

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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APPLICANT'S EXHIBIT I.D. ADMITTED

No. 1 237
No. 5 217
No. 6 221

PWC'S EXHIBIT I.D. ADMITTED

No. 1 327
No. 301 345
No. 302 348
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 an keep
22 everybody informed as we go along.

05:58:53PM

05:59:21PM

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

06:01:19PM

06:02:55PM

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.

06:04:25PM

06:04:44PM

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

06:03:20PM

06:03:52PM

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

06:05:18PM

06:06:16PM

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?

06:07:19PM 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?

06:07:55PM

21 A. I have.

22 Q. And is that Exhibit 6 that we handed

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?

06:08:20PM 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?

06:08:56PM

20 A. Yes.

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

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.

06:09:36PM 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.

06:10:05PM

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.

06:11:53PM

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.

06:12:23PM

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

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.

06:14:16PM

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?

06:14:45PM

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.

06:13:02PM

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?

06:13:34PM

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

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.

06:15:23PM

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.

06:15:55PM

20 **Q.** Cooperation is good.

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

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.

06:16:37PM

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.

06:17:13PM

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 --

06:17:57PM

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?

06:18:34PM

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.

06:19:14PM

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.

06:19:40PM

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?

06:20:24PM

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.)

06:20:37PM

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?

06:21:03PM

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?

06:21:32PM

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

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

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 --

06:22:39PM

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?

06:22:53PM

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 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:

06:21:56PM

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?

06:22:20PM

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

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.

06:23:29PM

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?

06:23:50PM

21 A. Yes.

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

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?

06:24:29PM 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?

06:24:50PM 19 MR. MUELLER: Object, calls for him to
 20 speculate.

21 HEARING OFFICER PRICE: Sustained.

22

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.

06:25:43PM 10 A. I see Exhibit 1.

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.

06:26:21PM 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.

06:26:51PM 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.

06:27:50PM 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 --

06:28:10PM 20 A. Yes.

21 Q. -- but the reality of it is, the

22 authentic tax records for DuPage County in this

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?

06:29:36PM

06:29:04PM

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.

06:30:54PM

06:31:14PM

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.
 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 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

06:31:40PM

06:32:17PM

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 --

06:35:28PM

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?

06:35:46PM

20 A. (No verbal response.)

21 Q. Do you know that?

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

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?

06:36:14PM

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.

06:37:05PM

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 --

06:37:26PM

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.

06:37:42PM

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.

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:
 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.

06:38:06PM

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 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 --

06:43:04PM

06:43:41PM

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 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.

06:45:05PM

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.

06:45:21PM

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

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

06:46:34PM

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 ...

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20 Q. Okay. And have you done that?

21 A. I have.

22 Q. And have you prepared a PowerPoint

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?

06:46:02PM

22 A. My name is Dale Kleszynski,

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

06:48:49PM

06:49:19PM

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.

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
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

06:51:14PM

06:51:53PM

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 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

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06:53:09PM

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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.

06:53:51PM

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

06:54:27PM

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

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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

06:55:14PM

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.

06:55:54PM

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

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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

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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.

06:57:59PM

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.

06:58:36PM

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.

06:59:17PM

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.

06:59:53PM

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.

07:00:31PM

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.

07:01:05PM

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.

07:01:46PM

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.

07:02:14PM

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.

07:02:54PM

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.

07:03:32PM

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

07:04:11PM

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.

07:04:45PM

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

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.

07:06:41PM

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

07:07:21PM

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.

07:05:22PM

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

07:06:01PM

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.

07:06:07PM

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.

07:06:39PM

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.

07:09:25PM

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 sounding area and minimizes the
 16 effect on value of surrounding property and
 17 meets the standard -- the criterions -- I'm
 18 sorry -- the standards of Criterion 3.

07:09:55PM

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.

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?

07:10:08PM

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.

07:10:21PM

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.

07:10:41PM

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.

07:10:56PM

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

22 A. I do not.

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?

07:11:15PM

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?

07:11:31PM

21 A. I'm sorry?

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

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,

07:11:59PM

07:12:20PM

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

07:13:45PM

07:14:10PM

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.

07:13:01PM

07:13:14PM

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

07:14:50PM

07:15:24PM

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?

07:15:55PM

07:16:13PM

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.

07:17:30PM

07:18:08PM

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

07:16:35PM

07:16:56PM

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

07:18:32PM

07:18:43PM

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

07:19:09PM

07:19:28PM

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

07:20:59PM

07:21:24PM

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

07:19:57PM

07:20:28PM

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

07:22:10PM

07:22:29PM

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.

07:23:06PM

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

07:23:29PM

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?

07:23:56PM

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?

07:24:15PM

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

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

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?

07:24:44PM

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?

07:25:30PM

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?

07:25:59PM

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.

07:26:34PM

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

07:26:56PM

07:27:23PM

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.

07:27:56PM

07:28:24PM

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

07:28:44PM

07:29:02PM

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.

07:30:07PM

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.

07:30:23PM

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.

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?

07:30:46PM

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?

07:31:03PM

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

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.

07:31:45PM

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.

07:32:12PM

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.

07:32:41PM

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?

07:33:12PM

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 ...

07:33:40PM 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

07:33:59PM 20 County, did you?

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

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.

07:34:28PM 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.

07:34:51PM 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 aerals 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.

07:35:17PM 9 Q. That report has no aerals 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?

07:35:45PM 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

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?

07:36:18PM 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.

07:36:34PM 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.** 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

07:38:42PM

- 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.)

07:37:35PM

07:37:55PM

- 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 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

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- 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 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

07:42:33PM

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?

07:42:54PM 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.

07:43:17PM 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.)

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.

07:43:49PM 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?

07:44:07PM 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.

07:44:38PM 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.

07:45:02PM 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 --

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.

07:45:27PM 10 **Q.** Okay. And that traffic will proceed --
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.

07:45:47PM 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

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. 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.

07:47:53PM

07:48:17PM

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.

07:47:07PM

07:47:29PM

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

07:49:30PM

07:49:55PM

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

07:50:59PM

07:51:11PM

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 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

07:51:54PM

07:52:18PM

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.

07:52:48PM

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

07:53:07PM

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?

07:54:24PM

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.

07:54:50PM

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

07:53:39PM

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

07:53:53PM

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.

07:55:32PM

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

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 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 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.

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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.
 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

08:10:41PM

08:11:10PM

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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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

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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

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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?

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08:14:21PM

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?

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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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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 --

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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. 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?

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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

08:18:22PM

08:18:42PM

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.

08:19:06PM 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?

08:19:21PM 20 A. Yes.

21 Q. Okay. And this has a slightly

22 different version of the definition of highest

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?

08:19:45PM 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?

08:20:04PM 22 A. That is correct.

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.

08:20:36PM 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.

08:21:05PM 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?

08:21:35PM 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.

08:22:02PM

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

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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

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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

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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

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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.

08:26:29PM

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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 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 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.

08:29:17PM

08:29:45PM

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.

08:30:13PM

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

08:30:41PM

20 property that apparently is being redeveloped?

21 A. Yes.

22 Q. It is an industrial development?

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.

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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.

08:31:32PM

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?

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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.

08:32:33PM

20 Q. So the site currently has traffic?

21 A. Yes.

22 Q. And so it's not like -- we're not

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.

08:32:59PM

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?

08:33:24PM

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.

08:34:43PM

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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.

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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?

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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

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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

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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.

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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 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 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

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375

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.

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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.

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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

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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.

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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

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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.

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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

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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.

08:57:38PM

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

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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.

08:58:49PM

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.

08:59:16PM

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

08:59:59PM

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.

09:00:36PM

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.

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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

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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.

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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.

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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

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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

09:03:59PM

20 lane and a separate right-turn lane. It does a
21 lot to mitigate our impact on the existing
22 roadway system.

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.

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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

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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.

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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.

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22 This picture illustrates the

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.

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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.

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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.

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.

09:07:49PM

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

09:08:19PM

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.

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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.

09:09:23PM

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?

09:10:04PM

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

09:10:28PM

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.

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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.

09:11:38PM

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.

09:12:14PM

09:12:30PM

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?

09:13:41PM

09:14:00PM

21 A. Correct.

22 Q. And then they'll get parts of Aurora

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.

09:12:55PM

09:13:19PM

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.

09:14:23PM

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.

09:14:35PM

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?

09:14:56PM

09:15:16PM

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.

09:16:39PM

09:16:59PM

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. 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

09:17:19PM

09:17:45PM

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.

09:18:21PM

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

09:18:42PM

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?

09:19:10PM

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.

09:19:28PM

20 Do you recall that?

21 A. Yes. I think it was a pre-application

22 review.

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 --

09:19:43PM

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?

09:20:02PM

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?

09:20:30PM

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.

09:20:54PM

20 Q. And going to the west from there,
 21 right?

22 A. Going west from there.

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.

09:21:16PM

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?

09:21:37PM

20 A. I didn't do it, but, yes, our firm.

21 Q. KLOA did it, correct?

22 A. Correct.

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.

09:22:04PM

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.

09:22:34PM

20 Q. And the counts wouldn't be counts
21 included because your counts were before the
22 thing was put into place?

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:

09:23:51PM

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?

09:24:14PM

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?

09:25:11PM

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 --

09:25:52PM

20 Q. What's -- What's the -- What's the
21 morning peak coming -- that this site is
22 generating? Let's start there.

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.

09:26:24PM

09:26:47PM

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

09:26:06PM

09:28:27PM

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 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?

09:28:45PM

09:29:23PM

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

09:32:11PM

09:30:32PM

09:32:38PM

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

09:31:21PM

09:33:08PM

09:31:38PM

09:33:38PM

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

09:32:11PM

09:32:38PM

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 --

09:33:08PM

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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 redistrict?
 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.

09:35:19PM

09:35:44PM

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

09:36:18PM

09:36:39PM

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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