

BEFORE THE CITY COUNCIL OF THE CITY OF  
WEST CHICAGO SITTING AS A POLLUTION  
CONTROL SITING AUTHORITY

In the Matter of: )  
APPLICATION FOR LOCAL SITING )  
APPROVAL FOR LAKESHORE )  
RECYCLING RECYCLING SYSTEMS, )  
LLC, FOR THE WEST DU PAGE )  
RECYCLING AND TRANSFER )  
STATION, 1655 POWIS ROAD, )  
WEST CHICAGO. )

CONTINUED REPORT OF PROCEEDINGS had and  
testimony taken at the hearing of the above-  
entitled matter, at 900 Prince Crossing Road,  
West Chicago, Illinois, on the 4th day of  
January, A.D. 2023, at the hour of 6:00 p.m.

PRESENT:

- MR. DERKE PRICE, Hearing Officer;
- MR. DENNIS WALSH, City Council Attorney;
- MR. PHILLIP A. LUETKEHANS, Attorney for  
Protect West Chicago;
- MR. RICARDO MEZA, Attorney for Protect  
West Chicago;
- MR. GERALD CALLAGHAN, Attorney for city  
staff;
- MR. STEVE DeLaROSA, Representative for  
People Opposing DuPage Environmental  
Racism (PODER);
- MR. GEORGE MUELLER, Attorney for  
Lakeshore Recycling Systems, LLC.

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<u>APPLICANT'S EXHIBIT</u>	<u>I.D.</u>	<u>ADMITTED</u>
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No. 604	406	

1 HEARING OFFICER PRICE: Good evening. We  
2 are at the appointed hour of 6:00 o'clock.  
3 I'll invite Mr. Hock to resume his place here at  
4 the witness stand. He was in the middle of his  
5 testimony. We've gone through direct and  
6 initial round of cross so we would be at  
7 redirect.

8 One preliminary note, unless there  
9 are any other housekeeping matters, there's been  
10 a request from some in the audience if we could  
11 put the exhibits that people are asking the  
12 witnesses about up on the screen.  
13 Unfortunately, the way this auditorium works,  
14 that's not possible. The -- Everything that  
15 Mr. Hock testified to that was on the screen was  
16 preloaded and is handled in the back.

17 And so Mr. Meza has done amazing  
18 work to be able to even have a screen to help  
19 the witness, but there's no way to throw that to  
20 this screen behind me. So we apologize for  
21 that. We'll do the best we can to try and keep  
22 everybody informed as we go along.

1                   That being said, unless there are  
2 any other preliminary matters from anybody,  
3 Mr. Mueller, we will resume.

4                   Mr. Hock, you're still under oath.  
5                   And back to you, Mr. Mueller.

6                   MR. MUELLER: Thank you.

7 WHEREUPON:

8                                   JOHN HOCK,  
9 called as a witness herein, having been  
10 previously duly sworn, was examined and  
11 testified as follows:

12                                   REDIRECT EXAMINATION

13 BY MR. MUELLER:

14                   Q.       Mr. Hock, there was some discussion  
15 yesterday about authentic tax records of DuPage  
16 County.

17                   HEARING OFFICER PRICE: Mr. Mueller,  
18 I'm going to remind you to keep the microphone  
19 in front of you. The people in the audience,  
20 although we can hear you clearly, they couldn't.

21                   MR. MUELLER: Okay. Can everybody hear  
22 me?

05:59:56PM

1 UNIDENTIFIED SPEAKER: Yes.

2 BY MR. MUELLER:

3 Q. So there was some discussion yesterday  
4 about the authentic tax records of DuPage  
5 County.

6 Do you recall that?

7 A. Yes.

8 Q. You indicated that you had located  
9 records on the DuPage County website and the  
10 treasurer's website?

11 A. Yes.

12 Q. Do those websites contain links to  
13 authentic tax records of the County?

14 A. They do.

15 Q. Specifically, which records are easily  
16 found?

17 A. The real estate tax assessment maps.

18 Q. Those of what we'd call the plat  
19 books?

20 A. Yes.

21 Q. And what else is easily found?

22 A. The -- The ownership of those parcels.

06:00:16PM

06:00:37PM

1 Q. Are tax bills available online?

2 A. Yes.

3 Q. Okay. Now, did you go back and look  
4 at the authentic DuPage County tax records to  
5 see whether or not the Canadian National Railway  
6 is listed as an owner of property adjacent to  
7 the site?

8 A. I did.

9 Q. Is it so listed?

10 A. Yes, it is.

11 (Brief pause.)

12 MR. DELAROSA: Excuse me. You don't  
13 have another one?

14 MR. LUETKEHANS: We'll share.

15 MR. DELAROSA: Okay.

16 BY MR. MUELLER:

17 Q. Mr. Hock, I've handed you -- Let me do  
18 that again. I've handed you what we're going to  
19 call Applicant's Exhibit 5 and 6.

20 Do you have those in front of you?

21 A. I do.

22 Q. Can you take a look at Exhibit 5 and

1 tell us what it is?

2 (Applicant Exhibit No. 5 marked  
3 for identification.)

4 BY THE WITNESS:

5 A. It is a half-quarter section map of  
6 the eastern portion of the site, and it includes  
7 the two railroads that are directly adjacent to  
8 the east portion of the site.

9 Q. And what is the title of this  
10 half-quarter section map?

11 A. It is the real estate tax assessment  
12 parcels, again, for Section 32 northeast corner  
13 west half.

14 Q. And who maintains these maps?

15 A. The DuPage County clerk.

16 Q. And is her name and identification on  
17 the bottom?

18 A. It is.

19 Q. Can you read what it says after her  
20 name and address?

21 A. It says: This map created for  
22 assessment purposes only, refer to the recorded

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06:03:52PM

1       plats and deeds for legal descriptions and  
2       property dimensions, copyright 2022, County of  
3       DuPage.

4           Q.       Mr hock, can you look at the map -- By  
5       the way, do you deem this to be an authentic tax  
6       records of DuPage County?

7           A.       Yes.

8           Q.       When you look at the -- the map in  
9       front of you, are there owners listed for the  
10       two railroad properties east of the site?

11          A.       Yes.

12          Q.       Who is the owner listed for the first  
13       property to the east?

14          A.       Union Pacific Railroad.

15          Q.       And who is the owner listed for the  
16       second property to the east?

17          A.       Canadian National Railway.

18          Q.       And does it say anything else with the  
19       listing of that ownership?

20          A.       It does.

21                    So in parentheses, after Canadian  
22       National Railway, it lists EJ&E, space, RR.

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1 Q. And do you deem that to be the EJ&E  
2 Railroad?

3 A. Yes.

4 Q. Did you do some research as to whether  
5 or not the EJ&E Railroad even still exists  
6 anymore?

7 A. I did.

8 Q. And what did you learn?

9 A. So the Canadian National Railway  
10 purchased the EJ&E Railroad a couple decades  
11 ago. And as of about ten years ago, the EJ&E  
12 Railroad is no longer an existing entity.

13 Q. Now, Mr. Hock, counsel handed out a  
14 motion in which he said, among other things,  
15 that the Canadian National Railroad -- and I'll  
16 go to paragraph 20 of his motion -- where he  
17 said there is no indication in the authentic tax  
18 records of DuPage County that the entity owns  
19 the property identified by PIN 01-32-505-001.

20 Is that a true statement?

21 A. That is blatantly incorrect.

22 Q. Further, the motion states the DuPage

1 County clerk's certified records also confirmed  
2 that the Elgin Joliet & Eastern Railway Company  
3 and not Canadian National Railway is the entity  
4 entitled to notice.

5 Is that a correct statement?

6 A. That is an incorrect statement.

7 Q. In fact, to the extent that there even  
8 is a vestigial entity known as EJ&E Railroad, it  
9 is owned by Canadian National?

10 A. Correct. Although, as I mentioned,  
11 our understanding is that that entity is -- no  
12 longer exists.

13 Q. The motion handed out by -- by counsel  
14 also indicated that they thought we should have  
15 sent notice to EJ&E at an address in Homewood,  
16 Illinois on South Ashland Avenue.

17 Do you recall that?

18 A. I do.

19 Q. And have you had a chance to look up  
20 that address?

21 A. I have.

22 Q. And is that Exhibit 6 that we handed

06:07:19PM

06:07:55PM

1 out?

2 (Applicant Exhibit No. 6 marked  
3 for identification.)

4 BY THE WITNESS:

5 A. It is. That is -- Exhibit 6 is a  
6 street view of -- from Google Earth of that  
7 address.

8 Q. And what do you see that's of note on  
9 the picture of the building at that address?

10 A. The letters CN in two locations in  
11 kind of big red letters on top of the building.

12 Q. What do you interpret those letters to  
13 mean?

14 A. Those letters and colors are the logo  
15 for Canadian National Railway.

16 Q. So at this point, does it continue to  
17 be your position that we gave appropriate notice  
18 to all entities entitled to notice under the  
19 statute?

20 A. Yes.

21 Q. And, once again, where did you get  
22 your information about the ownership interest in

06:08:20PM

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1 the railroad of Canadian National?

2 A. From the authentic tax map from DuPage  
3 County.

4 Q. All right. Thank you.

5 Mr. Hock, let's move on then to the  
6 remainder of your cross-examination.

7 Six years ago, how many public  
8 entities were competitors in our service area?

9 A. There were four.

10 Q. And how many are there now?

11 A. Two.

12 Q. What happened to the other two?

13 A. So maybe I'll go back to start from  
14 the beginning.

15 So Waste Management, which is the  
16 largest publicly traded company, was one of the  
17 four, as was Republic Services were the second  
18 largest publicly traded company at that time,  
19 Waste Connections being the third largest  
20 publicly traded company, and then Advanced  
21 Disposal being the fourth.

22 In -- In 2017, actually, Waste

1 Connections did an asset swap with Republic  
2 Services. And an asset swap is basically where  
3 employees, trucks, equipment, and customers are  
4 agreed to be exchanged. And the general border  
5 for that was Interstate 355.

6 So Waste Connections that  
7 Republic's access west of Interstate 355, which  
8 is basically the heart of our service area, and  
9 Republic took Waste Connection's access east of  
10 I-355.

06:10:53PM  
11 Q. Okay. That reduced the playing field  
12 to three?

13 A. It did. It -- Republic Services  
14 basically exited the market as you -- And  
15 Republic Services does not even list its  
16 communities west of I-355 as communities it  
17 serves on their website anymore.

18 Q. Has Republic bid on any contracts --  
19 hauling contracts west of 355 in our service  
20 area since the access swap?

06:11:22PM  
21 A. I'm not aware of them bidding on any  
22 municipal hauling contracts since that time west

1 of I-355.

2 Q. How did the other major player leave  
3 the field?

4 A. So the other major player left was  
5 Advanced Disposal. So in October of 2020, as I  
6 mentioned yesterday, Waste Management and  
7 Advanced Disposal merged. Waste Management,  
8 again, being the largest publicly traded  
9 company, and Advanced Disposal was fourth at the  
10 time.

11 So one bought four, and that  
12 eliminated Advanced Disposal from the market and  
13 basically created the duopoly or the two  
14 companies we have left.

15 Q. What has been, based upon your  
16 research, the effect on competition in the  
17 service area since we've gotten down to two  
18 publicly-traded companies?

19 A. Well, price increases, and it's  
20 reduction of bidders and competition.

21 Q. Now, do the two -- or do the larger  
22 companies often cooperate in terms of something

1 called volume swaps?

2 A. Yes.

3 Q. What is a volume swap?

4 A. So a volume swap -- are sometimes  
5 called a swap agreement -- is where two  
6 companies with similar access, such as transfer  
7 stations, basically agree to allow each other to  
8 dispose of waste at each other's facilities in a  
9 mutually beneficial arrangement.

10 Q. And what's the purpose of doing that,  
11 Mr. Hock?

12 A. Well, it's primarily transportation  
13 efficiencies, which leads to cost reductions.

14 Q. Transfer -- Transportation  
15 efficiencies is one of the things that LRS is  
16 seeking here; isn't that true?

17 A. Yes.

18 Q. Now, when did Waste Connections  
19 actually come into this area?

20 A. So interestingly enough, it was  
21 basically right before the access swap with  
22 Republic Services.

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1                   So Waste Connections really entered  
2     in November of 2015 when they bought a family  
3     business called Rock River Environmental, and  
4     the main asset that they acquired is part of  
5     that -- that deal was the Winnebago Landfill,  
6     which is, again, out near Rockford and one of  
7     the two busiest landfills in Illinois today.

8                   They then, just a little over a  
9     year later, bought Groot, which is another  
10    family owned business that had been around many  
11    years. And with that acquisition, they  
12    purchased multiple transfer stations and hauling  
13    routes and completed, really, which was -- was  
14    their vertical integration.

15                  So once they bought Groot, they had  
16    the hauling, they that had multiple transfer  
17    stations, and they had a conveniently located  
18    landfill near Rockford.

19                  Q.     So if I understand this, before the  
20    entry of Waste Connections into the market, Rock  
21    River, which owned Winnebago Landfill, were they  
22    vertically integrated?



1           A.       Not in our service area.

2           Q.       Okay.  And was Groot vertically  
3 integrated?  Did it own any landfills?

4           A.       They did not.

5           Q.       So Waste Connections now, in fact, is  
6 integrated?

7           A.       Absolutely.

8           Q.       Returning for a second -- I apologize  
9 for skipping around -- to the concept of volume  
10 swaps, you were asked, I think, yesterday about  
11 possible collusion.

12                   Do you consider volume swaps  
13 between big players in the market to be  
14 collusive?

15           A.       Well, it's a -- it's a commonly used  
16 approach, and those agreements are -- are  
17 common.  So it's -- I do not believe it's  
18 collusion, but it is -- I'll express -- it's  
19 highly cooperative.

20           Q.       Cooperation is good.

21                   Now, to your knowledge, is Waste  
22 Connections in the process of working on

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1 development of a new transfer station in Aurora?

2 A. I understand that they are, and  
3 it's -- it's in Kane County.

4 Q. That's a project that actually started  
5 when Republic was still in the service area,  
6 right?

7 A. Yes. Republic was seeking a transfer  
8 station in Aurora a number of years ago before  
9 they -- they exited to the east.

10 Q. Okay. And what is going to be, in  
11 your opinion, the effect of an Aurora transfer  
12 station on waste hauling to the DuKane transfer  
13 station, which is owned by Waste Connections?

14 A. Well -- So Waste Connections currently  
15 hauls both Aurora and Naperville, and a transfer  
16 station in that area would be very conveniently  
17 located. So it would seem inherently obvious  
18 that they would divert that waste to a new  
19 transfer station.

20 Q. Now, if -- if Waste Connections  
21 already has a transfer station in the area, why  
22 would they want another one?

1           A.     Again, transportation efficiencies,  
2     which leads to cost control.

3           Q.     By the way, has LRS -- Lake Shore --  
4     ever used the DuKane transfer station?

5           A.     No.

6           Q.     Why not?

7           A.     Because if they were able to get a  
8     price quote, that price -- that price quote was  
9     always significantly higher than market --  
10    market prices. And they were able to -- They  
11    were always getting significantly better pricing  
12    at other locations.

13          Q.     And lastly, Mr. Hock, you had talked  
14    yesterday about Lake Shore's existing hauling  
15    contract, and I think Mr. Luetkehans asked you  
16    about those also.

17                    Is there concern on Lake Shore's  
18    part about losing existing contracts if they  
19    don't get the transfer station that we're  
20    seeking now?

21          A.     Absolutely. And, again, that goes to  
22    the -- the core of why we're here. And it's,

1 first, important to understand that the -- the  
2 contracts that Lake Shore currently has for  
3 places like Wheaton and Lisle and the other  
4 communities were all won and obtained prior to  
5 October 2020 when the merger between Waste  
6 Management and Advanced Disposal occurred. And,  
7 again, they were relying upon using the assets  
8 of Advanced Disposal.

9 Q. Now, you use the word duopoly.

10 What does that mean?

11 A. Well, that's -- it's one more than a  
12 monopoly. So a monopoly is where one controls  
13 primarily everything; a duopoly would be where  
14 two control the market.

15 MR. MUELLER: Mr. Hock, that's all I  
16 have. Thank you.

17 HEARING OFFICER PRICE: Okay. Thank  
18 you, Mr. Mueller.

19 Mr. Luetkehans, you would be next.

20 MR. LUETKEHANS: One second, if I may.

21

22

1 CROSS-EXAMINATION

2 BY MR. LUETKEHANS:

3 Q. Mr. Hock, let's start with the notice  
4 issue, if we may.

5 You said you looked at the -- You  
6 looked, in between last night and today, what  
7 you said were the authentic DuPage County tax  
8 records.

9 Do you recall that?

10 A. Yes.

11 Q. Who told you those were the authentic  
12 DuPage County tax records? Did someone at the  
13 treasurer's office tell you that?

14 A. It seems inherently obvious it's --

15 Q. No.

16 A. -- the tax --

17 Q. My question is: Did someone tell you  
18 that?

19 A. (No verbal response.)

20 Q. Did anyone at the County tell you that  
21 this -- this website was somehow the authentic  
22 tax records for DuPage County?

1           A.     I did not talk to anyone at the County  
2     between yesterday and today.

3           Q.     Okay.  So you didn't bother to make  
4     that phone call to the treasurer's office and  
5     ask if this was the authentic tax record, did  
6     you?

7           A.     Not today.

8           Q.     Okay.  And you didn't do it before, at  
9     least you haven't said you don't know of anybody  
10    doing it before today either, correct?

11          A.     Well, again, it seems obvious to me  
12    that this is the tax records.  It came right off  
13    the website.

14          Q.     Yeah.

15                   And on the website, it says:  This  
16    is for assessment purposes only, correct?

17          A.     It does.

18          Q.     Okay.  It doesn't say the tax bills  
19    were issued on the basis of this, does it?

20                   MR. MUELLER:  I'm going to object.

21    He's now parsing words.  The document  
22    authenticates itself, and assessment is clearly

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1 for the purpose of assessing taxes.

2 MR. LUETKEHANS: If Mr. Mueller wants  
3 to argue, that's one thing, but right now I'm  
4 asking questions.

5 HEARING OFFICER PRICE: Yeah.

6 And so I understand the objection,  
7 Mr. Mueller. I'm going to overrule the  
8 objection. Mr. Hock can testify.

9 BY MR. LUETKEHANS:

10 Q. This document does not say anything  
11 about authentic tax records, does it?

12 A. Well, it's a tax map.

13 Q. Well, it's in tax -- it says it's a --  
14 for tax -- for assessment purposes only,  
15 correct?

16 A. In my opinion, it's an authentic tax  
17 record.

18 Q. Okay. Your opinion.

19 But nobody at the treasurer's  
20 office told you it was an authentic tax record,  
21 did they?

22 A. Again, I didn't talk to anybody at

1 the --

2 Q. Okay. And you didn't talk to anybody  
3 at the County Clerk's Office either, did you?

4 A. I did not talk to anyone at the County  
5 Clerk's Office.

6 Q. So you didn't bother to call either of  
7 the two entities that the statute says and case  
8 law says are the places you should talk to about  
9 what the authentic tax record is --

10 MR. MUELLER: I'm going to object.

11 BY MR. LUETKEHANS:

12 Q. -- correct?

13 HEARING OFFICER PRICE: That one's  
14 sustained.

15 MR. LUETKEHANS: Fair enough. Thank  
16 you.

17 BY MR. LUETKEHANS:

18 Q. You went to the treasurer's website,  
19 you said?

20 A. So to get to this, you go to the  
21 DuPage County website and it takes you to a GIS  
22 website and then there's a nice link and a nice



1 page. And down in the right-hand corner, it  
2 says tax maps, and you click on it, and you can  
3 zoom in and get these maps.

4 Q. Okay. So you got a map.

5 My question is: Did you go to the  
6 DuPage County Treasurer's Office and click on  
7 the line that says railroad tax bills?

8 A. (No verbal response.)

9 MR. MUELLER: Beyond the scope of  
10 redirect.

11 HEARING OFFICER PRICE: Overruled.

12 BY THE WITNESS:

13 A. I'm not sure where that link is or  
14 what you're --

15 Q. Okay. Well, let's talk about it.

16 This is a copy, for the record, a  
17 motion filed yesterday?

18 A. Mm-hmm.

19 Q. You've seen that, correct? I gave you  
20 a copy last night?

21 A. Yes.

22 Q. Okay. Go to the back towards the end

06:23:29PM

06:23:50PM

1 of that document, would you, please.

2 If you go to the third page from  
3 the back -- third page from the back, it's got a  
4 website. It says DuPage County Treasurer's  
5 Office and it's got a picture of Gwen Henry. Do  
6 you see that?

7 A. Yes.

8 Q. Okay. And you see the left, there's a  
9 column of things you can click on, correct?

10 A. Yes.

11 Q. And one of them says the railroad tax  
12 bills. Do you see that?

13 A. Yes.

14 Q. You didn't bother to check on that,  
15 did you?

16 A. I did not click on that link.

17 Q. Okay. If you would have clicked on  
18 that link, you would have seen the next page?

19 MR. MUELLER: Object, calls for him to  
20 speculate.

21 HEARING OFFICER PRICE: Sustained.

22

06:24:29PM

06:24:50PM

1 BY MR. LUETKEHANS:

2 Q. Okay. So let's go to Exhibit 1 after  
3 the motion. It's about ten pages in, if that.

4 In fact, it's tabbed -- I think  
5 it's the first tab, the first big tab. I think  
6 I got that far before we started.

7 A. The Exhibit 2? I'm sorry.

8 Okay. I see --

9 Q. It's Exhibit 1.

10 A. I see Exhibit 1.

06:25:43PM

11 Q. Okay. And that, as you can see -- you  
12 saw this last night and today, correct, you  
13 looked at this?

14 A. Yes.

15 Q. And this is an ordinance annexing  
16 property under the City of West Chicago,  
17 correct?

18 MR. MUELLER: I'm going to object. The  
19 West Chicago ordinance is not a DuPage County  
20 tax record.

06:26:00PM

21 HEARING OFFICER PRICE: You asked him  
22 about the -- the motion, Mr. Mueller. So I'm

1 going to give Mr. Luetkehans a little leeway  
2 here.

3 Overruled.

4 BY MR. LUETKEHANS:

5 Q. The City ordinance say it's annexing  
6 property of the City of West Chicago, Elgin,  
7 Joliet & Eastern Railway rights way.

8 Do you see that?

9 A. I do. I see this was in 2003.

10 Q. Yep.

11 And you go two pages -- three pages  
12 further and you will see that the property with  
13 the PIN we're discussing is there, correct?

14 A. (No verbal response.)

15 Q. 01-32-506-001, I believe?

16 A. Yes.

17 Q. Okay. So we know in 2003 it was owned  
18 by EJ&E Railroad, correct?

19 A. Yes.

20 Q. Okay. So now, let's go to the next  
21 exhibit, and that is a Group Exhibit 2.

22 And if you go back probably about

1 eight pages -- I'm guessing again -- there's a  
2 page that has assessee, Elgin Joliet & Eastern  
3 Railway Company. Do you see that?

4 A. Yes.

5 Q. Okay. And that's a cert- -- certified  
6 copy of the next page, which is a bill to the  
7 Elgin Joliet & Eastern Railway Company issued in  
8 2022, correct?

9 A. Yeah. It appears to be a bill to a  
10 company that doesn't exist.

11 Q. Well, we'll get into that because the  
12 Elgin Joliet -- the EJ&E does still exist. You  
13 may not think it does, but we'll talk about  
14 that.

15 But that is the EJ&E with an  
16 address in Homewood, Illinois, correct?

17 A. That's correct. That's the --

18 Q. That's the place where you saw a  
19 picture of the CN --

20 A. Yes.

21 Q. -- but the reality of it is, the  
22 authentic tax records for DuPage County in this

06:27:50PM

06:28:10PM

1 bill is sent to EJ&E at Homewood, Illinois,  
2 correct?

3 MR. MUELLER: I'm going to object that  
4 he doesn't have enough foundation for that.

5 HEARING OFFICER PRICE: Overruled.

6 You could answer.

7 MR. MUELLER: Maybe I'll make a further  
8 objection. There are no -- no parcel numbers  
9 listed on that tax bill.

10 HEARING OFFICER PRICE: Overruled.

11 BY THE WITNESS:

12 A. Sorry. Could you repeat the question?

13 Q. The EJ&E receives a tax -- receives  
14 the tax bills on behalf of the railroad at  
15 Home- -- in Homewood, Illinois, correct?

16 A. (No verbal response.)

17 Q. That's where it's sent?

18 A. That- -- That's what this information  
19 suggests.

20 Q. And this a certified copy of a tax  
21 bill from the DuPage County Treasurer's Office,  
22 correct?

06:28:36PM

06:29:04PM

1           A.       This is saying it is the original tax  
2 bill for that entity at the address you had  
3 mentioned, and there's a tax bill attached.

4           Q.       Okay. And that tax bill, if you go  
5 down underneath the tax bill, it's got logos.  
6 And one of the districts that receives -- that  
7 it gets taxed for is West Chicago.

8                   Do you see that?

9           A.       It says West Chicago Park.

06:29:47PM 10          Q.       Okay. It also says West Chicago Fire  
11 District, West Chicago Steel (indiscernible)  
12 District, West Chicago Library District,  
13 correct?

14          A.       Yes.

15          Q.       Okay. Now, if we go to the next  
16 exhibit, Exhibit 3, that's an affidavit from  
17 Jean Kaczmarek.

18                   Do you see that, a certified copy  
19 of, again, tax records pertain- -- excuse me --  
20 keeper of the records pertaining to taxes, and  
21 she certifies the following is -- are certified  
22 copies of those -- of the railroad assessment

06:29:47PM

06:30:25PM

1 certification, correct?

2 MR. MUELLER: The document speaks for  
3 itself. You don't have to agree or disagree  
4 with it.

5 HEARING OFFICER PRICE: I agree with  
6 that, but, again, you opened the door to ask him  
7 about this report.

8 Mr. Luetkehans, we -- the document  
9 does say what it says. We don't need Mr. --

10 MR. LUETKEHANS: Okay.

11 HEARING OFFICER PRICE: -- Hock to  
12 confirm what it says. Read the records allowed.  
13 BY MR. LUETKEHANS:

14 Q. Okay. In here, anywhere, can you find  
15 a bill or the Canadian National name listed as  
16 an entity in Illinois that is on the  
17 certification assessments of railroad property  
18 for DuPage County?

19 MR. MUELLER: I'm going to object  
20 because the records that he's referencing are  
21 Illinois Department of Revenue records not  
22 authentic DuPage County tax records.



1 HEARING OFFICER PRICE: I look forward  
2 to seeing an argument in your brief.

3 So overruled.

4 BY THE WITNESS:

5 A. Can you ask the question again?

6 Q. Yeah.

7 Anywhere in this property tax  
8 certification, which is in the DuPage County --  
9 strike -- Clerk's Office, do you see a bill for  
10 a railroad assessed property going to the  
11 Canadian National?

12 Take your time.

13 A. Are you referring to Exhibit 2 now or  
14 somewhere else in this document?

15 Q. No, Exhibit 3. You just had it a  
16 minute ago. I haven't left it.

17 MR. MUELLER: You know, Mr. Price, to  
18 speed this up, we would be willing to stipulate  
19 that DuPage County does not send any tax bills  
20 to an entity they call Canadian National Railway  
21 if counsel will stipulate to the fact that  
22 Canadian National Railway actually owns the

1 entity that DuPage County incorrectly identifies  
2 as EJ&E.

3 MR. LUETKEHANS: No thank you.

4 HEARING OFFICER PRICE: All right.

5 Thank you, Mr. Mueller.

6 The question remains, Mr. Hock: Do  
7 you see a bill to the Canadian National?

8 (Witness perusing document.)

9 BY THE WITNESS:

06:34:22PM 10 A. So in Exhibit -- Excuse me. In  
11 Exhibit 3, I do not see the words Canadian  
12 National Railway.

13 Q. Okay. Would you agree with me that  
14 also none of the tax bills in Exhibit 2 go to  
15 the Canadian National Railway either? In fact,  
16 if they did, we would have heard about it, I  
17 assume, from Mr. Mueller or you earlier.

18 A. In Exhibit 2 of this document, I do  
19 not see any -- any bills labeled to Chicago  
20 [sic] National Railway.

06:35:07PM 21 Q. Okay. You said earlier that EJ&E  
22 Railroad no longer existed; is that correct?

1 A. That's my understanding.

2 Q. And how did you get that  
3 understanding?

4 A. Through the internet.

5 Q. Where?

6 A. Did some Google searches on EJ&E,  
7 couple of different pages came up with old  
8 articles describing what I just mentioned --

9 Q. Okay. Are you --

10 A. -- that they no longer exist.

11 Q. -- familiar with the fact that the  
12 Secretary of State is the people who decide --  
13 that there's a corporate Secretary of State  
14 division in the State of Illinois, corporate  
15 division of the Secretary of State's Office?

16 A. I'm generally aware.

17 Q. And that all of us who have  
18 corporations and LLCs, we file every year to  
19 keep it going, correct?

20 A. (No verbal response.)

21 Q. Do you know that?

22 A. I'm not a corporate tax person.

06:35:28PM

06:35:46PM

1 Q. Okay. But let me ask this question:  
2 Have you ever used that Secretary of State  
3 business record search to determine if  
4 someone -- some company is an active company in  
5 Illinois?

6 A. I have not personally.

7 Q. Okay. Well, I kind of have.

8 And would you disagree with me that  
9 if we looked on that site, we would find that  
10 the EJ&E Railroad is currently in existence?

11 A. I don't -- I wouldn't know.

12 Q. One moment, please.

13 Okay. Let's go to Criterion One.

14 You said there were only two  
15 competitors in the service area. Is that -- I  
16 think, two competitive waste transfer stations,  
17 is that what you meant?

18 A. What I meant is that there's two full  
19 vertically integrated companies in the service  
20 area.

21 Q. Okay. But you would agree with me, as  
22 we decided yesterday, there's approximately

1 nine, ten waste transfer stations that the  
2 service area overlaps with your proposed service  
3 area, correct?

4 A. Well, I do agree that there's transfer  
5 stations outside our service area that waste is  
6 taken to from the service area --

7 Q. And --

8 A. -- absolutely.

9 Q. And when they did their siting  
10 application, they listed those -- this part --  
11 parts of your service area as part of their  
12 service area?

13 A. Well, I didn't look at those siting  
14 applications. It's not relevant to our -- to  
15 our argument.

16 Q. Okay. Well --

17 A. Again, we -- we acknowledge that there  
18 are transfer stations outside our service area  
19 that are taking waste.

20 Q. Okay. And we're going to -- We'll  
21 talk -- We'll show you that later. We'll show  
22 the hearing in that later, we'll do that.

06:37:26PM

06:37:42PM

1                   You said you understand that Waste  
2                   Connections is in the process of a new way to  
3                   try and site a new waste transfer in Aurora; is  
4                   that correct?

5                   THE COURT REPORTER: I'm sorry. Can  
6                   you repeat that?

7                   MR. LUETKEHANS: Yeah. That was awful.  
8                   I apologize.

9                   BY MR. LUETKEHANS:

06:38:06PM 10                  Q.           You said you understand that Waste  
11                  Connections is in the process of trying to site  
12                  a new waste -- waste transfer station in Aurora,  
13                  correct?

14                  A.           Yes.

15                  Q.           Have they filed an application yet?

16                  A.           Not that I'm aware of.

17                  Q.           Okay. And so we don't know if it will  
18                  be granted even -- So one, you're not sure if  
19                  they're going to file an application, are you?  
20                  You don't know for sure?

21                  A.           I can't predict the future. I  
22                  acknowledge that.

06:38:26PM

1 Q. Okay. And you can't predict the  
2 further, whether Aurora would actually approve  
3 that proposed waste transfer station if it's  
4 ever filed, correct?

5 A. That is, of course, their prerogative.

6 Q. Okay. And you said that waste from --  
7 if it's sited, which is a big if from what I can  
8 tell -- that the waste from --

9 MR. MUELLER: I'm going to object to  
10 the editorial comment.

11 MR. LUETKEHANS: I'll withdraw it.

12 HEARING OFFICER PRICE: Sustained.

13 MR. LUETKEHANS: I'll withdraw it.

14 BY MR. LUETKEHANS:

15 Q. That the Waste -- That Waste  
16 Connections collects from Naperville and Aurora  
17 would go to Aurora, is that what you said?

18 A. I -- I think I said that if they site  
19 a transfer station there, it -- it would be  
20 obvious that there would be significant  
21 transportation efficiencies and they would  
22 absolutely be motivated to bring the waste

06:38:50PM

06:39:13PM

1       there.

2           Q.       Instead of bringing it to West  
3 Chicago, is that what you said?

4           A.       Yes, I believe that would occur.

5           Q.       Do you know for a fact whether that  
6 waste in the southern end of Naperville is going  
7 to the Groot transfer facility?

8           A.       Which Groot transfer --

9           Q.       The one in West Chicago?

10          A.       I mean, Waste Connections own mult- --  
11 owns multiple transfer stations. It could be  
12 going to the one in Plano.

13          Q.       Okay. As could -- And the waste in  
14 Aurora, you have no idea whether that is  
15 currently going to the Groot transfer station in  
16 West Chicago either, do you?

17          A.       Again, they own multiple transfer  
18 stations. They could be taking it to Plano.  
19 That -- Again, it could shift based on a variety  
20 of factors.

21                    What -- What I was trying to make a  
22 point of -- and, again, we talked about it

06:39:43PM

06:40:08PM



1 extensively yesterday, that if you look at the  
2 map, the -- the company tends to win contracts  
3 in locations that are in rel- -- in proximity to  
4 their transfer stations because it gives them a  
5 competitive advantage transportation-wise. And  
6 it intuitively makes sense that they would bring  
7 the waste to those nearby transfer stations.

8 Q. Okay. But my --

9 A. So my -- my simple point was if they  
10 have a closer transfer station, it's just common  
11 sense that they would bring the waste there.

12 Q. Okay. I would agree with that.

13 I guess my point is: They already  
14 won those two contracts, correct? They've won  
15 West -- They've won Aurora, they've won  
16 Naperville, according to you. They've already  
17 taken the waste from there.

18 A. And, again, my point is --

19 Q. No. Just answer my question, please.

20 Have they won those two  
21 municipalities so far?

22 A. Yes.

06:40:35PM

06:41:00PM

1 Q. Are they currently collecting there?

2 A. Yes.

3 Q. Okay. So they were able to succeed  
4 without the Aurora transfer station, correct?

5 A. Yes.

6 Q. Okay. So I guess I was getting lost  
7 in with your point because you're talking about  
8 the Groot facility in West Chicago. And we  
9 don't know that they're getting any of that  
10 waste now, do we?

11 A. Well, again, obviously Groot is  
12 incentivized to take the waste to their own  
13 transfer stations; maybe some is coming to West  
14 Chicago, maybe some is going to Plano. They  
15 have that discretion as to where they take it.

16 So in -- where they're taking it  
17 today, they could decide to change their  
18 operations tomorrow. And my simple point was  
19 that even though they own the contracts, if they  
20 end up with a closer, more convenient option  
21 that saves them money, they will do it; and that  
22 seems to be part of the obvious reason that they

06:41:26PM

06:41:58PM

1 would want a transfer station in Aurora.

2 Q. Okay. And how does that affect -- I  
3 guess I'm -- I guess I'm at the wrong transfer  
4 station here, so ...

5 Okay. Nothing further. Thank you.

6 HEARING OFFICER PRICE: Mr. DeLaRosa...

7 MR. DELAROSA: I have no follow-up  
8 questions at this point.

9 HEARING OFFICER PRICE: Thank you.

10 Did you hear that, Madam Court  
11 Reporter?

12 THE COURT REPORTER: Mm-hmm.

13 HEARING OFFICER PRICE: All right.

14 Then to the City, Mr. Callaghan.

15 MR. CALLAGHAN: No questions.

16 HEARING OFFICER PRICE: All right.

17 Then to the corporate authorities of the City,  
18 Mr. Walsh.

19 MR. WALSH: No questions, Mr. Hearing  
20 Officer.

21 HEARING OFFICER PRICE: All right.

22 Then that concludes Criterion 1 and your

06:42:30PM

06:42:38PM

1 testimony, Mr. Hock. Thank you.

2 (Witness excused.)

3 HEARING OFFICER PRICE: Mr. Mueller,  
4 your next witness.

5 MR. MUELLER: We'll call Dale  
6 Kleszynski.

7 HEARING OFFICER PRICE: And for all of  
8 us following along, Mr. Kleszynski is going to  
9 testify about which Criterion, sir?

10 MR. MUELLER: Criterion 3.

11 HEARING OFFICER PRICE: And is there a  
12 PowerPoint presentation that should be --

13 There it is.

14 Thank you. Thank you, Joe.

15 MR. DELAROSA: Excuse me.

16 Mr. Price ...

17 HEARING OFFICER PRICE: Yes.

18 MR. DELAROSA: I'm right here.

19 I have a -- I have a question about  
20 the proceedings from yesterday and today. I'm  
21 wondering if we have any notice or recollection  
22 of whether or not we have representatives --

1 elected representatives from the City of West  
2 Chicago here at this hearing tonight or  
3 yesterday.

4 HEARING OFFICER PRICE: As I stated in  
5 my opening comments, under the siting ordinance  
6 and under the law of the State of Illinois, it  
7 is not required that any elected official attend  
8 the hearing. They are allowed to rely on the  
9 record as it is produced by the court reporter  
10 and it is submitted by the evidence.

11 So I don't take attendance. We  
12 don't need to do that, and it's not required by  
13 law.

14 MR. DELAROSA: Okay. But I'm asking if  
15 we know if any of them are here tonight.

16 HEARING OFFICER PRICE: Again, I do not  
17 take attendance. It is not required.

18 MR. DELAROSA: I'm just wanting to  
19 establish that the representatives -- the  
20 elected representatives from the City of West  
21 Chicago are not here tonight.

22 HEARING OFFICER PRICE: That's not a

06:44:14PM

06:44:40PM

1 true statement. I know that there have been  
2 elected officials here, but we're not taking  
3 attendance. We don't have to do it and we're  
4 not going to do it.

5 MR. DELAROSA: Okay. I'm just  
6 reviewing the comments.

7 HEARING OFFICER PRICE: You're making a  
8 point, but it's not relevant. All right?

9 MR. WALSH: Nor is it accurate,  
10 Mr. Hearing Officer.

11 HEARING OFFICER PRICE: And as  
12 Mr. Walsh pointed out tonight, elected officials  
13 have been here. To state that they are not here  
14 is not true, but I'm not taking attendance.  
15 It's not required by law, and we're not going to  
16 do it.

17 MR. DELAROSA: That's fair.

18 Okay. Thank you.

19 HEARING OFFICER PRICE: Back to you,  
20 Mr. Mueller.

21 MR. MUELLER: The record should reflect  
22 that we've handed out as Exhibits 7 and 8 the

06:45:05PM

06:45:21PM

1 curriculum vitae of Mr. Kleszynski and the  
2 PowerPoint that he will use for his  
3 presentation.

4 MR. MUELLER: With that, would you  
5 state your full name and spell your last name,  
6 please.

7 MR. KLESZYNSKI: Should I be sworn?

8 HEARING OFFICER PRICE: Yes, you  
9 should. One moment, please.

10 (Witness sworn.)

11 HEARING OFFICER PRICE: Again,  
12 Mr. Mueller ...

13 WHEREUPON:

14 DALE KLESZYNSKI,  
15 called as a witness herein, having been first  
16 duly sworn, was examined and testified as  
17 follows:

18 DIRECT EXAMINATION

19 BY MR. MUELLER:

20 Q. Now, Mr. Kleszynski, would you state  
21 your full name and spell your last name?

22 A. My name is Dale Kleszynski,

06:46:02PM

1 K L E S Z Y N S K I.

2 Q. And I keep wanting to call you  
3 Kluszewski because of the famous White Sox  
4 slugger.

5 A. And I was happy to accept that,  
6 actually.

7 Q. Sir, what is your profession?

8 A. I'm the -- I'm the president of  
9 Associated Property Counselors. I'm a  
10 professional real estate appraiser and  
11 consultant in the area of valuation and real  
12 estate.

13 Q. And what was your assignment on this  
14 project?

15 A. In this particular instance, I was to  
16 prepare a land use compatibility and real estate  
17 impact study to determine whether or not the  
18 subject property met the conditions of  
19 Criterion 3, which ...

20 Q. Okay. And have you done that?

21 A. I have.

22 Q. And have you prepared a PowerPoint



1 presentation which summarizes your report in the  
2 siting application?

3 A. I have.

4 Q. Then without further interruption,  
5 I'll let you proceed with that, sir.

6 A. Okay. So in Power -- I have to move  
7 this. Is this ...

8 (Discussion off the record.)

9 BY THE WITNESS:

06:47:39PM 10 A. Just by way of background, I'm an MAI  
11 and an SRA-designated real estate appraiser.  
12 Those are designations that are awarded by the  
13 Appraisal Institute.

14 In the -- In addition, I'm an  
15 Illinois certified real estate appraiser with  
16 consulting and real estate appraisal experience  
17 since 1979. I'm a qualified instructor for the  
18 Appraisal Institute and have served in a number  
19 of service offices for that professional  
20 organization.

06:48:11PM 21 As indicated initially, our  
22 function in this particular instance was to --

1 to basically answer the question, if the  
2 facility is located so as to minimize  
3 incompatibility with the character of  
4 surrounding area and to minimize the effect on  
5 the value of surrounding property.

6 And this is actually a two-prong  
7 question. The first question deals with the  
8 issue of incompatibility and a comparison of the  
9 subject property to the surrounding area. And  
10 the second prong of the question -- second part  
11 of the question really deals with whether or not  
12 the -- the intended use of the property will  
13 have a deleterious impact on the value of  
14 surrounding real estate. So it's a two -- It's  
15 basically a two-prong study.

16 In this particular instance, for  
17 us, the evaluation of any particular or any  
18 individual piece of property is not part of it.  
19 What we're really studying here is the impact of  
20 the use that exists.

21 The -- The study begins with a  
22 survey or an inspection of the subject property

1 which, in this slide, you can see is outlined in  
2 red. Just in a short -- for the short version,  
3 the subject property is approximately  
4 27.66 acres of land. It has about 686 feet of  
5 frontage along the east side of Powis Road.

6 Within the total of the 27.66 acres  
7 of land that are located at this site,  
8 approximately 6.11 acres are used for the  
9 construction and demoli- -- and for the  
10 recycling operation that exist there as part of  
11 the ongoing operation.

12 What's significant about this  
13 particular slide is the location of the  
14 buildings. And if you take a look at the slide,  
15 what you'll notice is that the -- the existing  
16 building as well as the intended building, is  
17 located on the southern portion of the site  
18 basically adjacent to a -- to a vacant parcel of  
19 land which indicated to me that the owners of  
20 the property had taken great steps so as to  
21 isolate this particular application along the  
22 southern -- along the southern portion of their

06:50:06PM

06:50:38PM

1 property.

2 What's also significant about this  
3 site, if you look at -- you can see that along  
4 the frontage, there's a buffer area that  
5 separates the staging areas for the ongoing  
6 operation. And then if you look towards the  
7 railroad right-of-way, you'll see that there's  
8 also significant portions of the site which are  
9 used for the water management of the property.

06:51:14PM 10 So the site, just by way of  
11 example, is generally level, and that street  
12 grade, it is consistent with the uses in the  
13 general vicinity of the subject property.

14 Just by way of history for the  
15 area, what our study found was that since 1988,  
16 the consistent airport manufacturing activity in  
17 the subject area has existed, and in this area,  
18 DuPage County airport's located to the west.  
19 There's closed landfill and industrial  
06:51:53PM 20 facilities that are located to the south. The  
21 railroad rights-of-way are located to the east,  
22 and there are industrial facilities that are

1 located to the north of the -- north of the  
2 subject property.

3 The airport use and the intensity  
4 of the manufacturing activity in this area has  
5 remained consistent or increased over the years  
6 by -- And by the intensity, when you  
7 basically -- what we'll see on further slides is  
8 that the area that's located to the south of the  
9 subject property is what I would consider to be  
10 more generalized industrial application where  
11 the areas to the north of the subject property  
12 are more -- I would call them more intensive  
13 applications that are -- that have a tendency to  
14 be owner-occupied facilities.

15 The -- So just to take you through  
16 the aerial history of the subject -- of the  
17 subject property in the subject area, this is a  
18 1988 aerial photograph of the subject property.  
19 It's outlined in red. If you fast forward to  
20 the aerial history of the property, in 1993,  
21 you'll notice that there's an area identified as  
22 new construction in which an industrial building

1 was constructed after -- along that cul-de-sac  
2 and adjacent to the railroad right-of-way.

3 You then fast forward to 1998, a  
4 new development that is outside the study area  
5 but adjacent to the -- adjacent to the study  
6 area is new development that is located in the  
7 Conte property that's located on the east side  
8 of the railroad right-of-way south of North  
9 Avenue.

10 If you then fast forward to 2005,  
11 you can, again, see that the area activity  
12 included new construction as well as the  
13 expansion of the contractor's yard that is  
14 located to the east of the railroad  
15 right-of-way.

16 What's significant about this  
17 particular aerial is that the -- despite the  
18 existence of vacant land in this area, the  
19 development was located -- the new development  
20 of industrial buildings was located adjacent to  
21 the subject property indicating a lack of -- or  
22 indicating that there was no resistance to the

06:53:51PM

06:54:27PM

1 use that was -- that is located on the subject  
2 property.

3 Fast forward to 2012, again, it's  
4 just an aerial showing the overall development  
5 in the subject area. And I would say that it  
6 demonstrates, again, a consistency of  
7 development patterns indicating that the Conte  
8 property located to the east of the railroad  
9 right-of-way has expanded and indicating what  
10 the uses are that are located along Powis Road  
11 south of North Avenue.

12 In this instance, we defined the  
13 study area based on basic manmade boundaries  
14 that are located in the area. The mapping that  
15 you see on this particular slide indicates a  
16 405-acre study area that is bounded by North  
17 Avenue on the north, Hawthorne Lane on the  
18 south, Powis Road on the west, and the railroad  
19 rights-of-way on the east.

20 And what's, again, significant  
21 about this -- this overhead is that the -- the  
22 intensity of the uses has basically remained the

1 same, but it would be most fair to say that if  
2 you look at about halfway down to the -- of this  
3 study area, the area to the south of what is  
4 vacant land identified in white or cream color  
5 on the slide is what I would consider to be more  
6 generalized industrial; whereas, the  
7 applications that are located to the north of  
8 it, have a tendency to be owner-occupied and a  
9 little bit more intense.

06:56:41PM 10 As part of the -- As part of the  
11 study, we reviewed the zoning map, which  
12 indicated that the subject property is located  
13 in an M-manufacturing district and that the  
14 surrounding districts are, generally speaking,  
15 manufacturing airport district and there are  
16 some areas of -- there are some areas of  
17 residential that are located in the County but  
18 there are also areas of light industrial that  
19 are located in the County.

06:57:17PM 20 Based on our analysis of the area,  
21 and in -- we found that in the study locations,  
22 the uses included recycling facilities, numerous



1 outside storage yards and truck farms, railroad  
2 rights-of-way, open land that's part of the  
3 airport district, general industrial  
4 manufacturing and warehouse building, as well as  
5 vacant land.

6 We were able to conclude from what  
7 would -- in appraisal parlance is a location  
8 study that the subject property met first prong  
9 of the -- of the -- of Criterion 3 and was  
10 located in such a manner so as to minimize the  
11 effect on surrounding property.

12 What's significant about that is  
13 that candidly, the municipality has done a very  
14 good job of keeping conformity of uses in the  
15 industrial district. And this conformity is a  
16 real estate appraisal principle that strengthens  
17 value and minimizes the impact of the property.  
18 In other words, the property does not become a  
19 form of obsolescence that would impact any of  
20 the surrounding -- surrounding properties.

21 The second prong of the tests are  
22 related to the issue of highest and best use.

1 And what highest and best use is as far as  
2 appraisal parlance is concerned, is that when  
3 the property meets the four tests that are  
4 identified on this slide of being legally  
5 permissible, physically possible, financially  
6 feasible, and maximally productive, the property  
7 will yield the greatest net return to the land  
8 for the longest period of time.

9 When property yields the greatest  
10 net return to the land for the longest period of  
11 time, it -- it does not become a form of  
12 obsolescence that would have an impact on  
13 surrounding properties.

14 So in order to examine the issue of  
15 legal permissibility, as I said, the subject  
16 property is located in an M-manufacturing  
17 district and has a plan use development  
18 classification. The surrounding uses are  
19 compatible and similarly zoned. In this  
20 instance, the -- the subject property has  
21 received some special use approvals in order to  
22 continue their operations over the last several

1 years which, again, is an -- is an indication  
2 that there's an acceptance of the -- the current  
3 application or the current use at the subject  
4 property.

5           When we examined the issue of  
6 physical possibility, there was no indication,  
7 based on our inspection of the property, the  
8 buildings have been there for a reasonable  
9 period of time with no identification of  
10 settlement or deterioration of the property.  
11 The property appeared to be well-maintained.  
12 The set back of the property on the site was an  
13 indication that great pains have been taken so  
14 as to complete the use -- the recycling use that  
15 is ongoing there in a manner so as not to be a  
16 disturbance to surrounding properties.

17           We -- And we -- Our search  
18 indicated that there's adequate infrastructure  
19 in the area as well as servicing the subject  
20 property, and there are no obvious issues which  
21 would prevent the property from being developed  
22 in accordance with the proposed plan.

1                   The examination of financial  
2    feasibility really related to our basic study of  
3    what the industrial market was in the subject  
4    area and in attempt to compare it to see whether  
5    or not its value patterns in the area were  
6    consistent with other locations throughout  
7    DuPage County. So we found that the subject  
8    area or the study area was really divided  
9    between two types of users. There were some  
10   investors -- investor uses meaning that people  
11   had purchased properties so they could lease  
12   them in order to gain a return, you know, on  
13   their investment.

14                   We also found that there was a very  
15   high number of owner-occupied properties that  
16   are located in that area and that the -- our  
17   determination was, is that the mixture of these  
18   applications was sufficient to demonstrate that  
19   there was balance in the marketplace.

20                   Our overall survey of the  
21   industrial market in West Chicago indicated that  
22   there's been approximately 17 million square

1 feet of industrial space and, in general,  
2 industrial -- in general, industrial market in  
3 West Chicago, and that's been consistent over  
4 the past five years. And that market conditions  
5 for general industrial space had remained strong  
6 in the subject area.

7 The strength of that -- The  
8 strength of that market is indicated by  
9 increases in pricing that had occurred for  
10 properties that have sold as well as increases  
11 in rents that the ten- -- the third-party  
12 tenants would pay. We found that -- We looked  
13 at approximately 300 transactions that had  
14 occurred since 2013 to the present. And we  
15 found the pattern to basically be the same.

16 Now, what's significant about that  
17 is that in the subject study area, you already  
18 have a transfer station and you have a recycling  
19 application in the subject property. So what we  
20 were able to do was use the subject location as  
21 basically the -- a study point to see what had  
22 occurred over the past -- over -- over a

1 significant number of years. And the data that  
2 we looked at went back between ten and even in  
3 some -- in some instances 20 years from the  
4 database sources that we had.

5 Obviously, the greatest activity  
6 was found in the light industrial district  
7 portion of the subject -- of the study area.  
8 And that would be typical because there are few  
9 sales of heavy industrial and owner-occupied  
10 properties where somewhat specialized  
11 applications occur. Because of the difficult --  
12 I call it difficulties -- or process associated  
13 with going through the process of becoming  
14 permitted, for example, or seeking certain  
15 application for uses in any municipality, once  
16 these -- once these per- -- once these  
17 permissions are granted, the owners have a  
18 tendency to stay put at those locations in order  
19 to avoid -- and because it is so difficult and  
20 time consuming -- in order to -- in order to  
21 relocate or start all over again.

22 Q. Mr kleszynski, I think you're one

1 slide behind.

2 A. Oh, I'm sorry. Okay. I'm sorry.

3 Okay. So this indicates that we  
4 did -- we looked at the 300 transactions and  
5 found that the greatest activity was in the  
6 light industrial area, and that the -- that  
7 there was limited sales activity for somewhat  
8 specialized properties or specialized uses, and  
9 we find this to be typical. We also find it to  
10 be an indication that the greatest value comes  
11 from those sorts of consistency.

12 The next issue was identified as  
13 maximum productivity. We found that improved  
14 properties such as the subject have -- are --  
15 they have a greater value than the land that is  
16 vacant, that when a property achieves the status  
17 of -- or the -- the label of being a somewhat  
18 specialized property or special use property  
19 that this enhances the highest value of that  
20 real estate because of not only the specialty  
21 physical characteristics of the property but  
22 the -- the need -- the regulations that are

1 associated with their operations.

2 So we -- And we found that the  
3 proposed uses located also with good access to  
4 transportation amenities. And as you could see  
5 from the slides, the subject is only access --  
6 able to be accessed from Powis Road. The  
7 primary roadway in that area as far as  
8 transportation of material for both the  
9 specialized uses as well as the general  
10 industrial uses is North Avenue and the State of  
11 Illinois, Illinois Department of Transportation  
12 has taken great pains to improve that roadway  
13 with the -- with several projects that have  
14 increased the ability of accessibility and  
15 control of the traffic volume that exists there.

16 So what were are conclusions that  
17 the -- Our conclusions were that the west  
18 DuPage -- that the west DuPage recycling  
19 transportation facility or trans- -- recycling  
20 facility transfer station is located in an area  
21 of historic and industrial use and development,  
22 that the manmade boundaries that were identified



1 in the overall 405-acre study area isolated and  
2 buffered not only the subject use but the area  
3 to effectively minimize any influences on the  
4 outside area.

5 We found that the City of West  
6 Chicago and DuPage County both encouraged  
7 development to occur in a consistent pattern in  
8 defined areas, and the proposed -- and the  
9 proposed use is consistent with the zoning  
10 classification in this area.

11 Our further conclusions were, is  
12 that the proposed use will have a minimal impact  
13 on adjacent and nearby properties. And the west  
14 DuPage transfer station will include significant  
15 infrastructure and improvements that will not  
16 only enhance the subject property; and when --  
17 when the property is enhanced and continues  
18 along with its highest and best use, it's a  
19 source of strength for the area, in general.

20 We think that the west DuPage  
21 transfer station will be a long-term and stable  
22 use of the subject property. And that ...

1           Q.     Mr. Kleszynski, based upon your  
2     investigation, your report, and testimony, do  
3     you have an opinion within a reasonable degree  
4     of scientific and appraisal certainty as to  
5     whether or not the west DuPage recycling and  
6     transfer station is located so as to minimize  
7     incompatibility with the surrounding area and to  
8     minimize the effect on the value of surrounding  
9     property.

10           A.     Yes, we formulated an opinion.

11           Q.     And what is this opinion?

12           A.     It is the -- It is our opinion that  
13     the subject property, as proposed, meets the  
14     standard of minimizing incompatibility with the  
15     character of surrounding area and minimizes the  
16     effect on value of surrounding property and  
17     meets the standard -- the criteria -- I'm  
18     sorry -- the standards of Criterion 3.

19                   MR. MUELLER: Thank you,

20     Mr. Kleszynski.

21                   Your witness, Counsel.

22                   HEARING OFFICER PRICE: All right.

1 Thank you.

2 Protect of West Chicago group,  
3 Mr. Luetkehans.

4 CROSS-EXAMINATION

5 BY MR. LUETKEHANS:

6 Q. Okay. Mr Kleszynski, you have a  
7 couple professional certifications after your  
8 name you mentioned. One of them is MAI,  
9 correct?

10 A. Yes.

11 Q. And that stands for Member of the  
12 Appraisal Institute, correct?

13 A. Well, that's, generally speaking,  
14 correct.

15 Q. The second designation is SRA?

16 A. That's correct.

17 Q. And that stands for Senior Residential  
18 Appraiser; is that correct?

19 A. That is correct.

20 Q. I also see you held many offices at  
21 the Appraisal Institute, didn't you?

22 A. Yes.

1 Q. And you've taught classes there?

2 A. Yes.

3 Q. In fact, all of your education and  
4 jobs as a real estate appraiser are related to  
5 valuation of real estate; is that correct?

6 A. No, that's not correct.

7 Q. Okay. What was your undergraduate  
8 degree in?

9 A. My undergraduate degree was a bachelor  
10 of arts degree in history and education.

11 Q. So you don't have a degree in urban  
12 planning or regional planning, do you?

13 A. I do not.

14 Q. You're not a landscape architect  
15 either, are you?

16 A. I am not.

17 Q. And let's be clear, you're not a land  
18 planner, correct?

19 A. I'm not a land planner.

20 Q. And you don't have the designation of  
21 AICP, do you?

22 A. I do not.

07:10:41PM

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1 Q. And you know that AICP is the national  
2 certification of land planners --

3 A. Yes.

4 Q. -- that's given by the American  
5 Institute of Certified Planners, correct?

6 A. Yes.

7 Q. In fact, that's the organization  
8 responsible for independent verification of  
9 planners qualification?

10 A. Yes.

11 Q. And you've never testified as an  
12 expert from a land planning capacity in court,  
13 have you?

14 A. I have not.

15 Q. You've never worked for any  
16 governmental body in a community development  
17 planning department, have you?

18 A. No.

19 Q. You've never held a job as a planner,  
20 correct?

21 A. I'm sorry?

22 Q. You've never held a job as a planner,

07:11:15PM

07:11:31PM

1 correct?

2 A. I have not.

3 Q. And you've never taught class  
4 strict- -- strictly classes or seminars strictly  
5 on land planning, have you?

6 A. No. That's part of our general  
7 appraisal curriculum in which the -- the  
8 selection of sites and the character -- the  
9 character of sites for different uses is taught  
10 in the various text material with the primary  
11 text material being The Appraisal of Real  
12 Estate.

13 Q. So the primary text material is in the  
14 appraisal of real estate?

15 THE COURT REPORTER: I'm sorry? I didn't --

16 MR. LUETKEHANS: I'm sorry.

17 BY MR. LUETKEHANS:

18 Q. The primary -- and I forget the words  
19 you used, but it's -- the primary part of those  
20 classes were for appraisals, correct?

21 A. The text material -- The text  
22 material, The Appraisal of Real Estate,

1 basically covers all aspects of real estate  
2 appraisal and site selection as part of the  
3 basic education that an appraiser would have in  
4 order to complete not only valuations of  
5 property but to complete what I would call a  
6 consulting study such as this. And that's  
7 called The Appraisal of Real Estate. I believe  
8 we are currently 15th edition of that document.

9 Q. Yeah. We'll get to that.

10 You've never drafted a zoning  
11 ordinance, have you?

12 A. I beg your pardon?

13 Q. You've never drafted a zoning  
14 ordinance, have you?

15 A. That -- That would be correct. I have  
16 never drafted a zoning ordinance.

17 Q. You've never drafted a comprehensive  
18 plan, have you?

19 A. That would also be correct.

20 Q. And you -- it's also correct you've  
21 never drafted a land use plan, have you?

22 A. That would also be correct.

1 Q. Okay. As it relates to the subject  
2 property, you did not evaluate the subject  
3 property or any adjacent properties as part of  
4 your study, did you?

5 A. No. The study was not designed in  
6 order to estimate the value of the fee simple  
7 interest in any property in the study area.

8 Q. In your study, how far did you review  
9 the surrounding properties to determine  
10 compatibility with proposed use?

11 A. I don't understand what you mean by  
12 "how far."

13 Q. Yeah.

14 How far away did you review the --  
15 the surrounding properties?

16 A. It's identified -- The study areas  
17 identified in one of the slides that shows the  
18 405-acre study area as beginning on North Avenue  
19 to the north, Hawthorne Lane to the south, the  
20 railroad rights-of-way to the east, and Powis  
21 Road to the west.

22 In addition to examining value



1 patterns for that, so I -- I did specifically  
2 complete the study of the properties in that  
3 area.

4 As part of the due diligence  
5 associated with this, I expanded that search to  
6 the areas that go all the way to the residential  
7 locations that are located to the east of the  
8 subject property. I forget which roadway that  
9 is that it ended, but basically there were two  
10 subdivisions that I looked at over there. I  
11 additionally looked at, to the north of -- of  
12 North Avenue on the east side of Powis Road, for  
13 the applications that are located there. I did  
14 that as part of this study as well as part of  
15 eminent domain cases that I had with the  
16 Illinois Depart- -- against the Illinois  
17 Department of Transportation on North Avenue.

18 So I familiarized -- refamiliarized  
19 myself with those locations. And I -- well, I  
20 guess I -- I would have to say that I obviously  
21 took into consideration the DuPage County  
22 Airport, which has been in -- which has been

1       there forever.

2           Q.       Okay.  So, in essence, your study area  
3       was the 405 acres to get you back when you  
4       started, correct?

5           A.       Yes.  The study -- The -- The  
6       identified study area was 405 acres, but you  
7       need to be clear that I did not limit my -- my  
8       review of data to only that 405 acres.  I  
9       expanded it to the areas that I've described.

10          Q.       You testified to Section 39.2 siting  
11       hearing before, correct?

12          A.       Yes.

13          Q.       At each of those hearings, you  
14       testified about the impact of the waste transfer  
15       station on value surrounding properties,  
16       correct?

17          A.       Yes.

18          Q.       Ever testified on behalf of the  
19       objector at any of those siting hearings?

20          A.       No.

21          Q.       How many siting hearings have you  
22       testified at?

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07:16:13PM

1           A.     I think this is the third one.

2           Q.     Okay. Did you ever testify that a  
3 waste transfer station would actually impact  
4 surrounding property values?

5           A.     No. I -- I never came to that  
6 conclusion.

7           Q.     Have you ever testified at any  
8 Section 39.2 siting hearing as to the  
9 incompatibility with the character of the  
10 sounding area before this hearing?

11          A.     No, because none of the ones that I  
12 testified in either had an impact or were  
13 inconsistent with the characters of the area in  
14 which they were located.

15          Q.     I'm sorry. Maybe I misstated my  
16 question wrong.

17                   At those hearings that you test- --  
18 There's two parts of this Criterion 3, correct?

19                   There's an impact on uses,  
20 surrounding uses and an impact on property  
21 values, correct?

22          A.     Well, I think what you just said was

1 basic -- is my understanding, was basically the  
2 same thing. Their two parts to it are whether  
3 or not is consistent -- is that use consistent  
4 with what is ongoing in the study area and the  
5 surrounding area. And the second is, does the  
6 will -- will the use or does the use have a  
7 deleterious impact on the values in the study  
8 area as well as surrounding property.

9 Q. So you took the first part of the  
10 criterion to mean it was consistent with the  
11 properties in the area --

12 A. Yes.

13 Q. -- is that what you said?

14 Okay. And -- One second.

15 Your report never mentioned  
16 anything about any possible effect of additional  
17 traffic on the surrounding area, does it?

18 A. No. I -- We have a traffic -- We have  
19 a traffic study that deals with that particular  
20 issue as part of this application. And so that  
21 would be outside my area of expertise when I --  
22 when there is an expert in that area.

1           Q.       Okay.  Would you agree, though, that  
2       if there are a thousand trucks coming in and out  
3       of the site every day, that's something that  
4       could have effect the surrounding uses?

5                        I'm not saying there's a thousand  
6       trucks coming in and out of the site every day,  
7       but --

8                        MR. MUELLER:  I'm going to object.  
9       That assumes facts not in evidence.

10                      HEARING OFFICER PRICE:  Sustained.

11                      MR. LUETKEHANS:  Well, it's a  
12       hypothetical.

13                      HEARING OFFICER PRICE:  It is.

14                      Yeah.  He didn't testify to  
15       traffic.  He said it's outside of his  
16       discipline.  So ask a different question.

17       BY MR. LUETKEHANS:

18           Q.       So you never looked at traffic in a  
19       case like this?

20           A.       No, I didn't say I didn't look at  
21       traffic.  What I said was, is that there is a  
22       traffic expert in this particular instance who

1 will be testifying and has completed a report.  
2 And I would rely on that expertise as part of --  
3 as part of my analysis.

4 Q. But the traffic can affect property  
5 value and use -- surrounding uses, would you  
6 agree?

7 A. It will -- That depends on the uses  
8 that you're discussing.

9 For example, in many instances, if  
10 you were to go to a place like Illinois where  
11 there's a -- where there's a large shipping -- a  
12 number of shipping facilities -- I'm sorry --  
13 south of Joliet --

14 Q. You're talking about the rail port?

15 A. I'm sorry?

16 Q. The rail port?

17 A. Yes.

18 Q. Okay. Go on.

19 A. So if you -- if the -- the answer is,  
20 is that the traffic is an integral part of those  
21 operations. And so consequently --  
22 consequently, traffic may or may not have an

1 impact on value. There would be a whole laundry  
2 list of assumptions that I would have to ask you  
3 about in order to answer that question  
4 reasonably.

5 Q. And did you look at all those  
6 assumptions in your analysis here, I guess, is  
7 my question?

8 A. Sure. That is -- Well, the  
9 assumptions -- the assumptions here are, is that  
10 continued use of the subject property as well as  
11 the already existing use of a transfer  
12 station -- transfer station down the street as  
13 well as I -- I looked at -- In the times that I  
14 was out there, I looked at the amount of traffic  
15 that was there. It did not seem to be  
16 unreasonable, and it was my opinion that the  
17 Department of -- Illinois Department of  
18 Transportation's activity located at the corner  
19 of Powis Road and North Avenue and the -- and  
20 the work that was done along North Avenue really  
21 went a long way to in order to satisfy any --  
22 satisfy any issues that would be created by

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1 traffic.

2 Q. Your report does not provide any  
3 analysis, does it, of the location of the  
4 proposed waste transfer station building and  
5 traffic within the subject property as it  
6 relates to incompatibility of the surrounding  
7 parcels? Because you don't about the location  
8 of the building inside the parcel in your  
9 report, do you?

10 A. I guess I would have to disagree with  
11 that. I think if I understood your question  
12 correctly, what you just asked me was, did I do  
13 any study associated with the traffic that would  
14 be on-site -- the on-site circulation patterns?  
15 Is that what you're referring to?

16 Q. Mm-hmm.

17 A. Oh, I -- I think that the on-site  
18 circulation pattern on that site is terrific. I  
19 think that the location of the existing building  
20 on the eastern -- I'm sorry -- on the southern  
21 portion of the building and the location of the  
22 new building to the rear of that existing



1 building is almost ideal in terms of avoiding  
2 any issues associated with neighborhood --  
3 neighborhood impact or value impact because of  
4 the fact that it's located -- it almost appears  
5 that it was set up specifically in order to  
6 avoid that because the adjacent property is  
7 vacant, and the uses of the subject site to the  
8 north of there is to do outside storage and  
9 staging with what I think is a very good  
10 disbursement of the type of items that they do  
11 store there.

12 Q. Okay. We'll -- We'll get to that  
13 property to the south in a minute, I promise  
14 you.

15 But your report doesn't mention  
16 anything about the possibility of screening the  
17 facility, does it?

18 A. The property is already screened. The  
19 property is screened on the -- along Powis Road  
20 by the berm and the landscaping that exists  
21 there. The prop- -- The northern property line,  
22 my recollection is, has a serious of trees both

1 natural and, I believe, some of which were  
2 planted as part of the landscaping.

3 The -- The southern portion of the  
4 property appears to have predominant- -- I  
5 think, predominantly natural screening to the  
6 adjacent property.

7 And then to the south, the property  
8 is screened by the railroad right-of-way and the  
9 natural -- the natural screening of the  
10 vegetation that's there.

11 Q. Excuse me. Is there trees to the  
12 south between your property -- between the  
13 Illinois (phonetic) property and the property to  
14 the south? Are there trees or berm that I  
15 missed?

16 A. No, I don't think that there's a berm,  
17 and maybe I'm wrong.

18 My -- My -- My take on it was that  
19 was natural growth. I guess, I -- you know, you  
20 could -- I'm not positive as to the nature of  
21 the trees that exist there, but I -- my  
22 recollection was, is that there was natural

1 growth that is located along that property line.

2 Q. And how high is that natural growth, a  
3 couple feet?

4 A. I -- I don't recall.

5 Q. Okay. Your report doesn't mention or  
6 analyze the effect any odor might have on the  
7 surrounding user or property values, do you?

8 A. No.

9 Q. Your report doesn't analyze what steps  
10 might be taken to minimize wildlife attraction,  
11 does it?

12 A. No.

13 Q. Your report doesn't discuss what is or  
14 could be done to minimize bird attraction to the  
15 storm water parcels, correct?

16 A. I'm sorry. I didn't --

17 Q. Your report doesn't discuss what is or  
18 could be done to minimize bird attractions to  
19 the storm water detention areas, does it?

20 A. I -- I missed a word in there.

21 Q. Okay. I'll try again, and I'll try  
22 and be slower.

07:23:56PM

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1                   Your report does not discuss  
2           what -- what is or could be done to minimize  
3           bird at tractions at the storm water detention  
4           areas on the parcels, does it?

5           A.       No.

6           Q.       And we don't know from your testimony  
7           whether the waste transfer station location or  
8           the screening on the subject property could be  
9           modified in a way to further minimize the effect  
10          on the surrounding users, correct?

11          A.       My -- My review of the plans that were  
12          associated with this indicated to me that --  
13          that those things were still a work in progress,  
14          and indicated to me that the property loc- -- or  
15          the building location was set back far enough  
16          from the -- from Powis Road and was isolated  
17          sufficiently in order to -- in order to minimize  
18          any impact.

19          Q.       Okay. It's -- It is almost on the  
20          south property line, correct?

21          A.       Well, my suspi- -- I didn't measure  
22          it, but my suspicion is, is that it meets the

1 appropriate setback requirements, but it is --  
2 it is loaded to the south -- the southern  
3 portion of the subject site.

4 Q. And you're, as we discussed, primarily  
5 an appraiser, correct?

6 A. You're going way too fast.

7 Q. I'm sorry.

8 As we discussed earlier, you a  
9 primarily an appraiser, correct?

10 A. No, I would disagree with you  
11 completely. I'm an expert in real estate who's  
12 involved on -- on a constant basis not only with  
13 the evaluation of real estate, but the estimate  
14 of damages and the -- and testimony associated  
15 with detrimental conditions that are associated  
16 with property in eminent domain cases and any  
17 number of cases that come across my desk.

18 So I would say that my time is  
19 basically split more than -- approximately,  
20 50/50 between real estate appraisal issues and  
21 consulting issues in the area of items such as  
22 this.

1 Q. 50 percent of your time is spent in  
2 Section 39.2 siting hearings?

3 A. No. My --

4 Q. Let's --

5 A. My --

6 Q. Let's --

7 A. My --

8 Q. Let's back up.

9 A. Well, then let's -- let's really be  
10 clear about it.

11 50 percent of my time is probably  
12 spent in the area of real estate appraisal in --  
13 for various -- for various reasons. The other  
14 50 percent of my time is spent as acting as a  
15 consultant in terms of things like eminent  
16 domain cases where damages issues often come up.

17 In addition to that, I am asked, on  
18 a regular basis, to testify at -- or to examine  
19 issues that go in front of zoning boards that  
20 deal with things like, for example, the siting  
21 of CILA properties and the impact that  
22 bringing -- bringing a group home into a

1 specific neighborhood might have on surrounding  
2 properties.

3 I, in fact, completed a study for  
4 the Cook County State's Attorney's Office on the  
5 impact of adult uses in the industrial zone  
6 districts a number of years ago and testified at  
7 trial on those issues. So those are the sorts  
8 of issues.

9 And recently, I've had about three  
10 or four of these types of applications in which  
11 I was asked a similar question about damages and  
12 impact.

13 Q. Okay. And you're talking about in  
14 every domain case they're talking about damages  
15 to property values, correct? Let's be clear.

16 A. Yeah. You are talking about damages.  
17 You are talking about specific damages to -- or  
18 damages to a specific property and the impact of  
19 the overall project on -- on more than one  
20 property.

21 Q. And the impact on value, correct?

22 A. Yes.

1 Q. Okay. I'm just -- I'm trying to be  
2 clear here.

3 And when you testify in a zoning  
4 case, you're, again, talking about the impact,  
5 one of the -- one of those, which is an impact  
6 on property values, correct?

7 A. Yes.

8 Q. And that's what you're testifying to  
9 in those cases, correct?

10 A. Yes.

11 Q. Okay. West Chicago zoning ordinance  
12 requires screening in certain circumstances --

13 THE COURT REPORTER: I'm sorry. It  
14 requires --

15 MR. LUETKEHANS: I'm sorry.

16 BY MR. LUETKEHANS:

17 Q. Would you agree with the general  
18 statement that well-designed screening can  
19 protect values?

20 A. Well-designed screening?

21 Q. Yes.

22 A. Yes. I think well-designed screening



1 is part of -- is part of the municipal  
2 responsibility to -- to cause the property to  
3 conform to the specific location and -- and use.

4 Q. And one of the reasons for that is to  
5 protect the property values of the surrounding  
6 property, correct?

7 A. That might be part of it, sure.

8 Q. And West Chicago requires screening in  
9 certain circumstances for this reason, correct?

10 A. Yes.

11 Q. And the property directly to the south  
12 of the subject property is currently vacant,  
13 correct?

14 A. It is.

15 Q. And it's owned by the DuPage Airport  
16 Authority, not the DuPage County Airport,  
17 correct?

18 A. Yes.

19 Q. And it's not owned by the Fox Valley  
20 Authority, is it?

21 A. No.

22 Q. Okay. Your report kind of

07:29:33PM

07:29:49PM

1 interchanges, so I want to make sure. There's  
2 no such thing as the Fox Valley Authority, is  
3 there?

4 A. (No verbal response.)

5 HEARING OFFICER PRICE: Do you  
6 understand the question?

7 MR. MUELLER: Was that a question?

8 BY THE WITNESS:

9 A. I didn't -- I didn't know that was a  
10 question.

11 Q. Do you know that there's no such thing  
12 as the Fox Valley Authority?

13 A. I -- I'm -- I'm not actually positive  
14 of that.

15 Q. Okay. Have you spoken with anyone at  
16 the DuPage Airport Authority or at the City of  
17 West Chicago regarding possible future uses for  
18 the property to the south?

19 A. I have not.

20 Q. So you don't know what, if any, uses  
21 that parcel could be utilized for, do you?

22 A. Not as I sit here.

07:30:07PM

07:30:23PM

1 Q. And you're not aware if there are any  
2 plans to utilize that parcel, are you?

3 A. I am not aware of any plans to utilize  
4 that parcel.

5 Q. And you also don't know whether there  
6 are any plans by the DuPage Airport Authority to  
7 use or lease that property, correct?

8 A. That is correct.

9 Q. Have you ever looked at the -- what's  
10 called the airport layout plan for the DuPage  
11 Airport?

12 A. My recollection is that I looked at it  
13 early on in this process, but haven't really  
14 looked at it recently.

15 Q. Any idea how old that was, the one  
16 that you looked at?

17 A. I -- I really don't.

18 Q. Okay. What does the airport layout  
19 plan include? What's -- What's the point of it,  
20 do you know, since you saw it?

21 A. I -- I -- I guess I would have to  
22 answer that question by saying that the airport

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07:31:03PM

1 plan would be -- was generally, and from my  
2 interpretation of what I looked at -- was  
3 generally designed to identify uses in future  
4 activity that would be related to the use of the  
5 airport as well as possible buildings and  
6 relocations of parking areas and things like  
7 that as well as -- I -- I believe, there was  
8 portions of that document that deal with  
9 navigation easements.

10 Q. Would you agree that the trend in  
11 development is important in determining the  
12 highest investors?

13 A. Would I agree that the ...

14 Q. Trend in development is important in  
15 determining the highest investors?

16 A. It's part -- It's part of the  
17 consideration, sure.

18 Q. It's not unimportant, is it?

19 A. No, it's not. It's equally important,  
20 but it's not listed as one of the four tests of  
21 highest and best use. It would be lumped in  
22 with area analysis, I think.

1 Q. And 2019, you did a Criterion 3 report  
2 dated December 15th, 2019 that was provided to  
3 the City of West Chicago for their analysis; is  
4 that correct?

5 A. In this matter?

6 Q. Yes.

7 A. I would have to go back and look.  
8 That might be true, yes.

9 Q. Okay. Showing you what's been marked  
10 as PWC Exhibit 301.

11 We'll skip that. Sorry.

12 Do you recall that the two -- the  
13 report between 2019 and 2021 is approximately --  
14 it's very, very similar; there were very few  
15 changes, correct?

16 A. That- -- That's probably true.

17 Q. In fact, you really didn't do a lot  
18 more analysis of the actual uses other than to  
19 know if more sales were in your 405-acre manmade  
20 area between the two reports, correct?

21 A. I would have to go and look at both of  
22 them next to each other in order to determine

1 that, but that wouldn't surprise me.

2 Q. Would you agree with your study area,  
3 the 405-acre area is not far from the boundaries  
4 of incorporated DuPage County?

5 A. There are portions of incorporated  
6 DuPage County near the study area, yes.

7 Q. And your study area is also near the  
8 boundary of St. Charles, correct?

9 A. My study area is also ...

10 Q. Near the boundary of the City of  
11 St. Charles?

12 A. Yes.

13 Q. And in the report, you provide -- you  
14 provide a zoning map for just the City of West  
15 Chicago and you put it on the screen area  
16 already, correct?

17 A. Yes.

18 Q. You didn't provide any zoning map or  
19 analysis for property in incorporated DuPage  
20 County, did you?

21 A. Well, I think that -- No, I didn't  
22 provide a specific zoning map for that, but I

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1 believe the zoning map that I have in there, I  
2 have to look at -- or one of that maps that I  
3 have in there identifies portions of the DuPage  
4 County area as -- for their -- for their zoning  
5 district.

6 Q. Okay. And you didn't provide any  
7 zoning map or land use map for the property in  
8 St. Charles, did you?

9 A. No.

10 Q. Does your -- Does your report mention  
11 any of the larger developments that's going on  
12 along North Avenue to the west?

13 A. No, it doesn't specifically identify  
14 that.

15 Q. In fact, your report does not mention  
16 the fact that the old Pheasant Run Golf Course  
17 is now in the process of redeveloping as an  
18 84-acre industrial use, correct?

19 A. It does not say that specifically.

20 Q. And, again, it doesn't mention  
21 anything about the Honda dealership that has  
22 been developed since your 2019 report, correct?

1           A.     No, it doesn't deal with that  
2 specifically.

3           Q.     Okay. In fact, your report has  
4 aeriels on pages 320 to 330, and I think you  
5 showed some of them here on the screen, from  
6 1988 to 2012.

7                     Do you remember that?

8           A.     Yes.

9           Q.     That report has no aeriels from after  
10 2012, correct?

11          A.     I don't believe it does.

12          Q.     And you have an aerial that you showed  
13 earlier from 2005. And I think the point you  
14 made when looking at that was to show that it  
15 demonstrated the people with who -- if someone  
16 would move in next to the parcel back in 2005,  
17 correct?

18          A.     Well, I think demonstrated that  
19 someone did construct at that -- based on that  
20 aerial did construct an industrial building  
21 adjacent to the subject property to the north.

22          Q.     And at the time the subject property

07:35:17PM

07:35:45PM



1 was not utilized as a municipal waste transfer  
2 station, was it?

3 A. That is also correct.

4 Q. Can some --

5 MR. LUETKEHANS: Can we put up, if you  
6 don't mind, slide number 11? It would be  
7 easier, I think, for everybody to see so that  
8 we're looking at the same thing. Is that  
9 possible?

10 HEARING OFFICER PRICE: Joe, can you do  
11 that?

12 MR. LUETKEHANS: Thank you, Joe.

13 BY THE WITNESS:

14 A. Is that slide 11?

15 Q. Yeah.

16 A. Okay.

17 Q. And that's the study area, correct?

18 A. Yes, that's the identified study area.

19 Q. And you say that there are manmade  
20 boundaries that, quote, define the area and  
21 effectively isolate and buffers this 405 acre, I  
22 guess -- 405 acres from all adjacent

1 applications?

2 A. Correct.

3 Q. And you mentioned it buffers the  
4 railroad to the east, right?

5 A. Yes.

6 Q. North Avenue to the north, right?

7 A. Yes.

8 Q. The DuPage County Airport to the west,  
9 correct?

10 A. Yes.

11 Q. And Powis -- And Powis Road on the  
12 west, and Hawthorne Lane on the south; is that  
13 correct?

14 A. Yes.

15 Q. And Powis is currently just a two-lane  
16 road, correct?

17 A. That is correct.

18 Q. And would you agree that Powis is not  
19 the same strength of buffer as North Avenue?

20 A. I would have to agree with you that  
21 the road itself is not as strong a buffer as  
22 North Avenue.

07:36:53PM

07:37:07PM

1 Q. And that's because North Avenue is a  
2 seven-lane highway versus --

3 A. And it shows at that --

4 Q. -- Powis?

5 A. -- particular location, it rises in  
6 order to go over the railroad tracks. So  
7 there's a grade issue associated with North  
8 Avenue there also.

9 Q. And, in fact, the width of Powis Road  
10 is very similar to the width of the other roads  
11 in your study area, correct?

12 A. I would say yes.

13 Q. However, there's an area on the  
14 southwest of your parcel, do you see that, just  
15 south of the subject property and, actually,  
16 really close that you decided to leave out of  
17 the study area; is that correct, that industrial  
18 area?

19 A. To the south?

20 Q. Just north of -- Just south of the  
21 word subject?

22 A. (No verbal response.)

1 Q. Yeah. South and below is the same  
2 thing.

3 A. South of the word subject?

4 Q. Yeah. What's that area?

5 A. Are you talking about the area that's  
6 west of Po- -- west side of Powis Road?

7 Q. Yeah.

8 A. Yeah, that's an industrial location.  
9 That's an -- That's an area of industrial  
10 development.

11 Q. Okay. And that area of industrial  
12 development is -- a large part of it is closer  
13 to the subject parcel than the far southeast  
14 corner of your project area, correct?

15 A. I would agree with that.

16 Q. Okay. But you didn't include that in  
17 your subject area?

18 A. Well, as I said, I didn't include it  
19 specifically in the defined subject area, but  
20 it's part of the due diligence associated with  
21 that. Part of the sales analysis or the  
22 analysis of the sales that had transpired over

07:38:21PM

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1 there were included in formulating my opinion.

2 Q. Okay. The sales that were included in  
3 formulating your opinion, how far did they go?

4 A. I would have to go back and look at  
5 that, but I think I started out with about a  
6 two- or three-mile radius of -- of the subject  
7 property, but then used the database service  
8 that we have in order to just identify the West  
9 Chicago -- the West Chicago industrial market.

10 Q. Okay. So --

11 A. So it was --

12 Q. I'm sorry.

13 A. It was both near and far to understand  
14 the global nature of the industrial market in --  
15 in West Chicago.

16 Q. Okay. So what you're trying to do is  
17 describe the entire industrial market of West  
18 Chicago, was that the point?

19 A. That's one of the points, sure.

20 Q. Okay. And that would also include the  
21 DuPage business park?

22 A. Yes.

07:39:22PM

07:39:44PM

1 Q. Which is south of the DuPage Prairie  
2 Landing, correct?

3 A. Which is south of ...

4 Q. Prairie Landing Golf Course?

5 A. Yes.

6 Q. Okay. Directly to the east of the  
7 subject property, are two railroad parcels,  
8 correct?

9 A. Yes.

10 Q. In fact, those are residentially  
11 zoned, correct?

12 A. Yes, they are -- they are definitely  
13 residentially zoned --

14 Q. And --

15 A. -- but unusable as -- for that  
16 application because of the configuration of  
17 those sites.

18 Q. Trust me, we could spend a lot of time  
19 on that with the people who were -- who put that  
20 in the report, but that -- that part is not in  
21 your report.

22 A. I guess I dis- -- I mean, I disagree.

07:40:06PM

07:40:24PM

1 I identified the zoning area because I think it  
2 shows up on one of the maps as being a  
3 residential, an -- I think it's E-1 zoning  
4 district.

5 Q. Okay. But my point is: You -- This  
6 whole thing about it not residentially -- it  
7 cannot be residentially developed, that's not in  
8 your section of your report, correct? You don't  
9 discuss that in your analysis?

10 A. No.

11 Q. Okay. Good.

12 A. No. That's not a specific point.

13 Q. Okay. How far is it between the  
14 subject property to the east edge of the  
15 railroad property; do you know?

16 A. Subject property to the east edge of  
17 the railroad? The subject property basically  
18 abuts the railroad right of way.

19 Q. Okay. So how far to the east edge of  
20 that?

21 A. I don't understand the question.

22 Q. Well, here, the railroad is on the

07:40:52PM

07:41:13PM

1 east edge of the subject property, right?

2 A. Yes.

3 Q. How far away is the east edge of the  
4 railroad from the east edge of the subject  
5 property? How -- How wide is the railroad  
6 there?

7 A. What's the railroad right of way  
8 width?

9 Q. Yeah.

10 A. I -- I don't know specifically, but  
11 they're, typically, at least 100 feet.

12 Q. Okay. So would you say they're  
13 probably a couple hundred feet or so?

14 A. I would have to go back and look at  
15 the Sidwell Maps, but my experience with  
16 railroad rights of way indicates that they  
17 would -- you know, they should be right around  
18 100 feet, but I would -- that would be subject  
19 to my looking at those maps.

20 Q. Okay. In this case, those railroad --  
21 there's two railroad lines, correct?

22 A. Right.

07:41:29PM

07:41:53PM



1 Q. Okay. That's, I guess, why I was  
2 guessing 200 feet. I'm not trying to ...

3 A. It -- My -- If I -- I mean, if I had  
4 to guess, I would guess it at 200 feet or so.

5 Q. Okay. And directly east of that  
6 railroad property appears to be a farmhouse,  
7 correct?

8 A. Yes.

9 Q. And other than farm, that's a vacant  
10 parcel, correct?

11 A. Yes.

12 Q. Now, you mentioned a property just to  
13 the north of that farm, there's the southeast  
14 intersection of the railroad and North Avenue as  
15 a material handling yard.

16 Do you see that? I think you  
17 talked about it on page 3-32.

18 A. Yes. That would be the Conte  
19 property.

20 Q. Yeah.

21 However, you never mentioned this  
22 farm directly to the east, which is on your

07:42:17PM

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1 report, do you?

2 A. No. I think that -- I think that in  
3 the overhead it indicated that there was areas  
4 of vacant land that surrounded -- you know, that  
5 surrounded the subject property. That would be  
6 part of that vacant land.

7 Q. Okay. But you specifically pointed  
8 out in your presentation in your report the  
9 Conte property, right?

10 A. I did.

11 Q. And that's further away from the  
12 parcel than this -- than this farmland we're  
13 talking about, isn't it?

14 A. It -- It is further away and it was  
15 pointed out specifically to demonstrate the type  
16 of application that was going in, in the area  
17 and the consistency with that type of industrial  
18 application.

19 Q. Your report doesn't mention any  
20 possible effect the waste transfer station could  
21 have on this farm property, does it?

22 A. (No verbal response.)

07:42:54PM

07:43:17PM

1 Q. I'm talking about your report. Does  
2 it mention any possible effect on the farm  
3 property?

4 A. No. No, it does not deal with the  
5 specific impact. It -- It globally indicates  
6 that the -- in my opinion, there will be no  
7 deleterious impact on value.

8 Q. Okay. Your report also doesn't  
9 mention any possible effect on the future  
10 development of this farm either, in specific  
11 matter, correct?

12 A. No, it does not.

13 Q. And it doesn't mention any possible  
14 future issue -- future uses of this farm, does  
15 it?

16 A. It does not.

17 Q. The traffic will go much beyond this  
18 manmade 405-acre boundary, correct?

19 A. I'm sorry?

20 Q. I'm sorry.

21 The traffic from the waste transfer  
22 station will go far beyond this manmade boundary

1 that you use as your study area, correct?

2 A. The traffic?

3 Q. Yes.

4 A. I don't know how to answer that  
5 question. I would presume that the -- if you're  
6 talking about the trucks that will bring  
7 product -- I call it product -- to the site and  
8 remove product from the site, they will come  
9 from areas beyond the 405 acres.

10 Q. Okay. That's -- I guess that's my  
11 point. This -- This project would generate  
12 traffic outside of your 405 acres, correct?

13 A. Yes.

14 Q. And the traffic will be coming from  
15 both the north and the south -- north and south  
16 on Powis Road; isn't that correct?

17 A. That's possible, yes.

18 Q. And if it goes -- if it goes outside  
19 of -- if the traffic goes outside of the study  
20 area, one of those areas it will go is North  
21 Avenue, correct?

22 A. Again, I'm sorry. It was --

07:44:38PM

07:45:02PM

1 Q. Sorry.

2 A. It was muffled.

3 Q. Let me -- I'm sorry. Let me clean it  
4 up.

5 The traffic that will go to the  
6 north will -- much of it will -- would you  
7 agree, will go onto North Avenue?

8 A. I would presume that that will be one  
9 of the primary roadways that will be used.

10 Q. Okay. And that traffic will proc- --  
11 some of that traffic will proceed west, correct?

12 A. Yes.

13 Q. And some of that traffic will go in  
14 front of this new industrial development area  
15 and the new Honda dealer we were talking about,  
16 correct?

17 A. Yes.

18 Q. And traffic related to the waste  
19 transfer station will also be using the roads  
20 just south of Hawthorne, this manmade area you  
21 came up with, correct?

22 A. I didn't come up with it. The road

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1 was actually there. I didn't make it up.

2 Q. Okay. But the traffic is -- is --  
3 That traffic going down Powis isn't going to  
4 stop at Hawthorne, is it?

5 A. The traffic going down Powis is not  
6 going to stop at ...

7 Q. Hawthorne Lane?

8 A. No. It may -- Whatever traffic goes  
9 south on -- south on Powis could turn onto  
10 Hawthorne Lane, yes.

11 Q. Okay. And then from there, a lot of  
12 that traffic will go further south on Route 38,  
13 would you agree?

14 A. It -- It might or, you know -- and it  
15 may go -- it may go east of there into the  
16 industrial district that's located east of the  
17 railroad right of way.

18 Q. On page 3-34 of your report, you  
19 mention that there are numerous outside storage  
20 yards and truck farms in the 405-acre area.

21 Do you recall that?

22 A. Yes.

07:46:19PM

07:46:39PM

1 Q. Where are those uses? Can you point  
2 them out to me on the map or somehow show me  
3 where those are?

4 A. Well, the outside storage areas  
5 include the subject property's current use. The  
6 Conte property has outside storage areas.  
7 There's, I believe, a liquid -- I forget the  
8 name of the company -- that are located in that  
9 more generalized industrial area that has  
10 outside -- some outside storage. So those would  
11 be part- -- parts of it.

12 It's my recollection that one of  
13 the sites that's located to the south of the  
14 subject property may be used for -- one of the  
15 vacant sites may be used for outside storage  
16 additionally.

17 Q. How about truck farms?

18 A. How about truck farms?

19 Q. What are truck farms to do?

20 A. I -- I consider those terms to be  
21 somewhat interchangeable. So I would have to  
22 say that those are the same things.

1 Q. Okay. So you do know that the City of  
2 West Chicago staff has been discouraging  
3 properties of being developed with just truck  
4 and car marking on them, correct?

5 A. I am aware that that is a common  
6 practice. I'm not specifically aware.

7 Q. And it doesn't surprise you that  
8 that's a practice of the City of West Chicago,  
9 correct?

10 A. Doesn't surprise me at all.

11 Q. Okay. You also mention on  
12 page 3-34 there's open land that's part of an  
13 airport district.

14 Other than the airport, the  
15 property directly to the south, were you talking  
16 about any other parcel?

17 A. No. I mean, there is -- for lack of a  
18 better term, there is open space on -- on the  
19 airport property itself, some of which is used  
20 for plane, you know, tie downs; but the other  
21 section of open land is this farm that's located  
22 to the east.



1 Q. Okay. But -- So the open land, you're  
2 talking about the one -- beside the one south of  
3 the parcel, is all that land inside the fence?

4 A. Yes.

5 Q. Okay. That's inside the airport  
6 fence, for lack of a better term?

7 A. Yes.

8 Q. Okay. And that's not inside your  
9 study area, correct?

10 A. Was not inside the identified study  
11 area. I'll repeat again, that I -- as part of  
12 this analysis, I additionally did due diligence  
13 associated with property values and uses that  
14 are outside of the -- of the 405 acres.

15 Q. Okay. Let- -- Let's -- You said that  
16 a number of times. You have the right to say  
17 it, but I'm using your term "study area" --

18 A. Yes.

19 Q. -- it's the 405 acres. Let's say the  
20 study area. Let's stay --

21 A. Sure.

22 Q. -- with that so you don't have to keep

07:48:43PM

07:49:04PM

1 explaining the same thing. We're talking about  
2 the same thing. Okay?

3 A. Okay. Sure.

4 Q. I'm trying to use your term so we  
5 don't have to go down that road.

6 You say in the second paragraph on  
7 page 3-34 [sic], you, quote, conclude that  
8 appropriate planning and zoning exists to  
9 maximize the value of area property and to  
10 minimize negative impacts on surrounding uses.

11 A. What page are you looking at?

12 Q. 3-45, it's the second paragraph.

13 A. Okay. Go ahead.

14 Q. And you say in there, don't you, you  
15 "conclude that appropriate planning and zoning  
16 exists to maximize the value of area property  
17 and to minimize negative impacts on surrounding  
18 uses"?

19 A. Yes.

20 Q. So is it your opinion that any type of  
21 industrial use, no matter how large or the type,  
22 could not have any negative effect on property

1 values or the uses of the nearby properties  
2 here?

3 A. Globally?

4 Q. Yeah.

5 A. If you -- You just used the term any  
6 type of --

7 Q. Yeah.

8 A. -- industrial development.

9 No, it's not my opinion at all.

10 That's not the question I was asked in this  
11 instance.

12 Q. Okay. You also discuss the legal  
13 permissibility of a waste transfer station in  
14 this area, correct?

15 A. Yes.

16 Q. And that's always a highest and best  
17 use analysis; is that correct?

18 A. Yes.

19 Q. You would agree with me the waste  
20 transfer station is not currently permitted in  
21 this district, correct?

22 A. I would agree.

07:50:15PM

07:50:33PM

1 MR. MUELLER: I've got to offer an  
2 objection here in that whose (phonetic) control  
3 of the facility siting is exempt from local land  
4 use.

5 MR. LUETKEHANS: I understand that. It  
6 was your witness who brought -- who put it in  
7 his report. I'm just making sure everybody  
8 understands it.

9 BY MR. LUETKEHANS:

10 Q. The waste -- Okay.

11 HEARING OFFICER PRICE: If we're moving  
12 along, the objection is overruled.

13 BY MR. LUETKEHANS:

14 Q. Isn't it true that the City of West  
15 Chicago has permitted -- prohibited any property  
16 owned by the DuPage Airport Authority from being  
17 utilized as a waste transfer station?

18 A. I don't know the answer to that  
19 question.

20 (Brief pause.)

21 BY MR. LUETKEHANS:

22 Q. Showing you what has been marked as

1 PWC Exhibit 1.

2 (PWC Exhibit No. 1 marked for  
3 identification.)

4 BY MR. LUETKEHANS:

5 Q. Before you -- Before you talked --  
6 Sorry about that.

7 You're familiar with the -- with  
8 the fact, aren't you, that the DuPage Airport  
9 Authority (indiscernible) --

10 THE COURT REPORTER: I'm sorry.

11 BY MR. LUETKEHANS:

12 Q. You're familiar, are you not, with the  
13 fact that the DuPage Airport Authority has an  
14 intergovernmental agreement with the City of  
15 West Chicago that handles or that deals with all  
16 of the zoning own- -- on property owned by the  
17 DuPage Airport Authority, correct?

18 A. I -- I believe I'm aware of the  
19 existence of such a document, but I'm not  
20 familiar with all of the terms with it.

21 Q. Okay. But you're familiar with the  
22 fact that all the parcels in the DuPage -- owned

1 by the DuPage Airport Authority are zoned  
2 airport district, correct? You looked at the  
3 West Chicago zoning --

4 A. Yes.

5 Q. Okay. And this document that's been  
6 handed to you, PWC Exhibit 1, is that original  
7 governmental agreement.

8 Okay. So I'm going to bring your  
9 attention to the bottom of page 10.

10 A. Okay.

11 Q. And it says C. Prohibitions: The  
12 parties -- which in this case, are the Airport  
13 Authority and West Chicago -- expressly agree  
14 that no portion of the property -- which is the  
15 airport property -- shall be used for any of the  
16 following purposes.

17 Do you see that?

18 A. I do.

19 Q. And No. 1: A regional or non-regional  
20 pollution control -- pollution control facility  
21 as those terms are presently or will in the  
22 future be defined and [sic] discussed in

1 414 ILCS 5/3.32 or any other statute making  
2 provisions for such facilities.

3 Are you aware of that?

4 MR. MUELLER: Object to relevance.  
5 This is not the subject property, nor is it  
6 owned by the Airport Authority.

7 MR. LUETKEHANS: The relevance is this  
8 is a zoning ord- -- zoning matter decided the  
9 City of West Chicago that said that a pollution  
10 control facility should not be in this  
11 particular area.

12 HEARING OFFICER PRICE: No, not this  
13 area. It's defined property, and it's not this  
14 property. That is not his opinion.

15 BY MR. LUETKEHANS:

16 Q. Well, let me ask the question --

17 HEARING OFFICER PRICE: I will sustain  
18 the objection.

19 BY MR. LUETKEHANS:

20 Q. The City of West Chicago, their  
21 decisions -- Well, let me ask: One of the  
22 things you looked at, correct, are allowed uses

1 in a particular area?

2 A. Yes.

3 Q. Okay. And you also look at those  
4 things prohibited by the zoning authority in a  
5 particular area, correct?

6 A. In part.

7 Q. Okay. And one of the things that are  
8 prohibited in this particular area, ten feet  
9 away, is a pollution control facility, correct?

10 A. That's what I believe this says, yes.

11 Q. Okay.

12 A. But it's not the subject property.

13 Q. I understand that.

14 A. And the -- And the existence -- The  
15 agreement that the airport made with the  
16 municipality is a whole separate kettle of fish  
17 in terms of -- in terms of the impact of this --  
18 the impact of the question that I was asked.

19 The fact that they have made this  
20 arrangement is, in my opinion -- had no  
21 relevance whatsoever to the -- to the opinion in  
22 the study that I did.

07:54:24PM

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1 Q. That's fair enough. You're entitled  
2 to your opinion.

3 Paragraph 4 on page 3-45, under  
4 Discussion of Legal Permissibility, says, In  
5 addition, the subject property also received  
6 approval for an amended preliminary and final  
7 PUD from West Chicago for additional site  
8 improvements.

9 A. Yes.

10 Q. Do you see that?

11 A. Which page are you on?

12 Q. 3-45, paragraph 4.

13 A. Okay.

14 Q. It says: In addition, the subject  
15 also received approval for [sic] an amended  
16 preliminary and final PUD from West Chicago for  
17 additional site improvements.

18 Do you see that?

19 A. Yes.

20 Q. The PUD did not approve a waste  
21 transfer station, correct?

22 A. I agree.

1 Q. Okay. If we go to page 3-48, the last  
2 paragraph, first sentence says: My search for  
3 sales data this study area.

4 Is that the same 405-acre study  
5 area or is that something broader?

6 A. Broader.

7 Q. Okay. So there aren't  
8 300 transactions since 2013 --

9 A. I would have to go back and count the  
10 exact transactions in the 405 acres, but it is  
11 not 300.

12 Q. That's fine. That's my question. I'm  
13 not asking you to tell me how many transactions.

14 Later on in that same paragraph,  
15 you talk about the limited sales activity in the  
16 study area.

17 And I guess my question here is:  
18 Are you talking about the 300 transactions in  
19 the two sentences above or are you talking about  
20 just the 405?

21 A. I'm talking about the 405 acres that  
22 there are -- there are -- I would call limited

07:55:56PM

07:56:16PM

1 transfers of properties in the -- of the heavy  
2 industrial zoned applications. I believe that  
3 that's what it says.

4 Q. So what you're saying is this  
5 particular 405 acres has limited sales activity  
6 since 2013?

7 A. Yes.

8 Q. You said that the limited sales  
9 activity in the study area is conducive to --  
10 conducive -- excuse me -- to long-term occupancy  
11 by users like LRS, the DuPage Airport,  
12 et cetera, correct?

13 A. Yes.

14 Q. Okay. On page 30-49 in your sum- --  
15 3-49 in your summary, you state that this  
16 proposed waste transfer station will not have a  
17 negative effect on property values in the area.  
18 And you're relying heavily on the highest and  
19 best use analysis, correct?

20 A. I'm relying on both, the two -- I'm  
21 relying on both prongs of the test.

22 Q. The second prong of the test relies

1 heavily on the highest and best use analysis?

2 A. That is correct.

3 Q. And you didn't provide any data or any  
4 reported property sales before a waste transfer  
5 station was built versus after a waste transfer  
6 station was built, did you, in your analysis?

7 A. (No verbal response.)

8 Q. You didn't do a before-and-after  
9 analysis or a match-pair analysis?

10 A. No. Actually, that was one of the  
11 neat things about this particular location. It  
12 already had a transfer station.

13 So by going back 20 years -- 15 or  
14 20 years in terms of sales data, I was able  
15 to -- I was able to study what actually happens  
16 in an area where one exists. And in this  
17 particular instance, what -- what we really have  
18 here is an expansion of an existing facility as  
19 opposed to something that is brand-spanking new  
20 that is coming in. So as far as I was  
21 concerned, it was almost an ideal set of  
22 circumstances to complete a study.

1 Q. So you didn't -- But you still didn't  
2 provide any data from before versus after of any  
3 waste transfer station, correct, just so we're  
4 clear?

5 A. I -- I didn't provide any study of  
6 competitive waste transfer stations outside of  
7 this area.

8 Q. And you didn't provide a  
9 before-and-after of this area, correct?

10 A. (No verbal response.)

11 Q. I mean, we don't know what the sales  
12 were in this area before Groot came in or before  
13 that whole transfer station site, correct?

14 A. Well, I would have to go back and look  
15 at the -- at the dates on sales transactions  
16 that we looked at. My suspicion is, is that  
17 some of them precede the -- I don't -- As I sit  
18 here, I don't know the exact data that Groot --  
19 you know, Groot coming into the -- to that  
20 location. So I would have to go back and look  
21 at -- I'd have to go back and look at the dates  
22 on sales that we have as well as the dates --

1 the date that Groot took possession.

2 Q. So we don't know because we don't  
3 have --

4 A. I just don't know right now, as I sit  
5 here.

6 Q. Okay. So it's not in your report,  
7 correct?

8 A. That is correct.

9 Q. That's really what I'm trying to  
10 figure out.

11 HEARING OFFICER PRICE: All right.

12 Mr. Luetkehans, how much longer do you have?

13 MR. LUETKEHANS: Probably about 20 or  
14 so minutes, if you want to take a break.

15 HEARING OFFICER PRICE: Yeah. Let's  
16 take ten minutes. Give the court reporter a  
17 break.

18 So we'll reconvene at ten after and  
19 take a break.

20 (A short break was had.)

21 HEARING OFFICER PRICE: Back to you,  
22 sir.

1 BY MR. LUETKEHANS:

2 Q. Mr. Kleszynski, you base the fact that  
3 the -- that part of your analysis that property  
4 values or -- there's a minimal effect of the  
5 property values because waste transfer station  
6 is the highest and best use, correct?

7 A. No. I actually think that it's a  
8 little different than that.

9 Q. Okay.

10 A. What I concluded was, is that current  
11 use of the property as well as the expansion of  
12 the property to include the waste transfer  
13 station is, in fact, the highest and best use of  
14 that property.

15 And that when the property is, in  
16 fact, at its highest and best use, it does not  
17 become any form of obsolescence that would  
18 impact its own value or the value of surrounding  
19 properties.

20 Q. So you're basing it on the fact that  
21 it will be obsolete?

22 A. No. Obsolescence, in terms of

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08:10:09PM

1 appraisal, really comes out to be, like, for  
2 example, there's things like locational  
3 obsolescence, there's functional obsolescence.  
4 Those are all things that are taught in  
5 appraisal school.

6 And the form of obsolescence is  
7 really the measure of diminution in value  
8 associated with the impact of whatever that  
9 quote/unquote detrimental condition might be.

08:10:41PM 10 So what I'm saying is, is that, the  
11 property will not be in -- once the -- once it  
12 is approve- -- or if it is approved and  
13 completed, it will not be functionally obsolete,  
14 and that it will, in fact, be the highest and  
15 best use of the property and so, therefore, will  
16 not become part or become a form of locational  
17 obsolescence for the properties next-door or  
18 nearby.

19 Q. Okay. And where does that come from?  
20 What treatise or article does that come from?

21 A. That comes from The Appraisal of Real  
22 Estate 15 -- actually, from all of the editions

08:11:10PM



1 of The Appraisal of Real Estate under the topic  
2 of functional obsolescence, locational  
3 obsolescence, and economic obsolescence.

4 Q. Does it talk about the definition of  
5 highest and best use of it, treatise?

6 A. Does that treatise talk about highest  
7 and best use?

8 Q. No. It's the highest and best use  
9 section on treatise. And all I'm talking about  
10 is the functional obsolescence.

11 A. I think it's a different section of  
12 the text material, but it's all intertwined.

13 Q. Okay. Isn't it true that the  
14 definition of highest and best use goes to  
15 value? All the definitions of highest and best  
16 use go to value, correct?

17 A. No.

18 Q. Okay. When you determine highest and  
19 best use, what you're trying to determine is the  
20 highest value for the property, correct?

21 A. No. What you're trying to determine  
22 is all the legally permissible, physically

08:11:38PM

08:11:59PM

1 possible, and -- I want to make sure that I read  
2 them directly off of the material.

3           What you're really trying to do,  
4 when you estimate highest and best use, is  
5 you're trying to determine whether the legally  
6 permissible -- what's legally permissible,  
7 physically possible, financially feasible, and  
8 maximally productive application is appropriate  
9 for the subject property so that if you were, in  
10 fact, going to complete an analysis of the value  
11 of that property, what you would then do is that  
12 would allow you -- that would assist in  
13 selecting the comparable sales that you would  
14 do.

15           In this particular instance, it's  
16 slightly different. All I'm suggesting here or  
17 all I'm concluding here is that when the subject  
18 meets those four tests, it is unlikely or it  
19 won't become part of the economic or locational  
20 obsolescence that might have an adverse impact  
21 on the value of surrounding real estate.

22           Q.     Okay. But you're not -- I mean, to

1 get to the highest and best use, what you're  
2 trying to determine is the highest value --

3 A. No.

4 Q. -- the highest value?

5 A. No.

6 Q. Okay.

7 A. I mean, if -- ultimately, if you were  
8 doing an evaluation of the property, if you  
9 were -- if you were doing -- and if I was -- if  
10 my function in this instance was to come up with  
11 the estimated market value of that particular  
12 piece of real estate, that would be -- that  
13 would be part of the steps or that would be  
14 something that I would end up doing, but in this  
15 particular instance, that's not the case.

16 Q. Okay. So let's talk about the  
17 definition of highest and best use.

18 You got that definition that you  
19 put in your report from the Dictionary of Real  
20 Estate Appraisal Fifth Edition, correct?

21 A. Yes.

22 Q. And what year was that published?

08:13:24PM

08:13:48PM

1           A.     Oh, I don't know, but we're now, I  
2 think, up to the sixth edition. So ...

3           Q.     Actually, we're up to the seventh.

4           A.     I'm sorry. Seventh edition.

5           Q.     2022, right?

6           A.     Yes.

7           Q.     Okay.

8           A.     And that then -- If that's the case,  
9 in the -- in the report, it should have said  
10 seventh edition. I must have missed it on the  
11 proofreading.

12          Q.     Well, I don't think your report said.  
13 I had to go find it. So I don't --

14          A.     Okay.

15          Q.     -- think your report said.

16                    But going to your report, let's  
17 read the reasonable -- the definition of highest  
18 and best use: The reasonable, probable, and  
19 legal use of vacant land or improved property,  
20 which is physically possible, appropriately  
21 supported, financial feasible, and that results  
22 in the highest value. Correct?

08:14:03PM

08:14:21PM

1           A.     Yes.

2           Q.     So that's -- that's the purpose of the  
3 definition of highest and best use?

4           A.     No. That is the definition of highest  
5 and best use --

6           Q.     And it --

7           A.     -- as applied in the evaluation of  
8 real estate.

9           Q.     Okay. And so that's the definition of  
10 highest -- the definition of highest and best  
11 use includes something that results in the  
12 highest value, correct?

13          A.     Ultimately, I suspect that it would be  
14 true, that if -- that if a property represents  
15 its highest and best use is determined to be the  
16 highest and best use. Contemporaneously with  
17 that conclusion, the likelihood is, is that  
18 would give it its highest value, which is  
19 exactly what I said in this particular instance,  
20 that as a specialized piece of real estate, it  
21 not only gets its -- it not only is the highest  
22 and best use, but it will -- it will have the

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08:15:10PM

1 highest value -- I suspect it will have -- would  
2 have the highest value. And that if those two  
3 things are true, it will not have a negative  
4 impact on the real estate that's nearby.

5 Q. Nowhere in that definition does it  
6 mention the words "minimize the effect on the  
7 value of the surrounding property"?

8 A. You're absolutely correct.

9 Q. And nowhere in there does it talk  
10 about minimization of incompatibility or  
11 minimizing incompatibility, does it?

12 A. You are absolutely correct.

13 Q. And none -- The seventh edition also  
14 has the language highest and best use -- or has  
15 the language highest value or highest and best  
16 use?

17 A. Those things are intertwined depending  
18 on the assignment that's given to -- it's  
19 dependent on the assignment that's given to the  
20 appraisal and the scope of work that's developed  
21 in order to come up with a reasonable  
22 conclusion --

08:15:41PM

08:16:08PM

1 Q. Okay.

2 A. -- under the guidelines that we  
3 follow.

4 Q. Showing you what has been marked as  
5 PWC Exhibit 301, we're going to give you both --  
6 you're going to receive 301 and 302 so you have  
7 them.

8 (PWC Exhibit No. 301 marked for  
9 identification.)

10 BY MR. LUETKEHANS:

11 Q. So PWC Exhibit 301 is the seventh  
12 edition, right, of the highest and best use  
13 valuation -- or highest -- it includes the  
14 highest and best use definition, correct?

15 A. This is a cover of the -- This is a  
16 cover of the Dictionary of Real Estate Appraisal  
17 Seventh Edition, which is correct. And then  
18 what you have highlighted is highest and best  
19 use, and it gives the defin- -- it gives the  
20 definition of highest and best use.

21 Q. And it gives four different  
22 definitions, is that fair to say?

1           A.     No.  Actually, I think that what this  
2     is, is this is a summary of the four -- I  
3     believe, it's a summary of the four tests of  
4     highest and best use, but --

5           Q.     Okay.

6           A.     -- if you want me to read them to be  
7     sure, I'll be glad to do that.

8           Q.     I'll take your understanding.

9                     Number 1 says:  The reasonable  
10    property, use of property that results in the  
11    highest value, correct?

12          A.     Sure.

13          Q.     And number 2 talks about the use of an  
14    asset that maximizes its potential, correct?

15          A.     Yes.

16          Q.     And 3, the highest and most profitable  
17    use, correct?

18          A.     Yes.

19          Q.     And number 4 talks about maximizing  
20    the value of the asset or group of assets,  
21    correct?

22          A.     Yes.

08:17:45PM

08:18:00PM



1 Q. And highest and best use is what  
2 you -- this highest -- The definition of highest  
3 and best use is the -- is the only -- is what  
4 you cite in your report, correct?

5 A. Yes.

6 Q. You talked about obsolescence, but  
7 there's no section from the Appraisal Institute,  
8 either the dictionary or The Appraisal of Real  
9 Estate that talk about -- that's in your report  
10 that mentions the word "obsolescence," does it?

11 A. No. The word "obsolescence" is not  
12 mentioned.

13 Q. Okay. So first, it's not anywhere in  
14 your report?

15 A. Yes, that's correct.

16 Q. Okay. So we spend a number of pages  
17 and we saw on the thing, a number of pages just  
18 on highest and best use, correct?

19 A. Yes.

20 Q. Okay. And let's go to PWC  
21 Exhibit 302.

22

1 (PWC Exhibit No. 302 marked for  
2 identification.)

3 BY THE WITNESS:

4 A. Okay.

5 Q. And this is The Appraisal of Real  
6 Estate?

7 A. Yes.

8 Q. 15th edition?

9 A. Well, this is a very small section.

10 Q. Yeah. Correct.

11 A. It's The Appraisal of Real Estate.

12 Q. The Appraisal of Real Estate is  
13 hundreds of pages, correct?

14 A. Hundreds of pages.

15 Q. So I just took -- I really just took  
16 the -- tried to get to the highest and best use,  
17 which is about the eighth page in.

18 A. Sure.

19 Q. Sec- -- Chapter 17, correct?

20 A. Yes.

21 Q. Okay. And this has a slightly  
22 different version of the definition of highest

08:19:06PM

08:19:21PM

1 and best use, correct?

2 A. That is correct.

3 Q. And it says the definition is a  
4 reasonably probable use of property that results  
5 in the highest value, correct?

6 A. Yes.

7 Q. And then it goes on to say the  
8 reasonable probable use with the highest value  
9 is the highest and best use?

10 A. Yes.

11 Q. Okay. So there we go again with the  
12 highest value, right?

13 A. Once again, this definition is related  
14 to the exam- -- or to the examination of the  
15 issue of real estate valuation theoretically of  
16 the fee simple interest of a piece of property.  
17 But go ahead.

18 Q. Yeah.

19 But this is the only section from  
20 The Appraisal Institute that you put in your --  
21 that you put in your report, correct?

22 A. That is correct.

08:19:45PM

08:20:04PM

1 Q. Okay. Nowhere in this analysis of  
2 highest and best use, again, does it say that  
3 the property will -- that the highest and best  
4 use of a property will minimize the effect of  
5 value surrounding property?

6 A. The term minimize the effect of value  
7 is part of a -- of the criterion that was part  
8 of the -- I presume, it's part of the law. And  
9 so it would not be in The Appraisal Institute  
10 text material.

11 Q. Okay.

12 A. It's related to the specific law that  
13 we have come here to dis- -- you know, the  
14 criterion that we've come here to discuss. And  
15 so it's the application of the concept of  
16 highest and best use that becomes critical in  
17 deter- -- or at least partially critical to  
18 determine whether or not there will be an impact  
19 on value or if the subject meets the tests of  
20 the Criterion 3.

21 Q. Are you saying that there are no  
22 negative effects caused by this proposed waste

1 transfer station?

2 A. I'm saying that, in my opinion, there  
3 are no negative effects on value or to the  
4 other -- to the properties located in that area  
5 based on the study that I completed.

6 Q. Okay. You don't cite any studies,  
7 treatises, or other scholarly articles to  
8 support this finding, do you?

9 A. You -- Are you referring to the text  
10 material?

11 Q. In your report, you don't cite any  
12 studies, treatises, or other scholarly articles  
13 other than the highest and best use definitions  
14 to support this finding, do you?

15 A. No. That was my job, to -- to create  
16 the -- or to create or come up with a finding.  
17 Based on my knowledge of real estate appraisal  
18 and my expertise in that area and my  
19 understanding of the concepts of real estate  
20 appraisal and consulting, it was my job to come  
21 up with the scholarly treatise in this matter  
22 and make a determination.

08:21:35PM

08:22:02PM

1 Q. Okay. But, again, you did that on  
2 your own, you didn't rely on any other studies,  
3 correct?

4 A. No. That's what I was -- I was hired  
5 to complete a study in this instance, and that's  
6 what I did.

7 Q. In any of your study, you don't have a  
8 paired analysis, you don't have a  
9 before-and-after analysis, correct?

10 A. I do not have a paired sales analysis  
11 in this study.

12 Q. Nor do you cite any?

13 A. Nor -- Nor a before and after analysis  
14 because those are not applicable in the location  
15 and use that we have here.

16 Q. You do not propose any mitigation or  
17 minimization of any -- anything to minimize  
18 incompatibility to this waste transfer station  
19 because you don't see no negative effects since  
20 it's not highest and best use?

21 A. I didn't understand that question.

22 Q. Let me -- You're not proposing any

08:22:31PM

08:23:00PM

1 mitigation on this property to this waste  
2 transfer station because you do not see any  
3 negative effects since its the highest and best  
4 use, correct?

5 A. I didn't propose any mitigations on  
6 this property because that wasn't part of my  
7 scope of work or function, nor would it be  
8 within the area of my expertise.

9 What I did was I es- -- I  
10 determined, based on the sales data that I  
11 reviewed and trends of -- of value in the area  
12 over an extended period of time, that the use  
13 that's proposed, based on the drawings that I've  
14 seen and what I know at this exact date and  
15 time, that this property will not -- the use of  
16 this property will not have a deleterious impact  
17 on any property in that area. And that it is,  
18 in fact, the highest and best use of that  
19 property.

20 Q. Again, we don't have any data that you  
21 relied upon, correct?

22 A. No. All that -- All that data, as it

1 says in -- I believe it says in the report, is  
2 retained in my file as required under the  
3 Uniform Standards of Professional Appraisal  
4 Practice.

5 Q. None of which you which brought here  
6 in front of us, correct?

7 A. Not at this particular point in time.

8 Q. Okay. Do you think it's important to  
9 look at West Chicago's opinion of  
10 incompatibility in this general area of a waste  
11 transfer station with the area?

12 MR. MUELLER: I'm going to object to  
13 relevance.

14 HEARING OFFICER PRICE: We've got six  
15 lines of this. So I'm going to overrule the  
16 objection.

17 Go ahead.

18 BY THE WITNESS:

19 A. Are you referring to this document  
20 that you've identified as PWC 1?

21 Q. No. I'm just asking generally.

22 A. My suspicion is that the municipality

08:24:34PM

08:24:50PM



1 will act in its own best interest to further  
2 itself on the appropriate way, as it appears  
3 that they've done in this entire area -- in this  
4 entire area in their -- in their zoning  
5 ordinances, and that they'll go through the  
6 appropriate process in order to come up with a  
7 solution to the problems that are -- that are  
8 set.

9           So all I'm doing in this instance  
10 is I am saying, based on the work that I did,  
11 the data that I looked at, my expertise as an  
12 appraiser, and my understanding of the  
13 appropriate appraisal and consulting concepts,  
14 that this property does not -- will not be a  
15 source of economic or locational obsolescence to  
16 other properties in this area; and that is, the  
17 use is, in fact, the highest and best use of  
18 that property. The intended use is the highest  
19 and best use of that property. That is my  
20 opinion.

21           Q.       So I guess my question -- back to my  
22 question is: Would it then be fair to say the

1 City of West Chicago's prior opinions about  
2 compatibility or incompatibility with a waste  
3 transfer station with a particular area, doesn't  
4 mean anything to you?

5 A. Well, certainly when you say it  
6 doesn't mean anything, I think that that's just  
7 a cheap shot, candidly. And what I think,  
8 basically, it boils down to is that -- is that  
9 certainly the municipality's entitled to its  
10 opinion. That may or may not -- That may or may  
11 not coincide with what the data tells me as  
12 trained appraiser.

13 Q. Okay. So whatever their prior opinion  
14 is, may or may not coincide with your opinions,  
15 is that --

16 A. Sure. That's absolutely correct.

17 Q. Okay. And your opinion is the only --  
18 is what matters, correct?

19 A. My opinion --

20 MR. MUELLER: I'll object.

21 HEARING OFFICER PRICE: Sustained.

22 MR. LUETKEHANS: Nothing further.

1 HEARING OFFICER PRICE: Mr. DeLaRosa?

2 MR. DELAROSA: No further comments.

3 HEARING OFFICER PRICE: Mr. Callaghan?

4 MR. CALLAGHAN: I have a couple  
5 follow-up questions.

6 CROSS-EXAMINATION

7 BY MR. CALLAGHAN:

8 Q. You had a slide. I don't know which  
9 one it is. It's 12, if we could put it up.

10 A. Which one?

11 Q. 12, it's the zoning map?

12 A. This one?

13 Q. Let's see.

14 A. Okay. Go ahead.

15 Q. The -- the property that's shaded in  
16 purple is manufacturing?

17 A. Yes.

18 Q. Okay. And that would characterize the  
19 types of uses that are permitted in this area,  
20 correct?

21 A. Yes.

22 Q. And would -- would you -- would it be

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1 your opinion predominant permitted use in this  
2 area is manufacturing industrial, and you  
3 provided a list of uses, correct?

4 A. Yes.

5 Q. Okay. And the uses that you've  
6 identified, other than vacant land, is also  
7 consistent with that zoning?

8 A. That would be my opinion, yes.

9 Q. So would that characterize this area?

10 A. It would.

11 Q. What is the -- If you know, what is  
12 the closest residential use in West Chicago to  
13 the subject property?

14 A. Are we talking -- There's a couple to  
15 the east. There's a couple of what I would  
16 consider to be county locations that are on --  
17 that are older homes on larger lots. Okay?

18 But then if you go east of that,  
19 there's two subdivisions. I believe one is  
20 called Prestonfield (phonetic) and the other is  
21 called Willow Creek, that are located to the  
22 east of that.

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1                   And when I measured them, it was --  
2           it was between 6- and 7,000 feet from the center  
3           point of the subject property.

4           Q.       And those are the closest West Chicago  
5           residential properties?

6           A.       Yes.

7           Q.       Now, the airport agreement that you  
8           were shown, Exhibit PWC-1 --

9           A.       Yes.

10          Q.       -- do you have that in front of you?

11          A.       I do.

12          Q.       If you could go to page 5,  
13          paragraph F?

14          A.       Okay.

15          Q.       It provides for expiration of the  
16          agreement?

17          A.       Yes.

18          Q.       Okay. Could you take a look at that  
19          and tell me if this agreement will expire or can  
20          expire if the party -- either party determines  
21          that it should, in less than three years?

22          A.       That is correct.

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1 Q. The property to the south, I think you  
2 said, of the subject property -- I think you  
3 said -- is a closed landfill?

4 A. Yes.

5 Q. Do you know what limitations are on  
6 that property for development?

7 A. I -- I just don't recall as I sit here  
8 today.

9 Q. And an appraiser and somebody who  
10 analyzes the use of real estate, are there  
11 typically limitations on the use of closed  
12 landfills?

13 A. Yes.

14 Q. But you don't happen to know what  
15 they --

16 A. I don't know what they -- the specific  
17 ones are in this instance.

18 Q. Okay. There was also --  
19 Mr. Luetkehans mentioned the Pheasant Run  
20 property that apparently is being redeveloped?

21 A. Yes.

22 Q. It is an industrial development?

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1           A.     Yes.

2           Q.     Would that use be incompatible with  
3     the use of the subject property for a waste  
4     transfer station?

5           A.     No.  Actually, in my opinion, because  
6     of the proximity of that particular property, of  
7     the golf course there --

8           Q.     Yes.

9           A.     -- I think that it shows a trend of  
10    development toward industrial application.  The  
11    likelihood -- I mean, I haven't looked at that  
12    what will go on that site specifically, but my  
13    suspicion is, is it's going to be similar to  
14    what you see along North Avenue in terms of  
15    distribution centers and things of that  
16    character would be my guess.

17                    But in my opinion, again, to my  
18    it's demonstrable evidence that the area has --  
19    has a strong inclination towards industrial  
20    applications.

21           Q.     Okay.  Going back to slide 12, which  
22    is the zoning map, I think you had made

1 reference in your testimony to the fact that the  
2 City of West Chicago has done a good job in  
3 allocating the area -- the various areas within  
4 the city for land uses that are compat- --  
5 internally compatible with each area?

6 A. That's correct, and that is my  
7 opinion.

8 Q. And -- And this slide 12 would show  
9 that?

10 A. Yes, it would. Not only on this area,  
11 but if you go north of North Avenue in the area  
12 that's on the east side of Powis Road, all the  
13 way to the point there, there are various,  
14 again, similar applications that are consistent  
15 at uses here.

16 Q. I think you may have said this, but  
17 the site is currently being used for a  
18 construction and demolition debris recycling?

19 A. That is correct.

20 Q. So the site currently has traffic?

21 A. Yes.

22 Q. And so it's not like -- we're not

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1 starting with a greenfield, right?

2 A. Well, I think that's exactly -- that's  
3 exactly what made this, from my perspective,  
4 such an interesting assignment, because it was  
5 an instance where the transfer -- transfer  
6 station already existed and has existed for an  
7 extended period of time.

8 Now, what's happening here as far  
9 as the subject property is concerned is, you  
10 have something that's handling recyclables in  
11 the construction and demolition portion of it.  
12 Now what you're doing is you're taking a logical  
13 expansion of that -- of that use to the use  
14 that's intended.

15 Q. And, again, looking at slide 12 and  
16 the uses that we discussed -- manufacturing,  
17 industrial -- do those generate traffic?

18 A. Sure.

19 Q. And the subject site is zoned for  
20 manufacturing and industrial?

21 A. Yes, that's correct.

22 Q. So it's anticipated, presumably by the

1 city and zoning department of that way, that  
2 traffic will be generated on the property?

3 A. Yes.

4 Q. Now, in the course of your work as an  
5 appraiser, do you study the character of areas?

6 A. Sure.

7 Q. From a real estate perspective --

8 A. That's correct.

9 Q. -- and land use perspective?

10 Do you study zoning?

11 A. Yes.

12 Q. And in connection with your study of  
13 this property, you looked at all of those things  
14 that would typically be part of any study that  
15 you do?

16 A. Yes.

17 Q. So you do this in the course of your  
18 daily work?

19 A. That's correct.

20 Q. And I think you said the fact that  
21 there is a Groot transfer station down the  
22 street provides almost, like, a laboratory for

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1 the area in that you have this out there  
2 already?

3 A. That is correct.

4 MR. CALLAGHAN: That's all we have.

5 Thank you.

6 HEARING OFFICER PRICE: Mr. Walsh ...

7 MR. WALSH: No questions, Mr. Hearing  
8 Officer.

9 HEARING OFFICER PRICE: Thank you,

10 Mr. Walsh.

11 Mr. Mueller, any redirect?

12 MR. MUELLER: No thank you.

13 You are excused, Mr. White Sox.

14 THE WITNESS: Let's do this again real  
15 soon.

16 (Witness excused.)

17 HEARING OFFICER PRICE: Mr. Mueller,  
18 will you please call your next witness and let  
19 us know what criterion they are talking about.

20 MR. MUELLER: The applicant will call  
21 Michael Werthmann with regard to the traffic  
22 criterion, Criterion 6.

1 HEARING OFFICER PRICE: Raise your  
2 right hand to be sworn in, please.

3 (Witness sworn.)

4 HEARING OFFICER PRICE: Mr werthmann,  
5 there's a microphone before you. I ask you to  
6 use that.

7 (Brief pause.)

8 MR. MUELLER: I think we're waiting for  
9 the PowerPoint to load.

10 HEARING OFFICER PRICE: Joseph, I've  
11 only received two PowerPoint presentations  
12 unless one was very recently e-mailed to me.

13 (Discussion off the record.)

14 HEARING OFFICER PRICE: All right.  
15 Well, we will take five minutes while we get the  
16 PowerPoint to Joe.

17 (A short break was had.)

18 HEARING OFFICER PRICE: Mr. Mueller, to  
19 you.

20 MR. MUELLER: First of all, the record  
21 should reflect that we have handed out, as  
22 Exhibits 9 and 10, a CV for Michael Werthmann

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1 and his PowerPoint presentation.

2 WHEREUPON:

3 MICHAEL WERTHMANN,  
4 called as a witness herein, having been first  
5 duly sworn, was examined and testified as  
6 follows:

7 DIRECT EXAMINATION

8 BY MR. MUELLER:

9 Q. Mr. Werthmann, could you state your  
10 full name and spell your last name, please.

11 A. Yes.

12 Michael Alan Werthmann,  
13 W E R T H M A N N.

14 Q. What is your profession, sir?

15 A. I'm a traffic engineer with the firm  
16 of Kenig, Lindgren, O'Hara, Aboona, Inc.

17 Q. And what was your assignment in this  
18 case?

19 A. My assignment was to address Criterion  
20 6.

21 Q. Which is the traffic criterion?

22 A. Traffic criterion, correct.

1 Q. And did you conduct a study and  
2 prepare a report?

3 A. Yes, I did.

4 Q. And those are in the application,  
5 correct?

6 A. Correct.

7 Q. Did you then also prepare a PowerPoint  
8 presentation which summarizes the report that  
9 you have in the application?

10 A. Yes, I did.

11 Q. Would you like to proceed with that,  
12 please.

13 A. Please.

14 Once again, good evening. My name  
15 is Michael Werthmann. I'm a principal at the  
16 firm of Kenig, Lindgren, O'Hara, Aboona, Inc.  
17 We are a traffic and transportation firm out of  
18 Rosemont, Illinois.

19 I've have been in practice now for  
20 27 years. I have been practicing traffic  
21 engineering now for 33 years since graduating  
22 from Michigan State University with a bachelor's

1 of science in civil engineering. I'm a  
2 registered professional engineer in the State of  
3 Illinois and also a certified professional  
4 traffic operations engineer.

5 I've worked on many Waste  
6 Management facilities over the years and have  
7 provided testimony on over 25 solid waste  
8 projects.

9 As I indicated, my role in this  
10 project was to address Criterion 6, which states  
11 that the traffic patterns to and from the  
12 facility are so designed as to minimize the  
13 impact on the existing traffic flow. This was  
14 accomplished by performing a traffic study for  
15 the improved facility.

16 A traffic study was based on the  
17 methodology accepted within the industry and  
18 with transportation and planning officials. It  
19 basically consists of a three-stage, three-phase  
20 study.

21 The first study thoroughly examines  
22 the existing physical and operating

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1 characteristics of the roadway system. That's  
2 how we develop our base condition.

3 The second phase looks at the  
4 facility traffic characteristics, including the  
5 type and volume of traffic that will be  
6 generated and the travel routes that will be  
7 used to travel to and from the facility.

8 The third phase is the evaluation  
9 phase, which evaluates the impact of the  
10 facility generated traffic, what impact it will  
11 have on the existing roadway system.

12 So once again, it's a three-phase  
13 study. We look at the existing conditions, look  
14 at the additional traffic that will be  
15 generated, and then add that to the roadway  
16 system and see what impact we have on the  
17 roadway system.

18 As we all know, the site -- the  
19 existing facility is located on the east side of  
20 Powis Road, approximately one-half mile south of  
21 Illinois 64. As we've heard, the land uses in  
22 the area consist primary -- primarily of



1 industrial warehouse and construction-type uses  
2 including the DuPage Airport to the west and the  
3 existing Groot Waste Connection transfer station  
4 to the north.

5 The existing facility contains  
6 several existing operations. These include:  
7 One, a construction and demolition recycling and  
8 transfer facility that is permitted to process  
9 1,250 tons of material per day; two, is a  
10 processing operation that converts wood into  
11 mulch and other products; three, is the  
12 maintenance and storage of up to 95 vehicles  
13 made up of street sweepers, portable restroom  
14 trucks, packer and roll-off and single-unit  
15 trucks and transfer trailers; and four, the  
16 maintenance and storage of portable restrooms,  
17 containers, roll-off containers, and carts.

18 So there's four basic operations on  
19 the existing site, a C&D facility, a wood  
20 processing facility, a storage for containers  
21 and carts as well as parking for various trucks  
22 that are used by Lake Shore Recycling.

1           Access to the current facility is  
2 provided via two access drives on Powis Road.  
3 The south access drive provides both inbound and  
4 outbound access to the facility. The north  
5 access drive is currently gated and not in use.

6           So let's go into the first page of  
7 the study, which is the existing condition.  
8 Some of the tasks that were completed as part of  
9 this was to examine the existing area of traffic  
10 and roadway conditions. This included  
11 collecting various information and reviewing the  
12 data -- transportation-related data, and then  
13 the third thing was to conduct traffic counts at  
14 critical intersections in the study area.

15           I'd first like to talk about the  
16 roadways within the study area. Let's first  
17 talk about Illinois 64 or North Avenue. As I  
18 indicated, this is located one-half mile north  
19 of the facility. It's an east-west major road,  
20 a high-capacity road that has three lanes in  
21 each direction. It has a high-capacity  
22 signalized intersection with Powis Road. This

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1 intersection provides dual left turn lanes and  
2 separate right turn lanes, a very high-capacity  
3 intersection that can accommodate turning truck  
4 traffic. North Avenue or Illinois 64 is  
5 classified as a Class II truck route in a  
6 strategic arterial route by IDOT, and it's under  
7 the jurisdiction of IDOT, and it carries a daily  
8 volume of over -- over 30,000 vehicles a day.

9 As we've heard in the previous  
10 testimony, North Avenue has been improved  
11 several times over the past two decades to get  
12 it to the high-capacity roadway that it is  
13 currently.

14 The next road we'd like to talk  
15 about is Powis Road. This road extends along  
16 the west side of the subject facility. It's a  
17 north-south industrial collector road. It  
18 provides one lane in each direction. It has an  
19 at-grade railroad crossing just north of  
20 Hawthorne Lane. As I indicated, it's got a  
21 signalized intersection with Illinois 64, and  
22 it's under all-way stop sign control at

1 Hawthorne Lane. It's also classified as a  
2 Class II truck route. It has a daily traffic  
3 volume of approximately 5,500 vehicles.

4 The last road we would like to talk  
5 about is Hawthorne Lane. This is east-west  
6 local road, one lane in each direction. It also  
7 has an at-grade railroad crossing that's just  
8 west of Carolina Drive. It's under all-way stop  
9 sign control at its intersection with Powis  
10 Road. It's also classified as a Class II truck  
11 route between Kress Road and Atlantic Drive, and  
12 it has a daily traffic volume of around  
13 3,500 vehicles per day.

14 This slide shows the existing  
15 roadway characteristics within the study area  
16 and along the Powis Road corridor. It shows the  
17 traffic control and the lane configuration at  
18 each of the intersections as well as the speed  
19 limit on the roadway system.

20 In order to determine the traffic  
21 volumes on the roadway system, traffic counts  
22 were conducted at several intersections along

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1 the Powis Road corridor. These counts were  
2 conducted at the intersection of Powis Road with  
3 Illinois 64, Powis Road with Hawthorne Lane,  
4 Powis Road with the subject facility access  
5 drive -- that south access drive I just  
6 described, as well as Powis Road, with the two  
7 access drives to the Groot Waste Connections  
8 transfer station located just north of the site.

9 These counts were conducted during  
10 the morning commuter peak period from 6:00 a.m.  
11 to 9:00 a.m., and the weekday evening commuter  
12 peak period from 3:00 p.m. to 6:00 p.m. In  
13 addition, daily traffic counts were conducted  
14 along Powis Road south of Illinois 64.

15 Traffic counts were performed in  
16 2019 pre-COVID pandemic as well as in  
17 2022 post-COVID pandemic. In order to determine  
18 the impact that the COVID pandemic had on the  
19 area of traffic conditions, the 2019 and the  
20 2022 traffic count at the two primary  
21 intersections of Powis Road with Illinois 64 and  
22 Powis Road with Hawthorne Lane were compared.

1 So we looked at each of volumes to determine  
2 which ones were higher.

3 Based on that review, it was  
4 determined that the 2019 traffic counts were  
5 anywhere between 20 to 40 percent higher than  
6 the 2022 traffic volumes. So those  
7 2019 pr-COVID traffic volume were significantly  
8 higher that 2022 count. As such, to provide a  
9 worst-case analysis, a study was based on the  
10 2019 traffic counts.

11 It's important to note that when  
12 the 2019 traffic counts were conducted, the C&D  
13 facility -- the existing C&D facility processed  
14 approximately 750 tons of material on the day of  
15 the traffic counts were done. So we --  
16 Fortunately, when we did the traffic count, we  
17 also got a peak day at the existing C&D facility  
18 where it processed 750 tons of material.

19 This slide, which is difficult for  
20 everyone to see, shows the existing peak hour  
21 volumes on the roadway system, plus the morning  
22 peak hour volume. Those highest volumes in a

1 one-hour period between 6:00 to 9:00 morning  
2 peak period as well as the hourly highest volume  
3 during the evening peak hour at the five  
4 intersections along the Powis Road corridor.

5 Next, I would like to talk about  
6 the second phase of the study, which is the  
7 traffic characteristics of the improved  
8 facility.

9 Excuse me. Some of the tasks we  
10 completed under this phase was to determine the  
11 characteristics at both improved facility --  
12 excuse me -- the directional distribution  
13 analysis -- which way the vehicles will be  
14 traveling to and from the facility -- the volume  
15 of traffic that will be generated by the  
16 improved facility, and then the future total  
17 traffic assignment.

18 The improved facility is proposed  
19 to accept a maximum of 1,950 tons of material  
20 per day; once again, a maximum of 1,950 tons of  
21 material per day. This will be made up of up to  
22 650 tons of municipal solid waste, up to

1 300 tons per day of hydro-excavation waste, up  
2 to 750 tons per day of C&D material, and up to  
3 250 tons per day of recyclables. So we'll have  
4 a maximum of 1,950 tons of materials per day,  
5 maximum, that will be distributed over four  
6 different types of material or waste.

7 Access to the improved facility is  
8 to be provided via the two existing access  
9 drives on Powis Road. A south access drive will  
10 converted to an inbound-only access drive  
11 serving the facility. In addition, Powis Road  
12 will be widened in order to provide a separate  
13 southbound left-turn lane and a separate  
14 northbound right-turn lane serving the  
15 southbound access drive. So once again, we'll  
16 provide a separate left-turn lane and a separate  
17 right-turn lane serving that access drive.

18 All outbound access will be  
19 provided via the north access drive. As I  
20 indicated, this drive is not currently being  
21 used. It will be reactivated. The drive will  
22 provide two outbound lanes and will provide



1 wider radiuses to accommodate the turning truck  
2 traffic.

3 Next, I would like to talk about  
4 the hauling characteristics of the improved  
5 facility. The majority of the inbound waste  
6 will be delivered to the facility via collection  
7 trucks and other single-unit-type trucks. It's  
8 anticipated that approximately 60 percent of the  
9 inbound traffic will be traveling from the north  
10 on Powis Road, and approximately 40 percent will  
11 be traveling from the south on Powis Road; so  
12 more to the north, lesser to the south.

13 It's important to note -- and this  
14 is pretty critical -- that many or most of the  
15 trucks and containers that will support the  
16 operation of the improved facility are currently  
17 stored or parked at the existing facility and  
18 will continue to be parked at the existing  
19 facility or the improved facility. As such, a  
20 large percentage of the traffic generated by the  
21 improved facility will consist of Lake Shore  
22 Recycling trucks and containers that are already

1 traversing the area roadway system.

2 Currently, these trucks travel to  
3 an off-site transfer station before returning to  
4 the subject site to be parked or stored  
5 overnight. With the improved facility, these  
6 trucks will be able to directly return to the  
7 site, not have to go to another transfer station  
8 to dispose of their waste or their materials at  
9 the improved facility and then not leave.

10 They'll dispose of their materials and then be  
11 parked for an evening.

12 This is significant, as it will  
13 result in a reduction in the traffic generated  
14 by the improved facility and also reduce the  
15 miles traveled on the external roadway system,  
16 as we do not have to travel to a distant  
17 transfer station.

18 So once again, that inbound traffic  
19 that will be generated by the improved facility  
20 will be significantly reduced given that we have  
21 a maintenance and storage yard of the existing  
22 trucks on the improved facility.

1           The outbound waste will be  
2 transported from the facility to a landfill via  
3 transfer trailer that will be similar in size to  
4 the trucks currently serving the facility.

5           The route that these transfer  
6 trailers will use will be -- I'll show you  
7 here -- northbound on Powis Road to westbound on  
8 North Avenue to southbound on Kirk Road to  
9 westbound on I-88. And the trucks coming back  
10 will use the same route but in a reverse  
11 direction. So all of the transfer trailers, the  
12 larger trucks will travel north to Illinois 64,  
13 west to Kirk Road, south to I-88.

14           This slide shows the traffic that  
15 is estimated to be generated by the improved  
16 facility. The volume of traffic to be generated  
17 was based on the existing and projected  
18 operation of the facility.

19           This table shows the existing  
20 traffic generated by the facility, the  
21 additional traffic that will be generated by the  
22 improved facility, and the total traffic. And

1 it shows it for the morning peak hour and the  
2 evening peak hour. These numbers represent one  
3 hour out of the day.

4 The middle column -- the two  
5 columns are for the morning peak hour, the two  
6 columns on the far right -- excuse me --  
7 represent the evening peak hour. It's important  
8 to note that this table represents a worst-case  
9 analysis. As we just indicated, we expect the  
10 volume of traffic, particularly in the evening  
11 peak hour, to be reduced in the fact that a lot  
12 of the traffic will be those trucks that are  
13 returning back to be parked at the proposed  
14 facility and will be disposing of their waste at  
15 the facility. As such, they will not be leaving  
16 the facility at night.

17 However, to provide this  
18 conservative analysis, we assume all of the  
19 traffic would be new inbound and outbound  
20 traffic. So we really provided a very  
21 conservative analysis and assumed all new  
22 traffic would be generated by the improved

1 facility.

2 Future growth: In addition to the  
3 traffic that will be generated by the improved  
4 facility, we also looked at additional growth in  
5 the area. Even though the criteria says we only  
6 have to look at the impact on the existing  
7 traffic flows, we understand that there will be  
8 some growth in the area. As such, based on  
9 projections in the area, all of the existing  
10 traffic in our study area were increased by  
11 10 percent to account for future growth in the  
12 area.

13 In addition, the future assignment  
14 take into account the changes in the site access  
15 system using both access drives as one-way  
16 drives and also included the proposed  
17 improvements along Powis Road.

18 This slide shows the total  
19 projected traffic volumes. We projected out to  
20 the year 2029, five years after the opening --  
21 projected opening of the improved facility.  
22 These volumes include the existing traffic plus

1 a 10 percent background growth plus the  
2 additional traffic to be generated by the  
3 improved facility. So it's a very conservative  
4 analysis.

5 Next, I would like to talk about  
6 the proposed access system. As I indicated,  
7 access to the site will be provided via the two  
8 existing access drives on Powis Road. The south  
9 drive will be converted to an inbound-only  
10 access drive. As I indicated previously, Powis  
11 Road will be widened to provide a southbound  
12 separate left-turn lane and a northbound  
13 separate right-turn lane. This is significant  
14 as it pulls that slower traffic that's  
15 decelerating to turn into the site out of the  
16 through lanes on Powis Road.

17 This will be one of only several  
18 developments along the whole Powis Road corridor  
19 that actually provides both a separate left-turn  
20 lane and a separate right-turn lane. It does a  
21 lot to mitigate our impact on the existing  
22 roadway system.

1                   Outbound access will be provided  
2 via the north access drive. Once again, this  
3 will be reactivated as an access drive. It will  
4 provided two outbound lanes, a separate  
5 right-turn lane, and a separate left-turn lane.  
6 It will provide an increased radius in that  
7 north corner in order to accommodate that  
8 turning truck traffic that will be traveling to  
9 the north to Illinois 64.

09:04:33PM 10                   It's important to note that the  
11 plan for Powis Road, the access drive, the  
12 improvements to Powis Road have been  
13 conceptually approved by the DuPage County  
14 Division of Transportation which has  
15 jurisdiction over Powis Road. In fact, the  
16 engineer has submitted final engineering plans  
17 to the County and we've already received their  
18 initial comments on those final engineering  
19 plans. The County has reviewed the report, the  
20 plans, and conceptually approved the traffic  
21 study as well as the proposed plans.

22                   This picture illustrates the

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1 proposed improvements to Powis Road.  
2 Unfortunately, south is to the top of the screen  
3 and north is to the bottom of the screen, but  
4 the bottom drive would be the outbound-only  
5 drive. You can see the two outbound lanes, both  
6 the separate left and the separate right. The  
7 drive to the top would be the inbound-only  
8 access drive. You can see the separate  
9 left-turn lane on Powis Road.

09:05:42PM 10 This is a location that if the  
11 traffic has to stop to wait for a gap in  
12 traffic, it will not be blocking the traffic on  
13 Powis Road. We're also providing a separate  
14 southbound or northbound right-turn lane on  
15 Powis Road.

16 As I indicated, we take a look at  
17 the existing conditions and look at the  
18 projected conditions to the determine the impact  
19 on the roadway system. This is done by  
20 conducting traffic analysis, which will -- which  
21 will perform using the highway capacity  
22 software. This is how traffic engineers



1 evaluate how an intersection operates.

2 The ability of an intersection to  
3 accommodate traffic flow is expressed in terms  
4 of level of service, which is assigned a letter  
5 grade from A to F based on the average control  
6 delay at the intersection.

7 So what we look at is whatever the  
8 average delay is at that intersection, how much  
9 time you're waiting, there's a certain letter  
10 grade that is assigned to that. And the letter  
11 grade is similar to the grading scale at a  
12 school. It extends from A to F, with A being  
13 really no congestion at the intersection, and F  
14 being, you know, a lot of congestion at the  
15 intersection.

16 However, unlike the grading scale  
17 at school, a level of service D is considered  
18 acceptable within urban areas like the  
19 Chicagoland area. So if you have a level of  
20 service D or better, you're typically considered  
21 acceptable, and it's reasonable to have a level  
22 of service D.

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1                   Based on that, we conducted our  
2                   capacity analysis to see how the existing  
3                   roadway system operates and how it will operate  
4                   given the additional traffic to be generated by  
5                   the improved facility.

6                   Under existing conditions, the  
7                   signalized intersection of North Avenue and  
8                   Powis, in the critical movements at the stop  
9                   sign-controlled intersection, all currently  
10                  operate at a good level of service B or C.

11                  Assuming those year 2029 total  
12                  volume, which include that 10 percent growth as  
13                  well as the additional traffic to be generated  
14                  by the improved facility, all of these  
15                  intersections in the critical movement are  
16                  projected to continue to operate at a level of  
17                  service B or C.

18                  This would indicate that the  
19                  existing roadway system has sufficient reserve  
20                  capacity to accommodate the additional traffic  
21                  to be generated by the improved facility. Once  
22                  again, this was the conservative analysis where

1 we added the 10 percent growth and we assumed  
2 all new traffic being generated by the improved  
3 facility.

4 In addition, the results of the gap  
5 study -- We performed a gap study on Powis Road  
6 so that there's more than sufficient gaps in the  
7 Powis Road traffic stream to accommodate that  
8 traffic that will be turning to and from the  
9 proposed facility. What a gap study does, it  
10 determines the gaps in the roadway to -- to  
11 ensure that there's sufficient gaps in the  
12 traffic for the vehicles to turn out of the  
13 facility or turn into the facility. This gap  
14 study shows that there's more than sufficient  
15 gaps.

16 As such, other than the  
17 improvements at the access drives, no additional  
18 roadway improvements or traffic control  
19 modifications are required to accommodate the  
20 improved facility.

21 Q. Mr. Werthmann, based upon your study,  
22 your analysis, and your expertise, do you have

1 an opinion as to whether or not traffic patterns  
2 to and from facilities are so designed as to  
3 minimize the impact on existing traffic flows?

4 A. Yes. It's my opinion that the traffic  
5 pattern two and from the facility are so  
6 designed as to minimize the impact on the  
7 existing traffic flow, satisfying Criterion 6.

8 Q. And is that opinion within a  
9 reasonable degree of scientific and engineering  
10 certainty?

11 A. Yes.

12 Q. And what is the basis for that  
13 opinion?

14 A. The basis of the opinion is based on  
15 the results of the traffic study that was  
16 submitted and my summary of it. In addition,  
17 it's based on a number of points which I'll go  
18 over now; the first is the facility near the  
19 site contains an existing recycling and transfer  
20 facility that is permitted to process 1,250 tons  
21 of C&D material today. It's an existing  
22 facility that's already out there. Two, the

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1 existing facility is located in an industrial  
2 area where the roadway system has been designed  
3 to accommodate the type of traffic that will be  
4 generated by the facility.

5 As we indicated, all of the roads  
6 in the study area are all Class II truck routes  
7 that have been designed to accommodate the truck  
8 traffic that will be generated by the facility.

9 As we indicated, given that the  
10 trucks and the -- and the containers that will  
11 be supporting the facility will be stored at the  
12 same facility. This will greatly reduce the  
13 volume of traffic that is generated by the  
14 expanded facility.

15 Four, the proposed improvements  
16 that we have along Powis Road will significantly  
17 reduce our impact on the roadway system. Five,  
18 the roadway system has sufficient reserve  
19 capacity to accommodate the traffic to be  
20 generated by the improved facility. Six, no  
21 additional roadway improvements are required in  
22 order to accommodate the improved facility.

1 And, seven, and lastly, as I indicated, the  
2 DuPage County Division of Transportation as well  
3 as an independent traffic consultant that was  
4 retained by the City of West Chicago have both  
5 reviewed the traffic study and both have  
6 generally concurred with the findings of the  
7 traffic study.

8 That is my ...

9 Q. Thank you, Mr. Werthmann.

10 No further questions.

11 HEARING OFFICER PRICE: Thank you,  
12 Mr. Mueller.

13 Protect West Chicago ...

14 CROSS-EXAMINATION

15 BY MR. LUETKEHANS:

16 Q. Bottom of page 11 of your report, you  
17 mentioned that, quote, the proposed transfer  
18 station is anticipated to typically receive a  
19 transfer waste from 4:00 a.m. to midnight on  
20 weekdays.

21 Do you recall that?

22 A. Yes.

1 Q. Were you advised what percentage of  
2 that waste, what percentage of the trucking will  
3 occur between 5:00 p.m. and midnight?

4 A. I'm sorry. It's hard to hear you.

5 Q. Sorry.

6 Were you advised what percentage of  
7 that waste, what percentage of the trucking will  
8 actually occur between 5:00 p.m. and midnight?

9 A. Yes. We project the report based on  
10 information provided by the project team. The  
11 majority of it will be -- I think it's between  
12 6:00 a.m. and 6:00 p.m., in about a 12-hour  
13 period.

14 Q. Okay. But you don't know, as you sit  
15 here, what percentage is after that 6:00 p.m.?

16 A. It's so hard to hear you.

17 Q. I know.

18 You don't know, as you sit here,  
19 the percentage of waste after 6:00 p.m.?

20 A. I could calculate it for you, but  
21 it -- it's a small percentage.

22 Q. Okay. That's fine.

1                   You talked and I think you actually  
2 showed a slide with the transfer trailer.

3                   Do you recall that?

4           A.       Yeah.

5           Q.       So the transfer trailer would start in  
6 West Chicago, right?

7           A.       Right.

8           Q.       Then it will proceed through the  
9 eastern part or eastern edge of St. Charles,  
10 correct?

11          A.       Correct.

12          Q.       Then they'll proceed south to the far  
13 western edge of Geneva, correct?

14          A.       They will go south on Kirk Road.

15          Q.       And that's kind of like --

16          A.       Yes.

17          Q.       -- the Geneva borderline?

18          A.       Right. No problem.

19          Q.       And then they'll just head down Kirk  
20 and proceed to Batavia, correct?

21          A.       Correct.

22          Q.       And then they'll get parts of Aurora

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1 before they get to Route 80, correct?

2 A. Correct.

3 Q. Okay. You wouldn't disagree with me,  
4 would you, that three of those five towns, being  
5 Batavia, West Chicago, and Aurora, have a large  
6 percentage of minority population than the  
7 average DuPage and Kane County towns?

8 MR. MUELLER: Relevance.

9 HEARING OFFICER PRICE: Yeah. I'm with  
10 him on this one.

11 How is that relevant,  
12 Mr. Luetkehans?

13 MR. LUETKEHANS: Because it goes with  
14 the justice issues which are part of what the  
15 I- -- the EPA says should be looked at when you  
16 do a waste transfer station.

17 HEARING OFFICER PRICE: Yeah, but it's  
18 not part this. Sustained.

19 Next question.

20 BY MR. LUETKEHANS:

21 Q. In the full paragraph of page 14 of  
22 your report, you talk about LRS will hire up to

1 35 additional employees.

2 Do you remember that?

3 A. Correct.

4 Q. And you also stated in 2019 the LRS  
5 facility had approximately 150 when you  
6 performed your original traffic counts; is that  
7 correct?

8 A. Correct.

9 Q. And then you said in 2019 number  
10 employees was approximately 25 more employees  
11 than currently work with the LRS facility.

12 Do you see that?

13 A. Yes.

14 Q. So just so I'm understanding the  
15 numbers, I assume that means that the current  
16 number of employees at the site is 125?

17 A. Correct, approximately.

18 Q. And then if I add 35 jobs, we're going  
19 to have a total of 160 employees?

20 A. Roughly, yes.

21 Q. Okay. So the increase in employees  
22 between 2019 and the -- proposed is ten?

1 A. Correct.

2 Q. Or 15, I guess? Sorry.

3 A. Yeah.

4 Q. But if I go to page 15 of your report,  
5 it says ten new employee. I guess I'm confused.

6 A. Page 15, that just shows the volume of  
7 employee traffic coming in and going out during  
8 one hour. It doesn't include all of them.

9 Q. Oh, okay. Thanks.

10 A. Okay.

11 Q. On page 16 of your report, as well as  
12 the attachments to your report, you provided  
13 CMAP, C M A P, numbers and projections for 2019,  
14 correct?

15 A. Correct.

16 Q. And CMAP has now run a  
17 2022 projection, right?

18 A. Correct.

19 Q. And actually, that report you talked  
20 about that West Chicago mentioned -- they  
21 mention the same thing?

22 A. Yes. And can I answer?

09:15:45PM

09:16:03PM

1 Q. Let's just -- I just want to clarify  
2 first.

3 The tables 5 through 7 are based on  
4 the 2019 CMAP projections, correct?

5 A. The tables -- The future conditions  
6 are based on 2029 traffic volumes that included  
7 existing traffic plus the 10 percent growth that  
8 was based on CMAP projections plus the traffic  
9 that is generated by the facility -- the  
10 improved facility; however, we went above and  
11 beyond Criterion 6, which says to look at the  
12 existing traffic flows.

13 So in theory, we didn't even need  
14 to project out 10 percent.

15 Q. Okay. But you did, right?

16 A. I did.

17 Q. And you used 2019 and then 2022?

18 A. Yes.

19 Q. Okay. And let's talk for a moment  
20 about the traffic light at Powis and Route 64.  
21 Okay?

22 A. No problem.

1 Q. Your analysis is based on the timing  
2 of the traffic light, correct?

3 A. Correct.

4 Q. And your timing for the traffic light,  
5 that was based on observation in the field,  
6 correct?

7 A. That was based on actual timings that  
8 we obtained from the State of Illinois.

9 Q. Oh, so you actually got the timing  
10 studies?

11 A. Yeah.

12 Q. Okay. Several of the Powis Road  
13 movements are at level of service E according to  
14 your report, correct?

15 A. Correct.

16 Q. E, as in Edward.

17 And you also would agree that level  
18 of -- level of service E is said to be  
19 unfavorable, is that kind of how it's leveled,  
20 how it's --

21 A. We try to strive for a level of  
22 service D, particularly at the overall level of

1 service, but at, you know, major arterial roads  
2 such as North Avenue, what happens is the State  
3 gives the majority of the time to major road in  
4 order to progress that traffic. It's got the  
5 majority of the traffic. As such, the side  
6 street here Powis Road can only receive a  
7 certain amount of green time -- limited amount  
8 of green time. It operates at a level of  
9 ser- -- a lower level of service, in this case,  
10 a level of service E. However, the capacity of  
11 the intersection is more than sufficient.

12 Q. I'm just trying to talk about these  
13 movements right now.

14 And one of the things -- you have a  
15 chart that says level of service criteria and  
16 interpretation, right?

17 A. Correct.

18 Q. The level of service criteria for E  
19 and interpretation is progression is  
20 unfavorable, correct?

21 A. That's what the table says, yes.

22 Q. Okay. And you prepared a report --

1 And just as you mentioned earlier, F is the  
2 worst?

3 A. F is the worst.

4 Q. And E is just one above that, right?

5 A. Correct.

6 Q. And you prepared a report in July  
7 of 2020, correct?

8 A. (No verbal response.)

9 Q. Your first report -- the draft report?

10 A. I'm not sure. The final report was  
11 September 12th, 2022.

12 Q. 2022?

13 A. Yeah.

14 Q. I cut you off, so I just want to make  
15 sure.

16 A. Yeah, 2022.

17 Q. But you did provide a preliminary  
18 report that was analyzed by the City of West  
19 Chicago back in 2020.

20 Do you recall that?

21 A. Yes. I think it was a pre-application  
22 review.

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1 Q. And the changes in the text between  
2 2020 and your current report, there are not  
3 (indiscernible) are they?

4 THE COURT REPORTER: They're not what?

5 MR. LUETKEHANS: Sorry.

6 Mandatory.

7 BY THE WITNESS:

8 A. No, I -- I can't recall, but no, it  
9 was --

10 Q. I mean, would you agree with me that  
11 most of your changes concerned different volumes  
12 because the (indiscernible) exchanged in the  
13 underlying analysis? That's one of the things,  
14 right?

15 A. I can't remember what the 2020 report  
16 is. Sorry.

17 Q. Okay. And in between 2020 and 2022,  
18 do you remember that you added do not enter  
19 signs?

20 A. Yeah, I may have added do not enter  
21 signs at the access drive.

22 Q. Okay. And you used the 2019 traffic



1 counts, you say, because they're the higher ones  
2 and they're the more conservative ones, correct?

3 A. Correct.

4 Q. Hence, your timing counts and your  
5 level of service did not change between the  
6 preliminary report in 2020 and 2022 report?

7 A. Correct.

8 Q. In this case, the significant amount  
9 of traffic to and from the site will proceed  
10 along North Avenue, correct?

11 A. Once again, I didn't hear you.

12 Q. I'm sorry.

13 In this case, the significant  
14 amount of traffic to and from the site will  
15 proceed along North Avenue; is that correct?

16 A. You know, we got a 60/40 split on the  
17 collection trucks. So a portion of it will be  
18 going south. All of the transfer trailers will  
19 be going to North Avenue.

20 Q. And going to the west from there,  
21 right?

22 A. Going west from there.

09:20:30PM

09:20:54PM

1 Q. Okay. And going to the west, is a new  
2 dealership -- a new Honda dealership that's been  
3 put in operation between your 2019 counts and  
4 your 20- -- 2019 -- or after your 2019 counts,  
5 right?

6 A. Correct.

7 Q. And it was also put in operation after  
8 your 2022 counts, correct?

9 A. Correct.

10 Q. And there's also another development  
11 that's been approved and is currently under  
12 construction at the old Pheasant Run property  
13 and that's an 80-plus acre development  
14 industrial being undertaken by Greco, correct?

15 A. That's my understanding.

16 Q. And you're very familiar with that  
17 site, though, correct?

18 A. We worked on that project.

19 Q. You did the traffic analysis?

20 A. I didn't do it, but, yes, our firm.

21 Q. KLOA did it, correct?

22 A. Correct.

09:21:16PM

09:21:37PM

1 Q. Okay. And most of the traffic for  
2 both these developments, the Honda and Greco,  
3 will come out on North Avenue, correct?

4 A. I can't tell -- I don't know the plan  
5 for the industrial development.

6 Q. Okay. Well, the Honda dealer only has  
7 access onto --

8 A. Correct. Yes. The -- I'm not sure of  
9 the industrial plan.

10 Q. Okay. Would you disagree that the  
11 industrial plan has two access points on North  
12 Avenue and one onto Powis (phonetic)?

13 A. I don't know. I can't agree or  
14 disagree. I don't know.

15 Q. The study that KLOA did in 20- --  
16 October of 2021 for that Greco industrial  
17 project was not mentioned in your current study,  
18 correct?

19 A. Correct.

20 Q. And the counts wouldn't be counts  
21 included because your counts were before the  
22 thing was put into place?

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1           A.     Correct.

2           Q.     The weekday morning counts -- Well,  
3     it's not a fair question if you don't recall.  
4     So I'm just going to move on to PWC 604. I have  
5     it here.

6                                 (Brief pause.)

7                                 (PWC Exhibit No. 604 marked for  
8                                 identification.)

9     BY MR. LUETKEHANS:

10          Q.     Okay. Mr. Werthmann, you have in  
11     front of you PWC Exhibit 604.

12                                 Does that appear to be a traffic  
13     count that KLOA did or a traffic analysis that  
14     KLOA did for the Greco industrial development  
15     that we talked about?

16          A.     It appears to be. Did a quick review  
17     of it, yes.

18          Q.     Okay. And it's, I think, dated 2021,  
19     correct, October 12th?

20          A.     Yes.

21          Q.     And the weekday morning counts for  
22     just the Greco development, not including the

1 Honda, are approximately 2- -- add approximately  
2 275 motor vehicles to North Avenue, correct?

3 A. Yeah, but that's in two different  
4 directions. And I don't know if it's 275. I  
5 mean, I can go through the numbers.

6 It is adding -- I wouldn't say 200,  
7 but it's adding some traffic to North Avenue.

8 Q. Where are you looking for? Where are  
9 you looking at?

10 A. I'm looking at, I guess, page 16,  
11 Figure 5 and Figure 6.

12 Q. Sorry. I don't have a page number on  
13 mine. That's the morning peak?

14 A. The morning peak, and there's the  
15 afternoon peak, too.

16 Q. And what's the afternoon peak?

17 A. At what -- At what location?

18 Q. Just on North Avenue or just --

19 A. Well --

20 Q. What's -- What's the -- What's the  
21 morning peak coming -- that this site is  
22 generating? Let's start there.

09:25:11PM

09:25:52PM

1           A.       So coming from the east, it's  
2       generating -- 63 plus 56 -- about 120 vehicles  
3       traveling from the east to this facility.

4           Q.       Okay. And that's the morning peak?

5           A.       Yes.

6           Q.       And how about the afternoon peak,  
7       what's that?

8           A.       The afternoon is -- 56 and 29 -- less  
9       than 100.

10          Q.       Going eastbound on North Avenue?

11          A.       Going to and from the east on North  
12       Avenue.

13          Q.       Okay. And one of the things that this  
14       study does not analyze, does is, is it the  
15       intersection at Powis and North Avenue or --  
16       excuse me -- Powis and North Avenue, correct?

17          A.       This study -- Which study when you  
18       say --

19          Q.       I'm sorry. PWC Exhibit 604, there's  
20       no actual analysis of that intersection,  
21       correct?

22          A.       No.

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1 Q. And as we said earlier, this  
2 additional traffic was not taken into account in  
3 the study you did for the subject property,  
4 correct?

5 A. I disagree.

6 Q. Where was it taken into account?

7 A. My 10 percent growth represented an  
8 addition of 350 to 400 vehicles at the  
9 intersection of Powis Road and Illinois 64.

10 Q. That's in ten years, correct?

11 A. Correct. This is not going to be here  
12 tomorrow either.

13 Q. This is going to be here -- I mean,  
14 it's being built now, correct?

15 A. Right, but it takes a while for it to  
16 build up.

17 Q. Well --

18 A. And this represents the small fraction  
19 of that 400 vehicles that we increased at the  
20 intersection.

21 Q. And -- And that increase at that  
22 intersection also increased -- also includes

09:27:19PM

09:27:40PM

1 other development in the future not just  
2 development that's already started, correct?

3 A. Yes, but once again, Criterion 6 says  
4 we just need to evaluate the existing traffic  
5 flows.

6 Q. So you don't think it's important to  
7 evaluate the traffic flow that's already been  
8 approved but not currently started?

9 A. We have. I have increased the volumes  
10 by 10 percent.

11 Q. Okay. Did you include the Honda  
12 dealership in your analysis?

13 A. I didn't include any specific  
14 development. I used the background growth based  
15 on the Chicago metropolitan plan.

16 Q. But the Honda development is already  
17 in place, right? It's already being operated?

18 A. If you say so. I -- I haven't seen  
19 it.

20 Q. So you haven't been to the site in the  
21 area recently?

22 A. I have. I just didn't look for that

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1 when I was driving the area roadway.

2 Q. Okay.

3 MR. LUETKEHANS: Nothing further.

4 THE WITNESS: Thank you.

5 HEARING OFFICER PRICE: PODER, anything  
6 from you, sir?

7 MR. DELAROSA: I actually do have a couple  
8 questions.

9 CROSS-EXAMINATION

10 BY MR. DELAROSA:

11 Q. I'm interested in finding out if --  
12 when you did the traffic flow studies, if you  
13 had a tonnage value for the transportation  
14 vehicles that were used coming and going to the  
15 present site.

16 What is the weight limit for each  
17 of those vehicles that is used to transport  
18 waste at this time and what is the weight limit  
19 of the trailers that's going to be used to  
20 transport waste to dump sites?

21 A. Do you want to know how much tonnage  
22 they can carry?

1 Q. Yes. What's the legal limit and  
2 what's the --

3 A. Well, the legal limit is -- for any  
4 truck route, is 80,000 pounds.

5 Q. 80,000 pounds?

6 A. Yeah.

7 Now, for a single unit, it gets to  
8 a smaller number, but for a transfer trailer  
9 fully-loaded, you can have up to 80,000 pounds.

10 Q. Okay. Are all of the roads as --  
11 classed as Class II highways?

12 A. The ones that the transfer trailers,  
13 the larger ones that will be delivering the  
14 waste to the landfill, the routes that they will  
15 use will be Class II truck routes.

16 Q. Which allow for an 80,000 truck [sic]  
17 to be used on those roadways?

18 A. Correct.

19 Q. Okay. So when you were talking about  
20 the proposed roadway improvements to the  
21 entrance of the proposed improvement area, you  
22 were saying that these improvements would be

09:29:53PM

09:30:32PM

1 done to the site. Is that part of the  
2 development costs that will be absorbed by  
3 LRS --

4 A. Yes.

5 Q. -- for the roadway improvements?

6 A. It's part of the application.

7 Q. Okay. So was there any additional  
8 funding coming from County or State entities to  
9 go into the improvements that are going to be  
10 used at these -- at the site?

11 A. It's my understanding that the roadway  
12 improvements on Powis Road, as part of the  
13 application, is to be funded by the applicant.

14 MR. DELAROSA: Okay. Thank you for the  
15 answer.

16 THE WITNESS: Thank you.

17 HEARING OFFICER PRICE: Mr. Callahan?

18 MR. CALLAGHAN: Just a couple.

19 CROSS-EXAMINATION

20 BY MR. CALLAGHAN:

21 Q. Do you know if LRS owns all of the  
22 transfers -- transfer trailers that it will be

1 using?

2 A. I do not know.

3 Q. The -- One of your slides 24, which is  
4 kind of the --

5 A. I know which one.

6 That one?

7 Q. No. It's the one -- one with the  
8 depiction; you know, the drawing.

9 A. Oh.

10 Q. This one.

11 A. Sorry.

12 Q. All right. Is this drawn to scale?

13 A. I didn't draw it.

14 Q. The reason I ask is that you have  
15 drawing C200 and -- which is somewhat different  
16 than the -- and which is an engineering drawing?

17 A. Right.

18 Q. This is not.

19 And the reason I ask is that the  
20 left turn -- the truck turning left out of here  
21 would cross the taper for the left -- northbound  
22 left turn or southbound left turn truck into the

1 site at the south entrance, and that's not  
2 consistent with C200. I just want to make sure  
3 that --

4 A. Yeah. Yeah.

5 Q. C200 governs, right?

6 A. C- -- Yeah. This is just to provide  
7 an illustration.

8 Q. That's what I thought. Okay.

9 A. Thank you for the clarification.

10 Q. And then finally, I think you  
11 mentioned that you double counted the traffic  
12 volume that will be generated by the site  
13 because you assumed that every truck on the site  
14 coming and going from the site will be new  
15 traffic not existing traffic, correct?

16 A. Correct.

17 Q. And we know that there are -- about  
18 50 percent of the truck traffic that you're  
19 projecting for the future is existing traffic  
20 from the site?

21 A. Yeah. Double is probably the wrong  
22 term, but there's a certain volume --

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09:33:38PM

1 Q. Certain volume?

2 A. -- that's already out there, and it's  
3 on the roadway system, but we assumed all new  
4 traffic to provide that worst-case scenario.

5 Q. And that's reflected in your --

6 A. Right.

7 Q. -- report?

8 A. Yeah.

9 Q. You're familiar with -- or are you  
10 familiar with the hydro waste solidification?

11 A. I'm dangerous.

12 Q. You know -- All right. So you know a  
13 little bit about it?

14 A. Yeah.

15 Q. Okay. Are you familiar with the kinds  
16 of trucks that carry that hydro waste?

17 A. I will let Mr. Hock discuss those, but  
18 what I understand is there are more single-unit  
19 trucks that come -- Are you talking about the  
20 inbound?

21 Q. Yeah.

22 A. When they deliver it?

09:33:59PM

09:34:25PM

1 Q. When they deliver it, yeah.

2 A. Yeah.

3 Q. They're going to be -- They're going  
4 to have liquids in them?

5 A. Right. And I understand they're a  
6 single-unit type truck.

7 Q. Are they watertight?

8 A. I will let Mr. Hock answer that.

9 MR. CALLAGHAN: That's it.

10 Thank you.

11 HEARING OFFICER PRICE: Thank you.

12 Mr. Walsh ...

13 MR. WALSH: City Counsel has no  
14 questions of this witness.

15 HEARING OFFICER PRICE: Thank you,  
16 Mr. Walsh.

17 Mr. Mueller, any redirect?

18 MR. MUELLER: We have no redirect.

19 HEARING OFFICER PRICE: All right.

20 Thank you, Mr. Werthmann.

21 THE WITNESS: Thank you, appreciate it.

22 (Witness excused.)

09:34:42PM

09:34:57PM

1 HEARING OFFICER PRICE: Is your next  
2 witness here, Mr. Mueller?

3 MR. MUELLER: Our next witness is  
4 Mr. Hock, but we don't have his PowerPoint, nor  
5 were we ready to put him on tonight.

6 HEARING OFFICER PRICE: So your next  
7 witness is Mr. Hock and will be testifying about  
8 which criterion?

9 MR. MUELLER: Criteria -- Criteria 2,  
10 4, 5, 7, and 8, and 9.

11 HEARING OFFICER PRICE: So he's your  
12 next --

13 MR. MUELLER: He's our last witness.

14 HEARING OFFICER PRICE: Last witness.

15 Okay. All right. Well, to make  
16 use of the time, I -- I have been told by a  
17 couple people that they are unable to attend  
18 next week for public comment, and so I am able  
19 to do that now. I don't know if they're  
20 prepared to go tonight or -- they're not.

21 So I will try and squeeze you in  
22 tomorrow.



1                   But is that -- So that's -- If  
2                   there's anybody else who needs to provide their  
3                   public comment orally that's signed up to do so,  
4                   and is unavailable to it next week, is there  
5                   anybody here who wants to do that?

6   (No verbal response.)

7                   HEARING OFFICER PRICE: All right.  
8                   Well, then we will adjourn for the evening until  
9                   tomorrow at 6:00 p.m., in which Mr. Hock will  
10                   begin his marathon testimony.

11                                        But, again, we're going to do  
12                   Criterion 2 tomorrow, to be clear, correct?

13                                        MR. MUELLER: Yes.

14                                        HEARING OFFICER PRICE: All right.  
15                   Then is there anything else for the good of the  
16                   order? If not, we stand adjourned until  
17                   6:00 p.m. tomorrow.

18                                        Thank you.

19                                        MR. CALLAGHAN: I do have a question.  
20                   We're going to be doing one criterion at a time  
21                   and then cross or is it going to be everything?

22                                        HEARING OFFICER PRICE: Yes. It would

1 be my preference to do one criterion at a time,  
2 Mr. Mueller.

3 MR. MUELLER: Understood.

4 MR. CALLAGHAN: Okay. Thank you.

5 (WHEREUPON, the hearing of the  
6 above-entitled cause was  
7 adjourned until 6:00 p.m.,  
8 January 5, 2023.)

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Kim A. Kocimski, being first duly sworn, on oath says that she is a Certified Shorthand Reporter and Notary Public doing business in the City of Chicago, County of Cook and the State of Illinois;

That she reported in shorthand the proceedings had at the foregoing public hearing;

And that the foregoing is a true and correct transcript of her shorthand notes so taken as aforesaid and contains all the proceedings had at the said public hearing.

I set my hand and affix my electronic signature this 23rd day of January, 2023.

/s/ Kim A. Kocimski  
KIM A. KOCIMSKI, CSR

CSR No. 084-004610

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