 area that's real sensitive to groundwater
 14 contamination, that on-site you have shallow
 15 groundwater contamination in the aquifer, when you
 16 have alternative locations, what is it, a handful of
 17 miles one direction, I think, to the west, you have a
 18 lot thicker, better suited hydrogeology for a
 19 facility.
 20 Q. Mr. VanHook, you just told us you have
 21 reviewed and approved facilities that are built
 22 directly in the aquifer; is that correct?
 23 A. I don't believe -- I mean, the ones I've
 24 reviewed, we've recommended denial, and I believe some

1 areas of that landfill which had a thickness of
 2 in situ material between the bottom of the liner and
 3 the top of the aquifer of two feet; is that correct?
 4 A. That could be, but I also recommended
 5 that -- we recommended denial of some of the expansion
 6 on some of those areas.
 7 Q. But you didn't recommend any denial of
 8 those areas of that expansion in which there was only
 9 two feet of this in situ material?
 10 A. I -- to be -- I cannot remember
 11 specifically what we recommended. I knew there were
 12 some special conditions that were added on. I can't
 13 remember the specifics of what we recommended for
 14 denial.
 15 I do recommend -- we recommended
 16 denial of the approval of part of that expansion.
 17 Q. And the part of the expansion that you
 18 recommended denial of was the overlay, the vertical
 19 expansion over that part of the existing landfill, not
 20 the area where I'm talking about where we have the two
 21 feet of in situ material; is that correct?
 22 A. I -- I don't know. I mean, what you --
 23 what you say could be correct, that we recommended
 24 approval. I don't remember.

1 of them I've done third-party opposition against with
 2 the Town & Country facility, in particular. That one
 3 was keyed directly into the aquifer.
 4 And I believe that the last facility
 5 I looked at in Kendall County, a lot of the liner sat
 6 directly on the bedrock aquifer.
 7 So, I mean, I'm not saying we
 8 recommended approval for those facilities, I'm just
 9 saying we reviewed them. And in a lot of cases, I
 10 recommended that the siting facility deny it.
 11 Q. Well, let me point out or bring to your
 12 attention one of the landfills that you have reviewed,
 13 and that's the expansion of the Kankakee Landfill; is
 14 that correct?
 15 A. That's correct. That's correct.
 16 Q. You were retained by Kankakee County to
 17 review that facility?
 18 A. That's correct.
 19 Q. In fact, there were two applications, I
 20 believe, submitted in connection with that proposed
 21 expansion?
 22 A. Yes. It's been a few years, but I
 23 remember it.
 24 Q. And, in fact, at that facility, there were

1 I just remember that we recommended
 2 denial of some of that area for vertical expansion,
 3 and I believe the County addressed some of it with
 4 special conditions or not allowing expansion over some
 5 of the areas. What the specifics were on -- what we
 6 recommended denial for and what we approved, I'd have
 7 to go back and look.
 8 Q. Okay. But, indeed, your recommendation
 9 for that proposed facility was for an approval of that
 10 part of the facility which had beneath the liner two
 11 feet of in situ material above the uppermost aquifer?
 12 MR. PORTER: Objection; asked and answered.
 13 HEARING OFFICER KINNALLY: No, I don't think
 14 he's answered it. Go ahead.
 15 BY THE WITNESS:
 16 A. I don't know if that's correct or not.
 17 BY MR. MORAN:
 18 Q. And in your recommendation as part of that
 19 approval, you submitted to Kankakee County on two
 20 occasions; is that correct?
 21 A. I believe we did two reviews for Kankakee
 22 County for that.
 23 Q. And both of these recommendations were for
 24 an approval; correct?

1 A. There was a recommendation for an approval
2 of some of it and a recommendation for denial, a part
3 of it; and then I believe that the County
4 special-conditioned some of the approvals that went
5 into it, and I would have to look specifically at what
6 we did.

7 Q. Okay. And, in fact, in that Kankakee
8 County expansion, there was also a condition
9 recommended with respect to the liner system at that
10 landfill; isn't that correct?

11 A. That could be. I don't recollect that. I
12 mean, I know there was talk of a liner system over the
13 vertical expansion over the waste because we had
14 groundwater contamination at the site on the existing
15 Waste Management facility, and I know there was -- I
16 remember there was till, and in one end of it, it
17 pinched out and there was a concern about that area,
18 too.

19 And regarding which areas we
20 recommended denial of and which areas we recommended
21 approval, I'd have to go back and look.

22 Q. Well, Mr. VanHook, isn't it true that as a
23 consultant to the County Board of Kankakee in that
24 matter, and as part of that recommended approval, the

1 County Board imposed as a condition that a double
2 composite liner be made part of that design?

3 A. That -- that may be. That may be.

4 Q. And, indeed, with respect to that
5 particular facility, Mr. Helsten was representing the
6 County Board in that case; isn't that correct?

7 A. We change around so much with the players,
8 I can't keep it straight. I'm sorry.

9 HEARING OFFICER KINNALLY: Well, I would
10 disagree with that. It seems to be the same cast of
11 characters.

12 THE WITNESS: That's what I'm saying. It is
13 different role models.

14 HEARING OFFICER KINNALLY: Go ahead, Mr. Moran.

15 BY THE WITNESS:

16 A. If you say so, I believe it. I believe
17 that's correct, but I'd have to go look.

18 BY MR. MORAN:

19 Q. Well, in fact, Mr. Helsten retained you
20 and Patrick Engineering to perform your reviewing role
21 in that facility?

22 A. I believe we worked for the State's
23 Attorney of Kankakee or staff.

24 Q. Now, Mr. VanHook, you made a big point of

1 referencing this Berg exhibit, the Richard Berg
2 exhibit; is that correct?

3 A. Right, right.

4 Q. And you made a big point of identifying --
5 well, your opinion was based, in large measure, on the
6 fact that this Berg report had presumably identified
7 the area of this site as a sensitive site; is that
8 correct?

9 A. Well, I'm not saying it identified the
10 site, and what I'm using with the Berg report -- I
11 mean all this hydrogeo gets really complicated. I
12 think with the Berg report, someone can sit down and
13 look at it, a layperson can look at it and get a feel
14 for areas that are sensitive to solid waste disposal.
15 It lists them out, this is the highest potential, this
16 is the lowest.

17 I mean, you get a lot of technical
18 information, but a layperson can sit down and read it,
19 and I think it's understandable. And I'm just trying
20 to make this understandable for lay people. And I
21 think if you look at that table, I mean, I'm not
22 saying we're using the map for siting, to pick a site,
23 but you can look at that ranking and it's a good rule
24 of thumb to see how susceptible an area is, especially

1 for landfill.

2 Q. Well, we put on the board the Berg
3 exhibit, and does that have the ranking of sites on
4 the lower left-hand corner of this exhibit?

5 A. Yes.

6 Q. And the title of this document is
7 "Potential For Contamination of Shallow Aquifers From
8 Land Burial of Municipal Wastes"?

9 A. That's correct.

10 Q. And this exhibit was prepared or published
11 in 1984?

12 A. That's correct.

13 Q. And you're saying that the reason you
14 submitted it is because it would be a more
15 understandable way for lay people to kind of relate to
16 the characteristics of this site that may be relevant?

17 A. I think we -- the ranking system that's on
18 the bottom left -- I'm not saying we used the map.
19 There's an exclusion that this map -- the report is to
20 use site-specific investigation rather than the map.
21 We have site-specific investigation for the site.

22 So I'm not picking the site based on
23 the map, I'm just saying that using the ranking system
24 to understand potential for groundwater contamination.

1 And the reason I put the Kendall County blowup of the
 2 map in it is to show that according to this map, about
 3 half of Kendall County has areas where the geology is
 4 a lot more favorable for waste disposal sites.
 5 Q. Well, you just referenced one of the
 6 things I wanted to point out, and that was one of the
 7 things you neglected to mention during your direct
 8 examination, and that is the language on the face of
 9 this document as to the proper use of this
 10 information.

11 If you see in the -- the middle box
 12 here, there is a statement made in the bottom of that
 13 rectangle. Could you read that for us?

14 A. It says, "This map is designed for
 15 regional evaluations. It should not be the basis for
 16 evaluation of specific sites."

17 Q. Now --

18 A. And, again, I'm not using the map, I'm
 19 using the ranking scale on the bottom left-hand side.
 20 And if you read in the report, you take the Berg
 21 report and not just the map and you read it, you know,
 22 it describes areas and it goes in more detail for
 23 susceptibility for groundwater contamination, both
 24 from land burial waste and other surface type of --

1 Q. Can you go back to the map again, Bruce.
 2 Well, the ranking system you identify
 3 in the lower left-hand corner are, in fact,
 4 color-coded, and those color codes are the basis for
 5 the characterization of the different areas within
 6 Illinois; would that be correct?

7 A. Yeah, it's the -- the color-coding is the
 8 basis for, I guess, the map. It's the key to the map.

9 Q. Right. Right. And your Grundy
 10 Exhibit No. 2 basically contains the list of colors
 11 and characterizations that you use in characterizing
 12 this site; is that correct?

13 A. Correct. I think we just look at the
 14 descriptions -- I mean, the table describes the
 15 descriptions of the different type of geologic
 16 environments, and on the left-hand side of the color
 17 it just says potential for aquifer contamination
 18 increasing."

19 Q. And the exhibit that you've presented to
 20 the County Board is just one snapshot of this entire
 21 exhibit, showing only portions of Kendall and Grundy
 22 County; is that correct?

23 A. Yes, right.

24 Q. And there is another provision within this

1 exhibit that describes the appropriate or proper use
 2 of the exhibit, and we have on the board a statement
 3 from this -- in referencing this report.

4 Could you read that paragraph for us,
 5 please.

6 A. The one in blue?

7 Q. Yes.

8 A. "The maps cannot be used to evaluate sites
 9 for wastes that require long periods of containment.
 10 Identifying geologic materials largely in terms of how
 11 long it would take a contaminant to move through them,
 12 (hydraulic gradient and hydraulic conductivity) is
 13 important but not sufficient information."

14 And again, on the map locations for
 15 Kendall County, if an alternative site was selected
 16 and an area identified as a low concentration, it
 17 would be required to have a site investigation done to
 18 characterize the site hydrology, the hydrogeology, the
 19 geologic sequence, and all that information that we're
 20 seeing in the Siting Application for this facility.

21 Q. Mr. VanHook, did you use this Berg exhibit
 22 in your evaluation of the site where the Kankakee
 23 Landfill was located?

24 A. No, I did not.

1 MR. MORAN: Thank you very much. I have no
 2 further questions.

3 HEARING OFFICER KINNALLY: Okay. Mr. Dan
 4 Kramer, I think you get to go next. Is that -- are
 5 you ready? I know you're ready.

6 MR. KRAMER: Ready.

7 CROSS-EXAMINATION

8 BY MR. KRAMER:

9 Q. Mr. VanHook, at one point in your direct
 10 examination you indicated that you found in your
 11 analysis of the materials a large number of vertical
 12 fractures; is that correct?

13 A. Well, I -- yeah, I mean there was vertical
 14 fractures that were observed in the boring logs, in
 15 the angle boring logs.

16 HEARING OFFICER KINNALLY: How many were there?

17 THE WITNESS: I can dig it out and tell you
 18 specific.

19 HEARING OFFICER KINNALLY: I think the Board
 20 would like to know this. We keep talking about these
 21 subjective things. Let's get some numbers.

22 I'm sorry to interrupt you,
 23 Mr. Kramer.

24 MR. KRAMER: You're the Hearing Officer.

1 HEARING OFFICER KINNALLY: Thank you.
 2 THE WITNESS: Okay. I've gotten one of the
 3 angle borings.
 4 HEARING OFFICER KINNALLY: I'm sorry.
 5 THE WITNESS: There was two. I got angle
 6 boring 3E and 3W. I believe there was another one,
 7 also. But if you just go -- I believe it's in
 8 Appendix -- it's in Volume V, Appendix C.
 9 HEARING OFFICER KINNALLY: Okay.
 10 THE WITNESS: C3, I believe, is the boring
 11 logs, the section where they're at.
 12 HEARING OFFICER KINNALLY: And that's what you
 13 relied on to determine that this site had a lot of
 14 vertical fractures?
 15 THE WITNESS: Yeah, there's vertical fracturing
 16 in it.
 17 HEARING OFFICER KINNALLY: All right. Thank
 18 you.
 19 Go ahead, Mr. Kramer.
 20 BY MR. KRAMER:
 21 Q. Mr. VanHook, what significance or what
 22 interpretations does one draw from vertical fractures?
 23 A. I think the fact that you observe the
 24 vertical fracture, if it's -- sometimes you'll have

1 fractures that are -- that are real old and have been
 2 healed up over time, and then you'll have fractures
 3 that are fairly fresh where you see evidence of
 4 groundwater movement through it. And then basically
 5 where you observe these fractures, you typically go in
 6 and you do some type of an aquifer test on it. Either
 7 you maybe screen a well across it and do like a
 8 single-well aquifer test or slug test, or you could do
 9 a packer test. A packer test you can cover a wide
 10 area a lot better. I mean, with a corehole like
 11 this, instead of building groundwater monitoring
 12 wells, you could packer test 10-foot sections at a
 13 time and just kind of evaluate to see how much
 14 interconnection there is on those fractures.
 15 Q. Where you found those vertical fractures
 16 in the volume in the index -- Volume V, Index C3 of
 17 the boring logs, could you tell from the Application
 18 materials if any additional testing was done at each
 19 of those five vertical fracture sites?
 20 A. I don't believe they did any packer
 21 testing of the angle borehole.
 22 MR. KRAMER: Thank you. I have no further
 23 questions.
 24 HEARING OFFICER KINNALLY: Thank you.

1 Mr. Kramer.
 2 Ms. Kelly Kramer?
 3 MS. KRAMER: None.
 4 HEARING OFFICER KINNALLY: Okay. Mr. George
 5 Mueller?
 6 CROSS-EXAMINATION
 7 BY MR. MUELLER:
 8 Q. Mr. VanHook, first of all, in follow-up to
 9 this question about roles that people play from
 10 hearing to hearing, have you and I ever worked for the
 11 same client on the same project?
 12 A. I don't believe so.
 13 Q. And you and I have, in fact, never even
 14 shared a beverage, have we?
 15 A. Pardon?
 16 (Laughter.)
 17 HEARING OFFICER KINNALLY: Well, Mr. Mueller,
 18 we don't need to get real personal.
 19 BY THE WITNESS:
 20 A. Can you repeat the question?
 21 HEARING OFFICER KINNALLY: No, he's going to
 22 ask you another one.
 23 (Laughter.)
 24

1 BY MR. MUELLER:
 2 Q. So, Mr. VanHook, I've never hired you on
 3 any project, have I?
 4 A. Not yet.
 5 Q. And, in fact, I was the attorney for
 6 Town & Country in the case in Kankakee where you
 7 recommended denial based upon your belief that we
 8 hadn't accounted for vertical flow in a sensitive
 9 aquifer; isn't that true?
 10 A. I believe that's generally correct.
 11 Q. And while the City of Kankakee did not
 12 agree with you, the Pollution Control Board did; isn't
 13 that right?
 14 A. I believe so, and then the Appellate
 15 Court.
 16 Q. Well, the Supreme Court --
 17 A. Supreme Court, yes.
 18 Q. -- they also agreed with the Pollution
 19 Control Board and with your concerns about not
 20 accounting for vertical flow; right?
 21 A. Right. I believe that was over the
 22 aquifer characterization.
 23 Q. And that was also a shallow bedrock
 24 aquifer; right?

<p style="text-align: right;">Page 1413</p> <p>1 A. Yes.</p> <p>2 Q. Now, the significance of vertical</p> <p>3 fractures is that they provide preferred pathways for</p> <p>4 downward -- and very rapid downward vertical flow;</p> <p>5 correct?</p> <p>6 A. Depending upon the conditions, that can be</p> <p>7 the case.</p> <p>8 Q. And I believe you testified that in your</p> <p>9 opinion there is no confining unit verified here</p> <p>10 between the Galena aquifer and the deeper aquifer</p> <p>11 underneath?</p> <p>12 A. No, everything seemed to be based on</p> <p>13 lithological descriptions and no testing.</p> <p>14 Q. What is the name of that deeper aquifer</p> <p>15 underneath?</p> <p>16 A. It would be the St. Peter Sandstone or the</p> <p>17 Ancell.</p> <p>18 Q. And in this area, at least, the Ancell</p> <p>19 aquifer is a significant source for municipal wells;</p> <p>20 isn't that true?</p> <p>21 A. I believe so. I think it's a -- the</p> <p>22 St. Peter's water quality just naturally, I think, is</p> <p>23 more desirable for drinking water.</p> <p>24 Q. Did I understand that a lot of homeowners</p>	<p style="text-align: right;">Page 1415</p> <p>1 it. And so -- and over time you get a concentration</p> <p>2 gradient through that, and then I think it's increased</p> <p>3 through the defects, you're going to get a higher</p> <p>4 diffusion gradient through it.</p> <p>5 Q. Okay. And the diffusion coefficient that</p> <p>6 you would use for a particular layer is dependent upon</p> <p>7 the properties of that layer?</p> <p>8 A. That's correct.</p> <p>9 Q. Now, I -- have you reviewed the testimony</p> <p>10 of Ms. Underwood in this case?</p> <p>11 A. On the drive up I read it. I wasn't</p> <p>12 driving.</p> <p>13 (Laughter.)</p> <p>14 HEARING OFFICER KINNALLY: Well, that's nice to</p> <p>15 know.</p> <p>16 BY THE WITNESS:</p> <p>17 A. Just to answer your next question.</p> <p>18 BY MR. MUELLER:</p> <p>19 Q. All right. And the diffusion coefficient</p> <p>20 for the geomembrane liner here applies to Levels 1 --</p> <p>21 Layers 1 and 3 of the GIA as proposed by</p> <p>22 Ms. Underwood; is that correct?</p> <p>23 A. That's correct.</p> <p>24 Q. And did you read her testimony that she</p>
<p style="text-align: right;">Page 1414</p> <p>1 have shallow wells in the Galena; correct?</p> <p>2 A. Correct. It's cheaper to drill a</p> <p>3 shallower well than a deep well.</p> <p>4 Q. Now, municipal wells that service public</p> <p>5 drinking water supplies tend to be deeper, don't they?</p> <p>6 A. That's correct.</p> <p>7 Q. And they, in this area, to your knowledge,</p> <p>8 would be accessing the Ancell?</p> <p>9 A. That -- amongst deeper aquifers also.</p> <p>10 Q. Now, you indicated that molecular</p> <p>11 diffusion, as that term is used in the groundwater</p> <p>12 impact assessment, I think you said it was a property</p> <p>13 of the HDPE.</p> <p>14 What do you mean by that term?</p> <p>15 A. Well, it's -- it's a diffusion gradient</p> <p>16 for chemicals to go from a high concentration to a</p> <p>17 low, and then that's a driving force -- it can be the</p> <p>18 driving force contaminant migration if there is a low</p> <p>19 advective flow.</p> <p>20 Q. But how do we -- how or why would we</p> <p>21 assign a diffusion coefficient to this plastic</p> <p>22 geomembrane?</p> <p>23 A. Well, the -- no matter how careful you are</p> <p>24 when you place it, there's going to be some defects in</p>	<p style="text-align: right;">Page 1416</p> <p>1 used a number different than what she had used at</p> <p>2 Laraway and at Kankakee and here last year because she</p> <p>3 wanted to account for the unsaturated condition of</p> <p>4 Layer 5 which she calls the lower confining unit?</p> <p>5 A. I -- I think I remember reading that.</p> <p>6 Q. Does it make sense to you as a modeler and</p> <p>7 as a geologist to change the coefficient of a layer</p> <p>8 when you're not changing the properties of that layer</p> <p>9 in order to account for different properties in a</p> <p>10 different layer?</p> <p>11 A. Well, I guess my problem with it would be</p> <p>12 the fact that we don't know what the saturation --</p> <p>13 what the water table is in that upper confining unit.</p> <p>14 I mean, all -- from what I read, a lot of the wells</p> <p>15 that are screened in that unit, to characterize it,</p> <p>16 frankly are improperly constructed by extending the</p> <p>17 sand packs down into the underlying unit. So I think</p> <p>18 the water levels for the water table in there are</p> <p>19 unreliable. And to assume that you're going to have</p> <p>20 unsaturated conditions underneath the -- underneath</p> <p>21 the constructed liner because of a water table map</p> <p>22 based on wells that are -- put the bottom of the sand</p> <p>23 pack into the underlying aquifer are -- that's a risk.</p> <p>24 Q. That's actually going to shorten things up</p>

1 quite a bit.
 2 HEARING OFFICER KINNALLY: Good.
 3 BY MR. MUELLER:
 4 Q. You answered about four questions with one
 5 answer.
 6 A. Just trying to get home tonight.
 7 Q. Now, Ms. Underwood has defined this soil
 8 layer, the Equality and Lemont formations that overlie
 9 the bedrock, as a tight confining unit, and, in fact,
 10 are you aware that she models it as being even lower
 11 permeability than the proposed engineered clay liner?
 12 A. Yeah, I -- I noticed that and had a
 13 comment on it, but given all the other comments we
 14 had, I didn't really get into that one. Diffusion
 15 seemed to be the big issue.
 16 Q. Well, in your opinion, is there even
 17 sufficient data in this Application to conclude with
 18 any confidence that those upper soil layers are a
 19 confining unit?
 20 A. Well, I would expect them, based on the
 21 triaxial permeability test; but, again, there is no
 22 reliable aquifer test data to verify how they're going
 23 to react.
 24 Q. And the triaxial permeability tests, you

1 mean the laboratory tests that she did?
 2 A. That's correct. I believe there were some
 3 triaxial permeability tests that were done.
 4 Q. In your opinion, were there any problems
 5 with that testing methodology?
 6 A. Well, I remember -- let's see. There was
 7 a discussion over that, and on the way up I asked our
 8 geotech engineers to look at the triaxial permeability
 9 tests, and their comment on it was they didn't know if
 10 they were back-saturated. There wasn't any indication
 11 that they were back-saturated, that it wasn't -- the
 12 confining pressure, they didn't have as much issue
 13 with as whether or not they were back-saturated; and
 14 if they weren't properly back-saturated, that they
 15 would tend to underestimate the hydraulic conductivity
 16 because of the air left in that -- in the sample.
 17 MR. MORAN: Objection. I'm going to move to
 18 strike that portion of his testimony that related to
 19 what he heard from his geotechnical people who
 20 presumably gave him this information. It is clearly
 21 hearsay.
 22 MR. PORTER: May I respond? He is an expert,
 23 and it is clearly the basis of his opinion.
 24 HEARING OFFICER KINNALLY: Well, I'm going to

1 overrule the objection. I think that we're not
 2 confined by the rules of evidence as much as we would
 3 be in a court, and I think he can rely on what other
 4 people tell him -- what other people have told him
 5 under various case law. So I'm going to overrule
 6 that. Wilson vs. Clark and the like.
 7 So go ahead, Mr. Mueller.
 8 MR. MUELLER: Thank you.
 9 BY MR. MUELLER:
 10 Q. Mr. VanHook, typically when you see
 11 laboratory permeability tests of soil samples and also
 12 in-field slug tests of those materials, would you
 13 expect to see a variation between them of maybe one or
 14 two, at the most, orders of magnitude?
 15 A. Yeah. I've seen a lot, and especially in
 16 the lake deposit, the lacustrine deposit like we're
 17 seeing here. I did an investigation down in southern
 18 Illinois at Saline County Landfill where there was big
 19 lacustrine deposits, and we put some piezometers in it
 20 and slug tested them. They were several orders of
 21 magnitude higher hydraulic conductivity, and once you
 22 went in and did a laboratory test in the lab, a
 23 triaxial permeability test, they come back very low,
 24 and then you go out in the field.

1 It may have to do with, you know,
 2 just the way they're layered and laid down, just
 3 preferential flow horizontally, or it could be a loss
 4 of the permeability with the whole process of doing
 5 the laboratory testing.
 6 That's why as a hydrogeologist, I
 7 guess I would prefer to have field testing, aquifer
 8 testing, to supplement a lab testing.
 9 Q. And so you indicated you saw a couple of
 10 orders of magnitude difference down there?
 11 A. Yes, that's correct.
 12 Q. And in this case here, I believe the
 13 difference between the lab test and the slug test
 14 results for the same unit were about five orders of
 15 magnitude?
 16 A. Yeah, but the wells were improperly
 17 constructed to evaluate that upper confining unit
 18 since the sand packs were extended down into the
 19 aquifer. So that test data is totally unreliable,
 20 both for the water levels and for the aquifer test
 21 data.
 22 Q. So what you're saying is we don't have any
 23 reliable field scale data for the actual field
 24 permeability of the soil units?

1 A. For that upper confining unit, if the sand
 2 packs were extended down into where they're in contact
 3 with the bedrock aquifer or the sand on top of the
 4 bedrock aquifer, they're not going to characterize the
 5 water levels in the upper confining unit or the
 6 hydraulic characteristics of the upper confining unit
 7 if the hydraulic conductivity of the aquifer
 8 underneath it is higher.

9 Q. Now, the point of this entire exercise,
 10 Mr. VanHook, of what hydrogeologists do is to try to
 11 find out the permeability of the actual materials in
 12 the ground; right?

13 A. That's one of the objectives, I would
 14 think.

15 Q. Yeah. And with regard to that objective,
 16 is it better -- is it a better scale of measurement to
 17 do it on a field scale or on a three-cubic or
 18 six-cubic-inch selected laboratory sample?

19 A. Well, I mean, they both have their values,
 20 but I think that you would -- I would rely heavily
 21 more on a field testing. I mean, obviously it's more
 22 expensive to go out in the field and test it, but I
 23 think you get more reliable data because you're
 24 testing a bigger sample.

1 MR. MUELLER: Thank you, Mr. VanHook. That's
 2 actually all I have.

3 HEARING OFFICER KINNALLY: Okay. Any Board
 4 members have any questions?

5 EXAMINATION

6 BY BOARD MEMBER HAFENRICHTER:

7 Q. Are you saying -- it seems like this keeps
 8 running through your testimony, that 50 percent of the
 9 County would be a good place to put a solid waste
 10 facility?

11 A. Well, based upon that regional published
 12 information, a lot -- Kendall County has a lot of area
 13 that would be a lot less susceptible to groundwater
 14 contamination.

15 Q. So would it be fair to say if you could
 16 pick up this facility and place it somewhere else, 50
 17 percent of the County, that you would say it was a
 18 good thing?

19 A. I think it would be -- location, I mean
 20 location is in Criteria 2 for a reason, and I think if
 21 you locate it to be protective --

22 Q. Well, would that be only paying attention
 23 to the hydrology? I mean, wouldn't the population,
 24 the traffic, the --

1 A. That's -- and that's exactly right.

2 That's why there is nine criterion, not just the
 3 hydrogeology. It has to meet all nine.

4 Q. So only in that area --

5 HEARING OFFICER KINNALLY: Wait a minute. Let
 6 her get the question out. We can't take down two
 7 people talking at the same time.

8 BY BOARD MEMBER HAFENRICHTER:

9 Q. So you're only testifying to the hydrology
 10 aspect of it?

11 A. Right.

12 Q. Thank you.

13 A. Criteria 2.

14 EXAMINATION

15 BY BOARD MEMBER WEHRLI:

16 Q. Mr. VanHook, Jeff Wehrli.
 17 You had a model that you said you
 18 used a different number and -- because you wanted to
 19 either use the same or different than Kankakee and
 20 Laraway, the HD -- the liner?

21 A. Yeah, there was no --

22 Q. You cited a different number?

23 A. Yeah, I used a -- there was no backup
 24 provided for where that number came from for the

1 diffusion coefficient in the HDPE, and there was no
 2 real backup for the diffusion coefficient for the GCL.
 3 So I just went back and picked what Earth Tech and
 4 Waste had done for the HDPE at the last two Siting
 5 Applications that I reviewed and plugged it in the
 6 model. And since I had not seen one for the GCL, I
 7 just went and did a Google Scholar search and found a
 8 bunch of, you know publications and they were all real
 9 consistent on what the diffusion coefficient should be
 10 for the GCL liner and I just plugged in a midpoint
 11 value for that, reran the model, and the parameters --
 12 13 of the parameters failed.

13 Q. What could be some of the variables in
 14 those the differences in the three applications?

15 A. Well, I mean -- they use the same
 16 coefficient for the HDPE for Kankakee and Laraway.
 17 They were the same value.

18 And then for the GCL I see the range
 19 that they gave for that. You know, it's just
 20 different test methods. Each of the papers had a
 21 range, and so I just picked a midpoint.

22 Q. We keep talking about tritium, what is the
 23 source of tritium.

24 What was the source of tritium, or

1 could you explain that to me briefly?
2 A. Well, tritium was kind of let loose, I
3 guess, recently in the atmosphere with testing and
4 with the atmospheric testing of nuclear weapons in
5 1945. And so basically that's a good test to see how
6 fast water -- how recent the water has come from the
7 atmosphere to where you're looking at it in the
8 groundwater.

9 If you've got a regional system,
10 sometimes you're talking thousand, tens of thousands,
11 hundreds of thousands of years for groundwater to move
12 from one location to the other. If that's the case,
13 you should not be seeing any tritium as long as
14 you're -- you know, the accuracy of your equipment
15 that you're measuring is accurate.

16 If you start seeing significant
17 tritium concentrations, that's an indication that
18 you've got quite a bit of recharge coming in that's
19 been recently in the atmosphere within the last 70
20 years.

21 Then you get into a gray area where
22 you get a mixing of -- I believe we're seeing in the
23 deep wells where you're seeing some vertical flow
24 getting down through vertical fractures or something

1 that's mixing with the regional flow that's horizontal
2 and you're seeing some mixing. So I think that's
3 evidence that you are seeing some vertical flow
4 downward at the site.

5 Q. Thank you for that explanation.

6 And then -- I mean some of the Board
7 members up here crack rocks for a living. I'm one of
8 them. And I'm wondering what the difference is in a
9 sample that has been taken, looked at, stored, allowed
10 to dry out for a couple years and then brought back?

11 I would assume that a mechanical
12 fracture should be something in limestone that's fresh
13 and you should be able to tell right away that it's
14 been broken recently --

15 A. Right.

16 Q. -- versus a natural fracture which would
17 have some evidence of silt or some type of
18 discoloration on it.

19 That doesn't go away if it sits for
20 two years, does it? I mean, I'm trying to understand
21 why you say that the fact that these samples got put
22 away for two years and then brought back out would
23 make them less pertinent or would change them in some
24 way.

1 A. Well, I've seen it firsthand because I've
2 pulled samples out that people have done in the past
3 and looked at them firsthand, tried to make heads or
4 tails out of them myself. And, you know, you can look
5 at it and say, okay, it's a shale or a silt stone or
6 whatever, but to go in and try to pick a mechanical
7 fracture or, you know, a fracture that's water-
8 yielding or healed from a sample that's been sitting
9 around, drying out, it's been handled, moved around,
10 you know, I just think that would be extremely
11 difficult, especially if I had already accepted what
12 the final boring log and the final description was in
13 a previous submittal. I guess that's where I would
14 have a problem.

15 Q. So when it's originally looked at, it's
16 looked at in the field or it's brought into a lab and
17 analyzed --

18 A. Right. Usually your field geologists will
19 look at it and log it, and then I assume, then,
20 Ms. Underwood being a supervisor, if she had
21 questions, she would check it over; and if she had a
22 subcontractor working on it, she would have that
23 opportunity to -- or I'm not sure how No. 1 went
24 before, what her opportunity was to review it before

1 she did the -- went with those final boring logs in
2 the first application.

3 Q. Can I assume that there's a standard way
4 that you would log those samples that you would have
5 to keep them in a certain container or in a certain
6 way --

7 A. Right.

8 Q. -- in order to be able to verify them
9 several years later? Is that an accepted practice,
10 also?

11 A. Well, usually you box core samples up and
12 you try to preserve them. I mean the Geological
13 Survey does it all the time. They store them, and
14 they go back and look at them.

15 What I've done in the past sometimes
16 if I want to preserve a sample for like -- sometimes
17 we want to do triaxial permeability tests later on, I
18 seal them up in the field. I basically take Saran
19 wrap, wax that I -- I guess I'm giving my age here for
20 doing investigation. When I was out doing it, we used
21 wax to seal Shelby tubes and things like that. I'd
22 seal them in wax and duct tape so they didn't dry out.
23 I'd send them to the lab. That way they wouldn't dry
24 out and break down. So they'd have a representative

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1 sample run do their laboratory on. But it's just -- i
2 mean, like I said, you box them up.
3 But the best time to log them and get
4 accurate descriptions is going to be when they come
5 out of the ground, and I think the fracturing and that
6 is going to be a lot more evident to distinguish
7 between what's naturally there or what happened
8 mechanically as part of the drilling or as part of the
9 deterioration process as the rock dries out and gets
10 handled. I think that would make it difficult as time
11 goes on.
12 Q. So you're saying not only the moisture
13 content but the handling of these samples would change
14 your opinion?
15 A. Right. I mean, if you're -- you know, you
16 got a box, it's a box like this for your NX core
17 samples, you know, and you have this big stack of
18 them, and if they're sitting around for two years
19 they're almost always in the way, people are moving
20 them or handling them. And then like I said, it is
21 just a natural -- they are usually in wax to kind of
22 keep them from drying out. But, again, usually they
23 are stored in a -- are they stored in a controlled
24 environment? Are they stored out in a shed somewhere

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1 where it gets 100 degrees in the summer and then it
2 freezes in the wintertime? You know, all that's going
3 to take a toll on it as far as picking out --
4 HEARING OFFICER KINNALLY: Well, do you know
5 where they were stored?
6 THE WITNESS: No, I don't.
7 HEARING OFFICER KINNALLY: So you don't have an
8 opinion on that?
9 THE WITNESS: Well, I'm saying if they were
10 stored --
11 HEARING OFFICER KINNALLY: But you don't know
12 where they were stored?
13 THE WITNESS: No, I don't know where they were
14 stored.
15 HEARING OFFICER KINNALLY: All right. Thank
16 you.
17 BY BOARD MEMBER WEHRLI:
18 Q. I'm just trying to get an understanding if
19 there is a typical way you store them, and I seem -- I
20 can't even -- I don't want to characterize your
21 testimony, but it seemed like they were stored in a
22 consistent manner. And you're saying there is a
23 fairly consistent manner if you were to want to bring
24 these -- or if you were to store them for possible

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1 future use, there is a fairly consistent manner among
2 your field that you would store them in?
3 A. Right.
4 But I guess my point is that it's
5 going to be best to log them when they first come out.
6 That is when you are going to make the best
7 determination.
8 I mean, it's hard enough as it is to
9 make a determination, I believe, over what's a
10 mechanical, what's an in situ fracture or parting, and
11 as time goes on and they dry out, it becomes
12 increasingly difficult.
13 And then to go back and second-guess
14 what was already done and finalized, I guess that's
15 where I have a problem.
16 Q. Okay. Thank you.
17 A. I think the original would be better.
18 BOARD MEMBER WYKES: I have no other questions.
19 EXAMINATION
20 BY BOARD MEMBER DAVIDSON:
21 Q. Bob Davidson.
22 In all your studies and research of
23 groundwater, have you ever come across contaminated
24 water from a landfill?

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1 A. Have I ever come across contaminated
2 water --
3 Q. Yes --
4 A. Oh, yes.
5 Q. -- have you drawn samples --
6 A. Yeah, I put in -- about two years ago I
7 put in about 1,200 feet of vertical -- or horizontal
8 extraction well at a landfill downgradient from it.
9 And I'm actually remediating a site, Tazewell County.
10 There was an 811 facility that was abandoned by, I
11 think it's called Pekin Metro, and there is a
12 groundwater contamination system that's in there, they
13 just walked away from it. The site -- I think the
14 County is looking at about a \$4 or \$5 million price
15 tag to cap it. And they're talking to the state. The
16 EPA has put some money up. The County, I think, is
17 looking at bonds right now to try to pay for it and
18 cap it and close the site out.
19 So those are just two examples that
20 come right off the top.
21 Q. How old of landfills are they?
22 A. Well, the one landfill that I told you is
23 an 811-permitted site. It is one of the newer -- part
24 of it has an 811 liner in it or the new liner systems

1 in it. They built a portion of it underneath it.
 2 There's parts of it that are old, there's parts of it
 3 that are new. But the operator of it, I guess, just
 4 basically walked away from it one day and just left
 5 it.

6 Q. So it is operator error, or was it liner
 7 error?

8 A. You mean for the groundwater
 9 contamination --

10 Q. Yeah.

11 A. That they've got out there?

12 It's just poor hydrogeology to locate
 13 a waste disposal site, and the liner that was put in
 14 that area I don't think performed as it was supposed
 15 to when it was permitted by Illinois EPA.

16 Q. I think in the testimony here there was a
 17 comment made, and I'd like a clarification of it, that
 18 the IEPA, if they approve a site, even if your
 19 findings are faults or they fail, they would recommend
 20 this -- a liner or something to pass that site? Did I
 21 kind of get that --

22 A. Yeah, I mean --

23 Q. -- drift?

24 A. -- I know from our own experience with

1 sending in a model to EPA and then they require
 2 additional liner or additional compacted clay, some
 3 modifications to it and then -- to get the model to
 4 pass. And then, you know, you typically get comments
 5 from them to get a permit before you can operate it.

6 Q. Then why do we do all this?

7 A. Well, I think the reason is Senate Bill
 8 172 came out, and I think the local -- the local
 9 siting authorities now, the counties, were tired of
 10 getting landfills placed right in their county and
 11 they had no say-so in it.

12 Q. Yeah, but we're still to the point all
 13 this don't mean anything. If the -- if they're going
 14 to turn around and say, well, we just changed the
 15 liner and add more -- add another three, four feet,
 16 we're going to go ahead and site it, it goes around
 17 us.

18 Why are we going through this
 19 program, then?

20 A. You mean --

21 Q. Other than the politicians putting all the
 22 heat on us for passing it at the local level instead
 23 of at the state level?

24 A. Well, I --

1 Q. Isn't that what they can do or they're
 2 doing, is the way I'm talking it?

3 A. My recollection of the siting --

4 Q. I understand the rule, and I understand
 5 the thought, but your comment still stands and hits me
 6 between the eyes that all my time, and I can find --
 7 if I deny on this criteria, they turn around and say,
 8 well, if we put another three feet of clay under it
 9 and put another -- a third layer here of -- we'll pass
 10 it.

11 That's just what you said; correct?

12 A. Right. If you grant your siting approval
 13 and they get your siting approval, then the EPA,
 14 chances are they're going to approve it. They may --
 15 they'll come in and modify it and then they'll take
 16 the groundwater model, come in, and they may have
 17 their comments how they want this done and that done
 18 and they get the model to pass. But you're right.
 19 But they have to have your siting authority to be able
 20 to go to that next level.

21 HEARING OFFICER KINNALLY: You know, let's make
 22 something clear about this. You keep talking about
 23 the groundwater impact. That is not a requirement of
 24 the local Ordinance. That is a requirement of the

1 EPA, and they're the people that make the
 2 determination on the GIA. The GIA is not even part of
 3 the local Ordinance, and that's what you did your
 4 sensitivity study on; correct?

5 THE WITNESS: That's correct.

6 BOARD MEMBER DAVIDSON: Thank you for the help.

7 HEARING OFFICER KINNALLY: All right.

8 BY BOARD MEMBER DAVIDSON:

9 Q. Okay. Grundy County has got two landfills
 10 within a five-mile, six-mile radius of this landfill?

11 A. I know they've got a couple of landfills,
 12 but I'm not sure how close they are.

13 Q. You don't have -- you don't know anything
 14 of them?

15 A. Well, we actually do some work for the
 16 Attorney General against one of those sites, I
 17 believe. But --

18 Q. Do they have liners?

19 A. I've looked at those sites. Somebody else
 20 handles that, those particular investigations.

21 HEARING OFFICER KINNALLY: So you don't know?

22 BY THE WITNESS:

23 A. They're lined. I guess to answer your
 24 question is yes, they're lined. What they're lined

1 with, I couldn't tell you.
 2 BY BOARD MEMBER DAVIDSON:
 3 Q. Are they in the aquifer?
 4 A. I would not know.
 5 Q. Now, they're sited over old coal mines;
 6 right --
 7 A. I don't know.
 8 Q. -- or there's coal in that area? You
 9 don't know?
 10 A. I don't know. I would have to look it up.
 11 Q. All right. Then let me ask this question:
 12 If I'm over a coal site, does water transfer -- is
 13 there more vertical and horizontal cracks in coal than
 14 stone?
 15 A. Yeah, I've actually done some landfills
 16 over coal mines and had quite a bit of issue with
 17 that.
 18 I mean, it depends on if the coal is
 19 mined out. Sometimes you have mined voids underneath
 20 it, you have stability issues underneath the liner,
 21 you have fracture through -- groundwater fracture flow
 22 through that. But typically you don't run into
 23 private groundwater use. The groundwater quality is
 24 usually pretty poor for people to drink out of.

1 Q. But it still --
 2 A. It's still fractured --
 3 Q. It's still fractured and still gets into
 4 the aquifer, am I wrong?
 5 A. Right. And there's a regulatory
 6 requirement that you have to meet, and in one case I
 7 had to put in a remediation system for contaminated
 8 groundwater already for something that basically you
 9 spray into your lungs with -- every day with the
 10 asthma injection.
 11 Q. Okay. Now, there's three different types
 12 of testing your -- you guys can do to determine, if I
 13 recall right. Isn't there three different types of --
 14 or three different tests, three different --
 15 A. For?
 16 Q. To determine your water -- you know, the
 17 flow or --
 18 A. Oh, the hydraulic characteristics?
 19 Q. Yeah, the --
 20 A. You mean like a pump test, like a
 21 single-well test or a laboratory permeability test?
 22 Is that what you're --
 23 Q. Well, she -- Joan did one, you've done
 24 one. Is there another one out there yet?

1 A. Well, I mean, I don't know --
 2 MR. BLAZER: If I can clarify, I think Bob is
 3 talking about the three types of models to conduct the
 4 GIA.
 5 BY THE WITNESS:
 6 A. Oh, okay. The three computer models.
 7 Yeah, you have 1-D analytical, a 2-D
 8 analytical and 2/3-D numerical.
 9 BY BOARD MEMBER DAVIDSON:
 10 Q. So yours passed; hers failed.
 11 Would somebody do a third one?
 12 A. Well, we ran the same model. I ran the
 13 same model that Ms. Underwood did. I ran the same
 14 model, I just had different input parameters.
 15 HEARING OFFICER KINNALLY: Just so we're clear
 16 here, again, this again goes to the groundwater impact
 17 assessment, does it not, sir? And in the end, the
 18 process for the groundwater impact assessment will be
 19 permitted by the Illinois Environmental Protection
 20 Act -- Agency. After the model is submitted to them,
 21 they make comments, they send it back to you, you
 22 respond to their comments, and that iterative process
 23 can go back and forth for a series of months before
 24 they find a model which will pass. Is that a fair

1 statement?
 2 THE WITNESS: That's fair. My only comment
 3 would be that, you know, the modeling gives you an
 4 indication of how sensitive an area is to
 5 contamination.
 6 HEARING OFFICER KINNALLY: I understand.
 7 BY BOARD MEMBER DAVIDSON:
 8 Q. I think Mr. Kinnally asked what the
 9 percentage, if there was one, that -- of failure, I
 10 mean, of this -- your model, what is the odds of the
 11 liner, the five foot of clay, what's the percentage of
 12 that fail -- going to fail and contaminate the water,
 13 and nobody -- with all your tests and everything and
 14 everybody's years of experience -- you got how many
 15 years, 22?
 16 A. Yeah.
 17 Q. I don't know how many Joan has. I don't
 18 recall.
 19 (Continuing.) -- but nobody can come
 20 up with a percentage of, you know, this is going to be
 21 a 10 percent chance, a 20 percent chance, 50 percent?
 22 Nobody comes up with a number or gives it a --
 23 A. Well, in 100 years we'll know either zero
 24 or 100 percent, one way or the other, but until then.

1 BOARD MEMBER DAVIDSON: Okay. Thank you very
 2 much.
 3 HEARING OFFICER KINNALLY: Any other County
 4 Board members have any questions?
 5 Okay. Any participants have any
 6 questions.
 7 Please come up and state your name.
 8 MR. MILLIRON: Todd Milliron, 61 Cotswold
 9 Drive, Yorkville.
 10 CROSS-EXAMINATION
 11 BY MR. MILLIRON:
 12 Q. Mr. VanHook, what would happen if this
 13 Board did vote no?
 14 MR. MORAN: Objection; relevance.
 15 MR. MILLIRON: Well, something Bob just asked.
 16 HEARING OFFICER KINNALLY: Well, I guess -- I
 17 don't know. Go ahead -- I'm going to overrule it. Go
 18 ahead and answer the question.
 19 I think we know what happens; it
 20 doesn't go anywhere or they appeal, but go ahead.
 21 BY THE WITNESS:
 22 A. It would be up to the Applicant to appeal
 23 to the Pollution Control Board or not.
 24 BY MR. MILLIRON:

1 Q. And then the grounds they get to appeal on
 2 are like fairness and some of those other things?
 3 MR. MORAN: Objection. He's not a lawyer, he
 4 can't --
 5 THE WITNESS: Yeah, I'm not qualified to answer
 6 that.
 7 HEARING OFFICER KINNALLY: Well, I know he is
 8 not a lawyer, Mr. Moran. You keep saying that. But
 9 give him a little space here. He wants to understand
 10 the process. I think it's a fair question. So I'm
 11 going to overrule the objection.
 12 BY THE WITNESS:
 13 A. I believe they'd evaluate how the nine
 14 criteria were evaluated, and beyond that, it's going
 15 to take a legal opinion.
 16 BY MR. MILLIRON:
 17 Q. Okay. So these people here have a
 18 decision to make, yes or no, and a no decision would
 19 carry a lot of weight?
 20 A. You mean a no, they turn it down on one or
 21 more criteria, right, it would require the Applicant
 22 to appeal it to the Pollution Control Board.
 23 MR. MILLIRON: So you guys have a big
 24 responsibility.

1 MR. MORAN: Objection.
 2 HEARING OFFICER KINNALLY: Mr. -- wait a
 3 minute. Look it. The County Board has gone through
 4 three of these, and you're lucky that you have as --
 5 I've sat in other counties where the county board does
 6 not take as great an interest as these people, and
 7 they've invested a lot of time in this process, and
 8 they know what this decision is all about, all right?
 9 So I don't think you need to remind them of that.
 10 MR. MILLIRON: Okay.
 11 BY MR. MILLIRON:
 12 Q. Was it your testimony that Waste
 13 Management recharacterized those boring logs after
 14 they were taken?
 15 A. I just -- from just reading the
 16 transcripts on the way up, it seemed like there was
 17 some testimony that they changed some of the
 18 descriptions of the fractures from -- I believe it was
 19 CEC's descriptions that Earth Tech used in the
 20 original application to what they used in this one.
 21 Q. Okay. Did Waste Management specifically
 22 choose coefficients and other parameters to get the
 23 desired results for this County Board?
 24 A. I can't answer that. I just didn't see

1 backup for what they used in some of the input
 2 parameters.
 3 Q. So then I -- would it be fair to say
 4 that -- did I understand you wouldn't have chosen
 5 other numbers that were more real that were used in
 6 other Waste Management applications?
 7 MR. MORAN: I object to the form of the
 8 question.
 9 HEARING OFFICER KINNALLY: Sustained.
 10 MR. MILLIRON: So I have to make it a question?
 11 HEARING OFFICER KINNALLY: Well, you know, when
 12 you put in the characterization "more real," the facts
 13 are the facts.
 14 MR. MILLIRON: Okay.
 15 HEARING OFFICER KINNALLY: So just try to ask a
 16 question without a characterization. Thank you.
 17 MR. MILLIRON: All right. I'm not a lawyer.
 18 BY MR. MILLIRON:
 19 Q. So other numbers were used in these other
 20 Waste Management applications that were similar or the
 21 same for characterizing the liner coefficient, I think
 22 it was?
 23 A. They used different diffusion coefficients
 24 for some of the liner material in previous

1 applications than what they used in this Application.
 2 Q. But that number matched on two of the --
 3 two prior --
 4 A. They used the same diffusion coefficient
 5 for the HDPE liner in the Laraway and the Kankakee
 6 Landfill.
 7 Q. You had mentioned something about that
 8 Tazewell County landfill briefly.
 9 What's being done at that site by
 10 Patrick Engineering?
 11 A. We've done work for Illinois EPA on that
 12 one, and also we're working for Tazewell County on
 13 that. The County's in the process, last I heard,
 14 trying to get bond money up to cap it. They have a
 15 lot of problems with the stormwater, and they're
 16 trying to get the money together to cap it.
 17 I know, I think, PDC landfills, they
 18 just sited a new expansion over there by it in
 19 Tazewell County. And, you know, they're basically
 20 trying to scrape up the money to do it and get some
 21 help from the local waste companies to handle it.
 22 Q. So are the taxpayers of Tazewell County
 23 happy with that situation and happy with that
 24 landfill?

1 MR. MORAN: Objection.
 2 HEARING OFFICER KINNALLY: Wait a minute. Wait
 3 a minute. Time out. There is an objection. What's
 4 the basis for the objection?
 5 MR. MORAN: Relevance and how would this
 6 individual have any idea of how the taxpayers of
 7 Tazewell County feel about that situation.
 8 HEARING OFFICER KINNALLY: Do you live in
 9 Tazewell County?
 10 THE WITNESS: I do not.
 11 HEARING OFFICER KINNALLY: Sustained.
 12 BY MR. MILLIRON:
 13 Q. There is additional bonding that is being
 14 requested for that --
 15 A. That's my understanding.
 16 Q. And that bonding --
 17 HEARING OFFICER KINNALLY: I don't want to
 18 interrupt you, sir. There is no objection. But how
 19 is this relevant to anything that's going on before
 20 the County Board here tonight?
 21 MR. MILLIRON: It's has been stated that this
 22 is on a sensitive area. If there is a problem, then
 23 it's possible that the taxpayers of Kendall County may
 24 be responsible for helping with this cleanup if this

1 would -- come to pass.
 2 HEARING OFFICER KINNALLY: I don't think it's
 3 relevant. Ask a different question, please.
 4 BY MR. MILLIRON:
 5 Q. Would you characterize -- we've been
 6 talking about percentages and that type of thing.
 7 Would you characterize that the
 8 landfill as it is proposed is a gamble for Kendall
 9 County water resources?
 10 MR. MORAN: Object to the form of the question.
 11 HEARING OFFICER KINNALLY: No, I think -- if
 12 you understand the question, you can answer it.
 13 Overruled.
 14 BY THE WITNESS:
 15 A. It's a decision that the County Board has
 16 to make based on the information that they have.
 17 HEARING OFFICER KINNALLY: Thank you.
 18 BY MR. MILLIRON:
 19 Q. Okay. Would these water resources be
 20 important at some future point for one of the fastest
 21 growing counties in the United States for future
 22 development?
 23 A. I know groundwater is an important
 24 resource up in Kendall County. There's commissions

1 looking into that and managing it.
 2 MR. MILLIRON: Okay. Thank you.
 3 HEARING OFFICER KINNALLY: Thank you, sir.
 4 Any other participant? Come up and
 5 state your name, please.
 6 MR. KARAFIAT: Gary Karafiat.
 7 CROSS-EXAMINATION
 8 BY MR. KARAFIAT:
 9 Q. Mr. VanHook, earlier when Mr. Moran was
 10 asking you questions about some of your past
 11 experiences with the amount of feet of soil that would
 12 be, you know, below the liner and above the aquifer --
 13 A. Right.
 14 Q. -- you said it depends on the aquifer.
 15 Do you recall that?
 16 A. Yes.
 17 Q. What do you mean by that, it depends --
 18 can you explain that a little further?
 19 A. Well, I mean it's hard to make a real
 20 general statement without knowing more specifics. It
 21 depends on the type of aquifer, the groundwater use,
 22 how thick is it, what's the matrix of it. I mean,
 23 there's more information that would have to go into it
 24 to make a decision.

<p style="text-align: right;">Page 1449</p> <p>1 Q. Okay. Do you know how many aquifers are 2 on this site? 3 A. I mean -- 4 Q. I'm sorry. I think we heard there's two. 5 Is that your understanding? 6 A. Yeah, I mean, there's -- it depends on how 7 you group them together. I mean, there's -- you can 8 group regional aquifers together. So, I mean, you can 9 say there's two or you can try to break it down into 10 more than that, I would imagine. 11 Q. Okay. Do you know the characteristics of 12 the aquifer or aquifers on this site? I mean, do they 13 supply drinking water to any private wells? 14 A. Yes. I mean, that's well-documented in 15 the Application, that there's a number of private 16 supply wells in the immediate area around that 17 proposed facility. 18 MR. KARAFIAT: Okay. All right. Thank you 19 very much. 20 HEARING OFFICER KINNALLY: Thank you, sir. 21 Any other participant? All right. 22 Mr. Blazer, I think it's your turn. 23 MR. BLAZER: Thank you. 24</p>	<p style="text-align: right;">Page 1451</p> <p>1 exact date, but around the first week in August. 2 HEARING OFFICER KINNALLY: Thank you, sir. 3 MR. BLAZER: Thank you. 4 BY MR. BLAZER: 5 Q. So around five weeks ago? 6 A. Yeah. We -- we've submitted -- we did a 7 preliminary review. Usually the Applicant hires us to 8 give us an opinion before they decide, I guess, what 9 we're going to say before they hire to us to do a 10 full-blown review. So basically we do an initial 11 review and then make a recommendation and they hire us 12 to do a more detailed review. 13 Q. And that's what happened in this case? 14 A. Yes. 15 Q. And in that four- to five-week period, did 16 you ask anyone to find out if you could get access to 17 the core and soil samples that Ms. Underwood had 18 viewed? 19 A. There really wasn't time because we had a 20 lot of work to do beforehand. I mean, we had -- we 21 were scrambling, frankly, to get documents filed seven 22 days before the start of the hearings. So we had to 23 get a lot of work done just to get that done. 24 In fact, we kind of -- we rushed it</p>
<p style="text-align: right;">Page 1450</p> <p>1 CROSS-EXAMINATION 2 BY MR. BLAZER: 3 Q. Mr. VanHook, is there a written standard 4 in your industry for how one stores core and soil 5 samples? Can I go to a manual or book? 6 A. I don't know if ASTM standard -- there's a 7 standard for it or not. So I guess my answer would 8 be, I don't know. There may be. 9 Q. All right. When was Patrick Engineering 10 retained to do its work on this project? 11 A. It should have been a while before, 12 probably. I'd say maybe about -- I'm guessing 13 approximately four weeks. 14 Q. All right. 15 HEARING OFFICER KINNALLY: Four weeks when? 16 THE WITNESS: From now. It's been -- 17 HEARING OFFICER KINNALLY: So August 18th. 18 THE WITNESS: It's been before the -- I mean, 19 it's a guess. I could look and give you an exact 20 date. 21 HEARING OFFICER KINNALLY: I think we'd like to 22 know that. Why don't you look at that. 23 THE WITNESS: Our initial review of the 24 Application, I believe, was around -- I don't have the</p>	<p style="text-align: right;">Page 1452</p> <p>1 to the point where I had to redo some of the model 2 runs. So, I mean, we were on a pretty tight schedule, 3 I mean, to get started and get this done. 4 Q. Well, how many people work for Patrick 5 Engineering? 6 A. Oh, guessing maybe 4 or 500 people. 7 Q. How many of those are geologists? 8 A. Three or four. 9 Q. And how many of those three or four are 10 qualified to review and analyze core and soil samples? 11 A. Well, we have geotech engineers, too. And 12 actually what I did is I carved it up and had one of 13 our staff geologists look at one component, I had our 14 geotech engineer look at another one, did the 15 modeling, had another one do checking the model runs 16 that I did. So, you know, basically, I mean, we're 17 busy. I mean, everybody is busy. 18 And then basically when you get a 19 project like this that's fairly labor intensive, to go 20 through and do a review fairly quickly, it's -- it's 21 not like this was on the books two or three months 22 ago. 23 Q. Well, how many geotech engineers do you 24 have?</p>

1 A. That's a different group, but I know
 2 probably five or so. Maybe half dozen, say, to give
 3 you a ballpark.
 4 Q. Are those folks qualified to look at core
 5 and soil samples?
 6 A. Oh, yes.
 7 Q. All right. But nobody thought to ask
 8 Ms. Underwood or have Mr. Porter call Mr. Moran to get
 9 access to those samples?
 10 MR. PORTER: Objection; argumentative,
 11 speculative, "nobody thought to."
 12 THE WITNESS: Well, it's not --
 13 HEARING OFFICER KINNALLY: Well, I think this
 14 is cross-examination. I think, you know, if he asks
 15 for access to core samples might be a better question,
 16 but I think it's a permissible question.
 17 MR. BLAZER: I'll rephrase it. Thank you,
 18 Mr. Kinnally.
 19 BY MR. BLAZER:
 20 Q. Did you ask for access or did anyone at
 21 Patrick Engineering or did anyone at
 22 Hinshaw & Culbertson?
 23 A. I don't know if access to the soil cores
 24 would be that valid. I mean, you have -- already have

1 cores that are logged and accepted in the previous
 2 application. I mean, we're going -- so we're going to
 3 go back and look at core samples that have sat around
 4 for two or three years? We don't know how they have
 5 been handled or what they've been stored in. I just
 6 don't know the value of it.
 7 Q. You don't know anything about those core
 8 samples. Is that a fair statement?
 9 A. I know that they were logged by a
 10 geologist or geotechnical engineer, they were accepted
 11 and used in the application by Earth Tech and Waste
 12 Management, and then for whatever reason, they decided
 13 to go back and look at stuff that had been sitting
 14 around. Maybe, for all I know, they were meticulously
 15 handled and stocked in an air-conditioned environment
 16 or heated environment and meticulously taken care of
 17 or they could have been put out in a warehouse in the
 18 north 40 somewhere.
 19 Q. You don't know?
 20 A. I don't know.
 21 Q. And those wells -- you said there are some
 22 wells in the confining layer that draw potable water?
 23 A. Yes.
 24 Q. Do you remember how many of those there

1 were?
 2 A. I had the staff pull the 14 closest, and I
 3 think there was maybe a couple, two or three that said
 4 they were just obtaining water from the deep
 5 limestone.
 6 Does that answer your question?
 7 Q. I'm not sure it does.
 8 A. So I'm saying I believe there is two or
 9 three of the 14 that say they're just obtaining water
 10 from that --
 11 Q. From the --
 12 A. -- from that depth that would correlate to
 13 the Platteville at what the Application called the
 14 aquitard -- the confining unit. Sorry.
 15 Q. Two or three wells?
 16 A. Yeah, something like that.
 17 Q. All right. And do you know what the draw
 18 rate is for any of those two or three wells?
 19 MR. BLAZER: May I withdraw that question?
 20 HEARING OFFICER KINNALLY: Pardon me?
 21 MR. BLAZER: Can I withdraw that question?
 22 THE WITNESS: I can answer it. I've got the
 23 table.
 24 BY MR. BLAZER:

1 Q. It was pointed out to me we're talking
 2 about different -- are you talking about the
 3 Plattville layer?
 4 A. Yeah. I mean, the depth would correlate
 5 to what the thickness was.
 6 Q. I'm sorry. Maybe I misspoke.
 7 What I wanted to know was did you
 8 find wells that are drawing water in the Equality
 9 Formation?
 10 A. Oh, no.
 11 Of course, I wasn't looking for them,
 12 but I don't believe anybody would be drawing from it.
 13 Q. Okay. In your Exhibit 4, this Table 2,
 14 the sensitivity analysis for the GIA --
 15 A. Correct.
 16 Q. I think you testified that for Run 1b you
 17 increased the confining unit to roughly 50 feet?
 18 A. Yeah, a little over 50 feet.
 19 Q. All right. And do you know what hydraulic
 20 conductivity was used for that layer?
 21 A. We used the same input that was used in
 22 the base model for the upper confining unit.
 23 Q. The same --
 24 A. The same. Whatever they used for it, we

1 applied that to this.

2 Q. The same factor that Waste Management

3 used?

4 A. Right. There wasn't real good backup for

5 it, so -- but --

6 Q. All right.

7 A. -- we used it.

8 Q. And then your Exhibit 3, Table 1, the

9 "Summary of Predicted Groundwater Concentrations,"

10 again, this is with respect to the GIA; correct?

11 A. Yeah. The Table 1?

12 Q. Right.

13 A. Yes.

14 Q. And I think you said that for your base

15 run you changed three values?

16 A. Yeah. We changed layer -- let me get this

17 right -- Layer 1 and Layer 3, the HDPE layer. We used

18 the diffusion coefficients that they used at Kankakee

19 and Laraway, and then for the GCL, I used the midpoint

20 of a published diffusion coefficient for the GCL

21 layer.

22 Q. Are those values that you used contained

23 anywhere in Exhibit 3?

24 A. In the back two pages, I included what

1 the -- what they used for -- the one, the first one,

2 it's got my handwriting, it's got Appendix M-2-2, that

3 shows the Pollute input that was used for the Pollute

4 model at the Laraway facility. And if you look on --

5 over on the left column, there is a 3E to the negative

6 five for diffusion coefficient and meters squared --

7 M squared per A. That's the diffusion coefficient

8 that was used for the HDPE layer at the Laraway

9 facility.

10 Q. What about the GCL?

11 A. The GCL, I actually -- I have it, the

12 published reports that -- and I actually filed it with

13 the -- all the stuff that I filed ahead of time. So

14 it's in the record, the GCL backup.

15 Q. You don't have that handy?

16 A. I can dig it up for you.

17 Q. I'm getting dirty looks because we're

18 lasting too long.

19 A. We aim to please.

20 MR. PORTER: I'd ask it be marked as Exhibit 6.

21 He was about to hand it to counsel.

22 MR. BLAZER: I was simply going to ask him to

23 read the number.

24 MR. PORTER: That works.

1 THE WITNESS: I've got it.

2 HEARING OFFICER KINNALLY: Wait a minute. What

3 are we talking about?

4 THE WITNESS: This is the diffusion coefficient

5 that we used in our model for the GCL layer.

6 BY MR. BLAZER:

7 Q. I just need the number. I have no reason

8 to dispute --

9 HEARING OFFICER KINNALLY: Did you find the

10 number.

11 THE WITNESS: Well, I've got the publications.

12 Let me look in my backup to get the number I actually

13 used, because I had to convert it. It's in meters

14 squared per second, and I had to convert one of the

15 midpoint numbers.

16 4.17 times 10 to the minus tenth

17 meters squared per second is the value that we used

18 and converted for input.

19 BY MR. BLAZER:

20 Q. Thank you. Now, you mentioned one thing,

21 and I just noticed it at the back of your Group

22 Exhibit 3.

23 For the two examples that you looked

24 at, Laraway and Kankakee, Mr. Davidson had asked about

1 the three types of models that are used for GIA's?

2 A. Right.

3 Q. All right. And you referenced letters and

4 numbers. We've heard actually named descriptions in

5 this proceeding.

6 But as I understand -- as I'm looking

7 at your documents here, what was used at those two

8 facilities was the Pollute or --

9 A. Right, that was a 1-D model. It's real

10 similar -- I mean, actually the MIGRATE model has an

11 input that you can use the Pollute -- they interface

12 pretty well since they're analytical models.

13 Q. But all I wanted to know is, those two

14 facilities use the -- is it Pollute or Pollute?

15 A. Pollute, right. They use the MIGRATE.

16 Q. All right. You looked at some of the --

17 or you compared some of the logs between what we'll

18 call Willowhill 1 and Willowhill 2?

19 A. I didn't. I just read some of the

20 transcripts from the cross for Ms. Underwood.

21 Q. Do you know what rock quality designations

22 are?

23 A. Yeah, that basically describes the rock

24 quality and the number of breaks, natural breaks in

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1 the rock sample.
2 Q. All right. And did you notice whether or
3 not there was a change -- that's called the RQD value?
4 A. That's correct.
5 Q. Did you notice if there was a change in
6 the RQD values in the logs between Willowhill 1 and
7 Willowhill 2?
8 A. I have not looked at the Willowhill 1.
9 Q. And do you know if either the Kankakee or
10 Laraway sites included a proposal for a double
11 composite liner?
12 A. I can't remember.
13 MR. BLAZER: All right. That's all I have.
14 HEARING OFFICER KINNALLY: Okay. Thank you,
15 Mr. Blazer.
16 I think everybody has asked all the
17 questions I was going to ask, so I don't have any
18 questions.
19 Mr. Moran?
20 MR. MORAN: Thank you, Mr. Hearing Officer --
21 HEARING OFFICER KINNALLY: Well, wait a minute.
22 I think it goes back to you. It goes back to
23 Mr. Porter. That's my mistake.
24 MR. PORTER: Thank you.

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1 MR. MORAN: Mr. Hearing Officer, do have one
2 request. Based on a question Mr. Mueller asked,
3 obviously I'm in a position that I can't necessarily
4 follow up, but I would like that opportunity
5 regardless of whether Mr. Porter has follow-up.
6 HEARING OFFICER KINNALLY: I think that's fair.
7 REDIRECT EXAMINATION
8 BY MR. PORTER:
9 Q. There has been some discussion today about
10 the fact that you did a model that is often done when
11 a GIA analysis is done which might happen if this
12 landfill is approved.
13 Isn't it true that the Applicant also
14 did a GIA model?
15 A. Yes.
16 Q. And there was also some criticism leveled
17 by Waste Management concerning some language on the
18 Berg diagram that makes it clear that the map itself,
19 not the key you used, but the map itself should not be
20 used for trying to make a site-specific determination
21 of what the vertical hydraulic conductivity is in a
22 specific area.
23 Do you recall that?
24 A. Yes.

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1 Q. And I think you testified you didn't do
2 that. You didn't use that in order to do a site
3 specific analysis.
4 Isn't it true what you did was a GIA
5 model to do a site-specific analysis?
6 A. That's one of the things that we did, was
7 ran the GIA model to determine the sensitivity.
8 Q. And as I understand it, Criterion 2
9 requires this County Board to make a determination as
10 to whether or not this proposed location is protective
11 of the public health, safety, and welfare; correct?
12 A. Correct.
13 MR. MORAN: Objection; asked and answered.
14 HEARING OFFICER KINNALLY: Oh, yeah, but we've
15 had a lot of that tonight. I don't think one more
16 question like that's going to break the bank. So I'm
17 going to overrule that.
18 (Laughter.)
19 HEARING OFFICER KINNALLY: Go ahead.
20 BY THE WITNESS:
21 A. Can you give me the question again?
22 HEARING OFFICER KINNALLY: Well, he wants to
23 know what -- go ahead, Mr. Porter.
24 BY MR. PORTER:

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1 Q. Again, one of the criteria of Criterion 2
2 is that the location of the proposed Application be
3 protective of public health, safety, and welfare; is
4 that right?
5 A. That's correct.
6 Q. And in order to determine if a location is
7 appropriate, would you agree that a County Board
8 should consider the hydraulic conductivity of an area
9 whether or not there is communication of groundwater
10 with the aquifer, and a good way to do that is by
11 performing a GIA model?
12 A. That's one tool to do it, I'd agree. And,
13 you know, location is one of the -- one of the
14 requirements for Criteria 2.
15 Q. Now, Mr. Davidson pointed out -- got into
16 the issue of what happens past this level.
17 Isn't it true before any permit would
18 ever be issued by the IEPA, there has to be a finding
19 first that a local siting authority has held a
20 Section 39.2 hearing and approved an application?
21 A. That's correct.
22 Q. And, therefore, if there's no approval
23 here, it never gets past a permit stage at the IEPA;
24 correct?

1 MR. MORAN: Objection; mischaracterizes the
 2 reality.
 3 HEARING OFFICER KINNALLY: Well, I think that
 4 objection is sustained because I think you're right.
 5 I mean, we know what the process is.
 6 I think the County Board knows what the process is,
 7 Mr. Porter, so could you ask a different question?
 8 MR. PORTER: Certainly. It seemed that there
 9 was some confusion regarding the process.
 10 HEARING OFFICER KINNALLY: Well, I think we
 11 know. We've been through it three times now, so I
 12 think we know what the process is. Go ahead.
 13 BY MR. PORTER:
 14 Q. In this case -- strike that -- please.
 15 (Laughter.)
 16 BY MR. PORTER:
 17 Q. Ultimately, have you made a determination
 18 as to whether or not this proposed location is
 19 appropriate for a solid waste landfill?
 20 A. I don't think the location is appropriate
 21 when you go a few miles to the west and you have a lot
 22 more protective environment to put your landfill in.
 23 MR. PORTER: I have nothing further.
 24 HEARING OFFICER KINNALLY: Thank you,

1 Mr. Porter.
 2 Mr. Moran, you said you had one
 3 question based on what Mr. Mueller asked a question
 4 on. Is there any objection to that? I think it's
 5 a -- it's fair to do it.
 6 MR. PORTER: I don't have any objection.
 7 HEARING OFFICER KINNALLY: Go ahead.
 8 MR. MORAN: Thank you, Mr. Hearing Officer.
 9 RECROSS-EXAMINATION
 10 BY MR. MORAN:
 11 Q. Mr. VanHook, you were asked by Mr. Mueller
 12 if you opposed a proposed landfill in the City of
 13 Kankakee that was built within the bedrock aquifer; is
 14 that correct?
 15 A. That's correct.
 16 Q. And he asked you about the first
 17 application that was ultimately denied by the
 18 Pollution Control Board and upheld by the Supreme
 19 Court; correct?
 20 A. Okay. I almost need a road map.
 21 Now, the first one was -- it was
 22 denied, and --
 23 Q. Well, the City of Kankakee approved it; is
 24 that correct?

1 A. The City approved -- it was reversed by
 2 the Board, and then the Appellate Court reversed that
 3 and then the Supreme Court reversed it back.
 4 Q. That's correct.
 5 A. Okay.
 6 Q. There was a second application, which he
 7 didn't ask you about?
 8 A. That's correct.
 9 Q. And, in fact, the second application which
 10 proposed the landfill directly in the bedrock aquifer
 11 was approved by the City of Kankakee; correct?
 12 A. That's correct.
 13 Q. It was approved by the Pollution Control
 14 Board; is that correct?
 15 A. I agree with you if that's what you say.
 16 Q. And the Illinois Environmental Protection
 17 Agency issued a permit for that site; is that correct?
 18 A. They issued a permit to develop it, but I
 19 don't believe they gave the operating authorization
 20 for it.
 21 Q. But they issued a development permit for
 22 it; correct?
 23 A. They call it something different, but
 24 basically it's a development permit.

1 MR. MORAN: Thank you. Mr. VanHook. That's
 2 all I have.
 3 HEARING OFFICER KINNALLY: Okay. Any questions
 4 based on that testimony?
 5 (No response.)
 6 HEARING OFFICER KINNALLY: Thank you for coming
 7 and sharing with us, Mr. VanHook, your opinions and
 8 information. I'm sure the Board values it.
 9 THE WITNESS: Thank you.
 10 HEARING OFFICER KINNALLY: Okay. You're
 11 excused.
 12 (Witness excused.)
 13 HEARING OFFICER KINNALLY: And I don't think we
 14 have anymore witnesses, and so I think we're going to
 15 go home.
 16 Again, George, you weren't here
 17 before, but we're going to start with -- on Monday,
 18 you're going to have Mr. Norris here?
 19 MR. MUELLER: Yes.
 20 HEARING OFFICER KINNALLY: Okay. So -- and
 21 Mr. Kramer will have his geologist here. Mr. Porter,
 22 I don't know if you've decided whether you're going to
 23 call another witness, but you should have that person
 24 available. And if Mr. Belt can show up with his

1 witness and --
 2 MR. KRAMER: Do you want us to try to tell him
 3 Monday?
 4 HEARING OFFICER KINNALLY: Pardon me?
 5 MR. KRAMER: Do you want us to let Mr. Belt
 6 know you're expecting his witness --
 7 HEARING OFFICER KINNALLY: Well, I think we
 8 might get to Mr. Vogen, and I think that's pretty much
 9 all the witnesses we have, then.
 10 MR. KRAMER: I told him this afternoon when he
 11 said he wasn't coming I would let him know if you
 12 wanted him --
 13 HEARING OFFICER KINNALLY: I think, you know, I
 14 think we'll probably get through Mr. Norris and your
 15 geologist. Don't you, George?
 16 MR. MUELLER: Yes.
 17 HEARING OFFICER KINNALLY: Okay. All right.
 18 Well, thanks for all coming, and have a nice weekend,
 19 and we'll see you Monday.
 20 * * * * *
 21
 22
 23
 24

1 STATE OF ILLINOIS)
) SS.
 2 COUNTY OF DU PAGE)
 3 I, Janet L. Galasso, CSR. No. 84-002176, and
 4 Kathleen M. Grove, CSR No. 84-002197, do hereby
 5 certify that we reported in shorthand the proceedings
 6 had at the hearing of the above-entitled cause and
 7 that the foregoing Report of Proceedings, Pages 1269
 8 through 1469, inclusive, is a true, correct, and
 9 complete transcript of my shorthand notes taken at the
 10 time and place aforesaid.
 11 We further certify that we are not counsel for
 12 nor in any way related to any of the parties to this
 13 suit, nor are we in any way, directly or indirectly
 14 interested in the outcome thereof.
 15 This certification applies only to those
 16 transcripts, original and copies, produced under our
 17 direction and control; and we assume no responsibility
 18 for the accuracy of any copies which are not so
 19 produced.
 20 IN WITNESS WHEREOF we have hereunto set my
 21 hand this 19th day of September, 2008.
 22
 23 Certified Shorthand Reporter
 24
 Certified Shorthand Reporter