

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 DUPAGE)
RECYCLING AND TRANSFER)
STATION, 1655 POWIS ROAD,)
WEST CHICAGO.)

REPORT OF PROCEEDINGS had and testimony
taken at the hearing of the above-entitled
matter, at 326 Joliet Street, West Chicago,
Illinois, on the 12th 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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1 HEARING OFFICER PRICE: So this is the

2 continuation of the public hearing on the

3 proposed transfer station. This evening we

4 don't quite have the technology we had at the --

5 You may have a seat, Mr. Lardner.

6 It will take a minute.

7 We don't quite have the technology

8 we had at the Academy. We don't have a

9 PowerPoint, for example, to display, and

10 we're -- have "A" microphone, which I will

11 shortly hand to the witness, Mr. Lardner, who is

12 in the middle of his testimony on Criterion 1.

13 But as a result, so that everybody

14 is aware of what's going on, we've moved the

15 court reporter over here so that she can hear

16 Mr. Mueller's questions and the questions from

17 the attorneys and the witnesses a little better,

18 particularly since don't have microphones, only

19 the witness will have them.

20 I also have been informed that

21 there are several people who wish to give public

22 comment who are unavailable next week when we're

05:59:05PM

05:59:31PM

I N D E X

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E X H I B I T S

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1 working on Monday and Thursday during the day.

2 Given the limited technology, I'm going to not

3 only take care of those ten people, but anybody

4 else who has signed up to give oral public

5 comment, if you wish to go tonight, we'll do

6 that.

7 We'll use Mr. Lardner's time

8 effectively, complete Criterion 1. He's

9 proposed to testify on Criterion 8 and we'll get

10 that done, then we'll do some public comment to

11 the extent we have it, and then we'll go back to

12 working on the testimony. So that's the game

13 plan for this evening.

14 One last thing to remind everybody

15 about, again, the City Council includes the

16 mayor, are acting in the capacity of a jury.

17 And while you are used to having them available

18 and accessible to you on all sorts of things of

19 import in West Chicago, wherever you meet them,

20 whether it's at city hall, at meetings like

21 this, at -- at places of worship, in the grocery

22 store, again, I need to remind everybody, they

06:00:00PM

06:00:30PM

1 cannot talk to you about this. They're acting
 2 as a jury.
 3 The statute says that it's
 4 fundamentally unfair for people to lobby them
 5 and to do the kinds of pro se interactions that
 6 would take place during the hearing. So we need
 7 to respect that process. You can put in your
 8 public comment through writing. There's -- You
 9 can do it now or 30 days after we close the
 10 hearing. You can put in everything you want in
 11 the written public comment time period, but what
 12 you can't do is attempt to interact with them on
 13 an interpersonal basis right now.

06:01:04PM

14 All right. With that being said,
 15 we are back to Mr. Lardner. We are on redirect.
 16 Mr. Luetkehans, I will turn the
 17 floor over to you. I will ask that you project
 18 for the benefit of everybody, and I'm going to
 19 give the microphone to Mr. Lardner.

06:01:25PM

20 MR. LUETKEHANS: One -- One second,
 21 Mr. Hearing Officer. Before -- I just want the
 22 schedule -- We have a -- our appraiser in from

1 out of state, so we are going to kind of break
 2 up Mr. Lardner and go to the appraiser, and then
 3 if you want to go to public comment, but --

4 HEARING OFFICER PRICE: That's fine.

5 MR. LUETKEHANS: -- we're -- I just
 6 didn't want anybody to think I was sandbagging.

7 THE WITNESS: Thank you.

8 MR. LUETKEHANS: You know what? I'm
 9 going to stand just because it's easier for me
 10 to be a little louder that way.

06:02:15PM

11 HEARING OFFICER PRICE: Anything to
 12 help everybody here.

13 MR. LUETKEHANS: And if you -- someone
 14 can't, please, yell, scream, whatever.

15 WHEREUPON:

16 JOHN LARDNER,
 17 called as a witness herein, having been
 18 previously duly sworn, was examined and
 19 testified as follows:

20 REDIRECT EXAMINATION

21 BY MR. LUETKEHANS:

22 Q. Mr. Mueller asked you certain

1 questions Tuesday night about your position
 2 related to a possible waste transfer station in
 3 McLean County.

4 Do you recall that?

5 A. Yes.

6 Q. Can you tell us who you worked for in
 7 that assignment?

8 A. That assignment was for a company
 9 called Andrews Engineering.

06:02:37PM

10 Q. Have you done a report there?

11 A. I prepared a preliminary report that
 12 they're going to use for preparing a
 13 Criterion 1 section for a transfer station
 14 siting.

15 Q. Why is it still preliminary?

16 A. The application has not been filed as
 17 far as I know, and I don't know if they've made
 18 any changes to it beforehand.

19 Q. Can you explain the purpose of that
 20 report and your preliminary findings?

06:02:58PM

21 A. Yes. The report was to prepare an
 22 analysis of a municipal solid waste transfer

1 station for a new transfer siting application so
 2 that the company would be able to be -- to bid on a
 3 municipal hauling contract in
 4 Bloomington-Normal, Illinois.

5 The bid contract requirements
 6 included demonstration that the bidder have a
 7 waste transfer station within the city limits of
 8 Bloomington or the town of Normal, and that
 9 there was only one transfer station operated by
 10 Republic Waste in the service area. And it did
 11 not have a capacity associated with it due to
 12 its age and it never went through the Section
 13 39.2 siting hearing process. So we didn't know
 14 what the capacity of that transfer station was.

06:03:30PM

15 And, again, in order to submit a
 16 bid for municipal hauling in the service area --
 17 excuse me -- in the limits of Bloomington and
 18 Normal, which comprise most of the service area,
 19 they needed to have a transfer station.

20 Q. Okay. Was there any competition in
 21 that county with Republic?

06:04:02PM

22 A. There is no -- There was competition

1 within the county. There is no competition for
 2 waste hauling in the city limits of
 3 Bloomington-Normal because of the qualification
 4 that the -- the bidders have a transfer station
 5 in the city limits.

6 **Q.** Okay. This is going to be a little
 7 hard for the public, but the rest of us have
 8 these slides.

9 In your Power Point, Mr. Mueller
 10 pointed out a typo on Slide 7 of your Power
 11 Point. Do you recall that?

12 **A.** Yes.

13 **Q.** The slide, for example, said that,
 14 quote, waste generated for disposal in WDRTS
 15 service area is 2,997 tons per year.

16 Is that a correct statement?

17 **A.** Yes.

18 **Q.** But then at the -- So that's what the
 19 slide said?

20 **A.** Correct.

21 **Q.** Okay. And then it discussed the
 22 six-day workweek tonnage is 3,574 tons per day

06:04:30PM

06:04:51PM

1 did -- Is that the actual calculation you did
 2 about the amount of capacity in the service
 3 area?
 4 **A.** Yes. It corresponds to the amount of
 5 waste per day in the West DuPage RTS facility
 6 criterion report.

7 **Q.** Okay. And going to the next slide
 8 which is 19, is this the summation of your
 9 calculations on the excess capacity?

10 **A.** Yes.

11 **Q.** And does this show the capacity in
 12 tons per day or per year?

13 **A.** Per day.

14 **Q.** Okay. And does this slide carry
 15 forward the same numbers from Slide No. 7
 16 just -- it shows that it's days but it's the
 17 same numbers, correct?

18 **A.** Yes.

19 **Q.** Okay. You said Tuesday night there
 20 are benefits to vertical integration.

21 Do you recall that?

22 **A.** Yes.

06:06:14PM

06:06:35PM

1 or per year again.
 2 Do you recall that slide saying
 3 that?

4 **A.** Yes.

5 **Q.** You said Tuesday that the -- that was
 6 a typo. It should have been days versus years,
 7 correct?

8 **A.** Correct.

9 **Q.** Okay. Obviously, there are not only
 10 3- -- they're not 3,000 tons per year of waste
 11 generated in DuPage County alone?

12 **A.** That is correct.

13 **Q.** Okay. Did that typo change your
 14 opinion or calculation in any way?

15 **A.** No.

16 **Q.** In fact, please look at Slide 18.

17 Are you there?

18 **A.** Yes.

19 **Q.** Does that slide discuss capacity per
 20 day or per year?

21 **A.** Per day.

22 **Q.** And is that actual calculation you

06:05:12PM

06:05:47PM

1 **Q.** Who are those benefits to?

2 **A.** Primarily to the waste company.

3 **Q.** Not the needs of the service area?

4 **A.** No, not as there is already so much
 5 competition in the service area.

6 **Q.** Okay. Another thing you were asked
 7 about the other night was Republic swap, I
 8 think, is what it was called as it related to
 9 east and west of I-53.

10 I think you said you were aware of
 11 some agreement in relation to that. Do you
 12 recall that statement?

13 **A.** Yes.

14 **Q.** Was that something you were aware of
 15 before Mr. Hocks's testimony or were you just
 16 saying you heard that from his testimony?

17 **A.** When it was mentioned, I recalled
 18 hearing about the swap.

19 **Q.** Okay. Also, you said you were not
 20 aware of DuPage waste going east.

21 Do you recall saying that?

22 **A.** Yes.

06:06:59PM

06:07:14PM

1 Q. Okay. Were you saying that you knew
 2 no waste was going east from this area?
 3 MR. MUELLER: Object, he's leading him.
 4 HEARING OFFICER PRICE: It's redirect.
 5 It's cleaning up what you asked him about. I'm
 6 going to overrule it.
 7 BY THE WITNESS:
 8 A. No. I was saying I did not know for
 9 sure one way or the other.
 10 Q. You were asked about the Shaw service
 11 areas that were used in -- I think it was the
 12 2007 DuPage County Storm Water Management Plan
 13 Update.
 14 Do you recall that?
 15 A. It was a solid waste management
 16 update, and yes.
 17 Q. Sorry.
 18 And who was Shaw?
 19 A. Shaw was an environmental consulting
 20 firm specializing in waste recycling and
 21 disposal in the Chicago area.
 22 Q. Okay. So they specialized in this

06:07:33PM

06:07:51PM

1 study, correct?
 2 A. Correct.
 3 Q. And you said you reviewed the Hock
 4 report, correct?
 5 A. Yes.
 6 Q. Does Mr. Hock, in his needs analysis,
 7 also denote all the transfer stations in a
 8 15-mile radius of the LRS proposed service area?
 9 A. Yes. Page 1-10 mentions
 10 Figure 1-1 showing existing municipal solid
 11 waste transfer stations within an approximately
 12 15-mile distance from the service area. And
 13 also, again, in their application, it included
 14 the 1996 update from the -- the solid waste
 15 plan.
 16 And I'll read that: Due to the
 17 increase in the number of landfills and increase
 18 of haul distances, transfer stations will become
 19 an even greater integral part of the management
 20 of solid waste for DuPage County. The location
 21 of transfer stations at selected sites
 22 throughout the County will serve the management

06:08:54PM

06:09:20PM

1 area?
 2 A. Correct.
 3 Q. And do you know if there's a
 4 connection between Shaw from 2007 and APTIM
 5 today?
 6 A. Yes, there is.
 7 Q. What's that connection?
 8 A. The lead engineer there is an
 9 individual by the name Devin Moose.
 10 Q. Okay. So in certain circumstances,
 11 the fact it came up the other day that Shaw used
 12 a 15-mile circle and a 10-mile circuit [sic], it
 13 appears?
 14 A. That's correct.
 15 Q. Shaw obviously felt comfortable enough
 16 in this analysis to include that in their study
 17 they did for DuPage County; is that correct?
 18 MR. MUELLER: I'm going to object to
 19 how Shaw felt. He wouldn't know.
 20 HEARING OFFICER PRICE: Sustained.
 21 BY MR. MUELLER:
 22 Q. Shaw included that number in its

06:08:11PM

06:08:31PM

1 of solid waste generated within the County and
 2 further assist in keeping down costs associated
 3 with long distance hauling of the waste.
 4 Industry standards for a packer truck haul
 5 distance to a disposal facility is approximately
 6 15 miles.
 7 Q. So both Hock and Shaw used the 15-mile
 8 radius, correct?
 9 A. That's correct.
 10 Q. Okay. You were asked Tuesday night
 11 about some kind of predatory pricing scheme to
 12 keep LRS out of waste -- out of the area; is
 13 that correct?
 14 A. Yes.
 15 Q. Did you see any hard numbers in
 16 Mr. Hock's report to support that conclusory
 17 statement?
 18 A. No, I did not.
 19 Q. You were also asked about whether you
 20 did any analysis on mileage or pricing to
 21 determine competition in the service area.
 22 Do you recall that?

06:09:45PM

06:10:04PM

- 1 A. Yes, I recall it.
- 2 Q. To your knowledge, did Mr. Hock -- And
- 3 you were here for Mr. Hock's testimony, correct?
- 4 A. Yes.
- 5 Q. You've read his reports, correct?
- 6 A. Yes.
- 7 Q. Did -- To your knowledge, did he do
- 8 any such analysis of this type in his report or
- 9 his testimony?
- 06:10:23PM 10 A. No.
- 11 Q. Did he do anything other than make the
- 12 conclusory statement related to this issue?
- 13 A. No.
- 14 Q. Were you asked about the distance by
- 15 car between Rockdale and West Chicago Tuesday
- 16 night?
- 17 A. Yes.
- 18 Q. And I think you said it would be about
- 19 an hour away?
- 06:10:38PM 20 A. That's correct.
- 21 Q. Is the LRS Elburn transfer station an
- 22 hour away from West Chicago?

- 1 A. No. It's approximately 30 minutes.
- 2 Q. Is Rockdale an hour away from the
- 3 southern portion of the service area proposed?
- 4 A. From the southern portion of the
- 5 service area, it's approximately 25 minutes.
- 6 Q. Okay. Another topic that came up
- 7 Tuesday was the fact that a minority of the
- 8 overlapping service areas of transfer
- 9 stations -- I'm sorry. Let me reread that.
- 06:11:04PM 10 Another topic that came up on
- 11 Tuesday was the fact that a majority of the
- 12 overlapping service areas of transfer stations
- 13 with the service area were owned by Waste
- 14 Management and Waste Connections.
- 15 Do you remember that discussion?
- 16 A. Yes.
- 17 Q. Did you see any evidence in Mr. Hock's
- 18 report that support the fact that Waste
- 19 Management and Waste Connections are in any way
- 06:11:23PM 20 colluding to keep LRS or any other hauler out of
- 21 the market?
- 22 A. No.

- 1 Q. In fact, did you hear Mr. Hock deny
- 2 that he was aware of any such collusion? Do you
- 3 recall that?
- 4 A. Yes.
- 5 Q. Okay. Based on your experience in the
- 6 industry, are you aware of anything along those
- 7 lines, any kind of collusion to keep LRS out of
- 8 the market?
- 9 A. No.
- 06:11:46PM 10 Q. How many transfer stations overlap
- 11 with the proposed service area that are not
- 12 owned by Waste Management or Waste Connections?
- 13 A. There are three identified -- Lake
- 14 Shore Recycling, Republic, and EDRS.
- 15 Q. There were questions asked the other
- 16 night about the Plano transfer station as well
- 17 as others about there being excess capacity.
- 18 Do you recall that?
- 19 A. Yes.
- 06:12:12PM 20 Q. And then the question became, why
- 21 would -- the concept was why would they be
- 22 necessary?

- 1 A. Because of substantial growth
- 2 anticipated in Kendall County at the time, when
- 3 the transfer station was sited, it was still
- 4 somewhat rural. And in the 2010 census, it was
- 5 among the fastest growing counties in the
- 6 nation.
- 7 Q. And did you prepare that analysis
- 8 based on the traditional needs analysis you did
- 9 here?
- 06:12:39PM 10 A. Yes.
- 11 Q. Okay. And what was the determination
- 12 there?
- 13 A. That based on future population growth
- 14 in the following 20 years, there was a need for
- 15 waste transfer in the service area.
- 16 Q. You heard -- Mr. Callaghan asked you
- 17 about why is there ever a need if the service
- 18 area is -- why is there need if the service
- 19 areas overlap, and there's excess capacity in
- 06:13:02PM 20 those outside service area -- outside waste
- 21 transfer stations.
- 22 Do you remember that?

1 **A.** Yeah. The growth of the area outside
2 of the service area may generate waste for
3 disposal that exceeds the proportional capacity
4 available at the overlapping -- overlapping
5 transfer stations.

6 In this case, the area that was
7 outside the overlap was -- was anticipated to
8 grow faster and created the need for the
9 transfer station.

06:13:26PM 10 **Q.** And so that's Plano you're talking
11 about there?

12 **A.** Yes.

13 **Q.** Any others that you see on the chart
14 that -- Well, I guess the question in my mind
15 is: Just because there's excess capacity in
16 this service area and its transfer station is
17 based outside the service area, does that mean
18 we don't need the one -- I mean, I guess I'm --
19 I was kind of confused by Mr. Callaghan's

06:13:53PM 20 question because -- Well, let me ask this. I'm
21 Sorry.

22 **MR. MUELLER:** I'm going to --

1 **HEARING OFFICER PRICE:** Is there a
2 question?

3 **MR. LUETKEHANS:** I said, Let me ask the
4 question.

5 **HEARING OFFICER PRICE:** Strike all of
6 that before that, please.

7 New question.

8 **BY MR. LUETKEHANS:**

9 **Q.** The transfer stations -- Well, here,
06:14:11PM 10 one of the things that came up correct was that
11 there is excess capacity in the service area,
12 correct?

13 **A.** Yes.

14 **Q.** And that -- that is partially because
15 or a lot because that there are transfer
16 stations outside of the service areas that
17 overlap --

18 **A.** Correct.

19 **Q.** -- correct?

06:14:29PM 20 And those transfer stations
21 capacity may include a part of the service area,
22 but they also include areas that are well

1 outside the service area; is that fair to say?

2 **A.** Correct.

3 **Q.** Okay. So when you look at their total
4 capacity, only a certain part of it may be based
5 in the service area?

6 **A.** Correct.

7 **Q.** Okay. Do any of the points raised by
8 Mr. Mueller or Mr. Callaghan modify or make you
9 doubt your analysis and the opinions that you
10 have provided in this hearing?

11 **A.** No.

12 **MR. LUETKEHANS:** Nothing further.

13 Thank you.

14 **HEARING OFFICER PRICE:** Next up would
15 be PODER. Are there any questions from PODER?

16 **MR. DELAROSA:** No, not at this time.

17 **HEARING OFFICER PRICE:** Then to the
18 applicant, Mr. Mueller.

19 **RE-CROSS-EXAMINATION**

06:15:07PM 20 **BY MR. MUELLER:**

21 **Q.** Now, you've done a needs analysis for
22 some other transfer stations in the Chicago

1 area, correct?

2 **A.** Correct.

3 **Q.** Which ones are those?

4 **A.** There's one transfer station -- I
5 think it was on Kedzie Avenue -- and there's
6 another one, I think, down in Riverdale, and
7 then, of course, the one in Plano.

8 **Q.** You did -- Did you do the needs
9 analysis at Plano?

06:15:51PM 10 **A.** Yes.

11 **Q.** And with regard to those facilities,
12 did you do an overlap analysis?

13 **A.** Yes.

14 **Q.** How many transfer stations overlapped
15 the Plano service area?

16 **A.** I don't know the exact number of that.
17 I don't recall.

18 **Q.** Well, was it more than one?

19 **A.** I think it may have been more than
06:16:17PM 20 one.

21 **Q.** Less than a million?

22 **A.** Less than a million.

1 Q. Okay. More than five?
 2 A. I don't know if it's more than five.
 3 It's somewhere between one and five.
 4 Q. And in that case, you found there was
 5 still a need, correct?
 6 A. Correct.
 7 Q. The -- Which were the Chicago ones
 8 that you did?
 9 A. One was down on Kedzie Avenue and one
 10 was down in, I think, River- -- somewhere in
 11 another location in Chicago.
 12 Q. Did you do an overlap analysis for the
 13 one on Kedzie?
 14 A. As I recall, I did.
 15 Q. How many other transfer stations
 16 overlapped that service area?
 17 A. Again, I don't recall that exact
 18 number.
 19 Q. Was that one more than five?
 20 A. Yes.
 21 Q. And you still found there was a need,
 22 correct?

06:16:41PM

06:17:02PM

1 A. Correct.
 2 Q. And the other one was Riverdale?
 3 A. As I recall, yes.
 4 Q. Where is that?
 5 A. That was a -- It's a -- borders
 6 Chicago on the south side.
 7 Q. Did you do an overlap analysis?
 8 A. As I recall, I think I did.
 9 Q. You think you did?
 10 A. Yeah. Again, I don't have the
 11 application. It's been several years, and I
 12 don't recall the exact details.
 13 Q. And you believe there was some
 14 overlap?
 15 A. I'm sure there would be.
 16 Q. Did you find there was a need despite
 17 the overlap?
 18 A. I'm -- Again, I don't recall the exact
 19 details, but I think it did meet the need
 20 criteria, so ...
 21 Q. Now, you relied on a 2007 report from
 22 Shaw to determine the 15-mile service area

06:17:27PM

06:17:49PM

1 radius, correct?
 2 A. I relied on the figures that were in
 3 the solid waste plan that were part of their
 4 study.
 5 Q. Do you know whether Shaw did a study?
 6 A. It was reported in the solid waste
 7 plan that they did a study.
 8 Q. Who did it for Shaw?
 9 A. I don't know. It didn't say who the
 10 author was.
 11 Q. Your corporation, what's that called?
 12 A. JPL Environmental Engineering.
 13 Q. Is there a reason why it's not in good
 14 standing with --
 15 MR. LUETKEHANS: Objection --
 16 BY MR. MUELLER:
 17 Q. -- the Secretary of State?
 18 MR. LUETKEHANS: -- beyond the scope.
 19 This has nothing to do with redirect.
 20 HEARING OFFICER PRICE: It does have to
 21 do with his qualifications. You asked him about
 22 his history and background. I'm going to allow

06:18:30PM

06:18:52PM

1 it.
 2 BY THE WITNESS:
 3 A. My -- I submitted an annual report
 4 last week, and it was due December 31st of this
 5 [sic] year. And so it's considered not in good
 6 standing because it hadn't been paid by the
 7 31st.
 8 Q. As of today, the Secretary of State
 9 still shows you not in good standing, correct?
 10 A. I did not check that. I don't know
 11 when the check was received along with my -- my
 12 statement.
 13 MR. MUELLER: Thank you, Mr. Lardner.
 14 That's all we have.
 15 HEARING OFFICER PRICE: Mr. Callahan?
 16 MR. CALLAGHAN: Yeah, just a couple.
 17 RE-CROSS-EXAMINATION
 18 BY MR. CALLAGHAN:
 19 Q. The McLean County transfer station,
 20 you said the bid that was made required that the
 21 app- -- or that the bidder had to have a
 22 transfer station?

06:19:15PM

06:19:36PM

1 **A.** Correct. It had to have a transfer
2 station in Bloomington-Normal -- the city of
3 Bloomington-Normal or the City of Bloomington or
4 the Town of Normal.

5 **Q.** So the -- the need for the transfer
6 station there didn't necessarily have anything
7 to do with capacity available in that area?

8 **A.** Well, the -- the issue there was the
9 transfer station that was in the City of
10 Bloomington was put into operation before
11 Section 39.2.

12 So when they submitted their permit
13 application to the State of Illinois, they
14 didn't report capacity. So we don't know what
15 the capacity of the transfer station happened to
16 be, so we couldn't compare what waste was being
17 generated versus what the existing capacity was.

18 **Q.** What volume does that other transfer
19 station report receiving on an average day?

20 **A.** Again, I didn't -- I don't recall what
21 that was --

22 **Q.** Did you --

06:20:10PM

06:20:42PM

1 **Q.** Do you -- Are you aware -- So in
2 that -- Strike that.

3 In the Plano area, you've got
4 Yorkville, Sugar Grove, I believe. Those are
5 the municipalities that you were anticipating to
6 grow?

7 **A.** Yes. Again, I used the -- the Chicago
8 metropolitan area planning CMAP population
9 tables to -- to project what the next -- you
10 know, in the coming future, what the population
11 was going to be which then drove the amount of
12 waste that would be generated.

13 **Q.** What were the dates -- What was the
14 date of those projections?

15 **A.** It was their report that says go to --
16 I think it was 2040 or 2050 report. And I don't
17 know when the exact date it was, but it was
18 fairly current, after the 2010 census was
19 prepared.

20 **Q.** Are you aware of what's happened with
21 regard to population projections in that area
22 since around 2007?

06:22:02PM

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1 **A.** -- if we had it.

2 **Q.** Did you look at that?

3 **A.** As I recall, we did, but I don't know
4 the exact number.

5 **Q.** Okay. But -- So the reason the
6 transfer station was proposed was because it was
7 a bidding requirement?

8 **A.** Yes.

9 **Q.** Mr. Luetkehans asked you some
10 questions early on and it looked like you were
11 reading your answers?

12 **A.** I was just kind of looking at --
13 HEARING OFFICER PRICE: Microphone,
14 please.

15 BY THE WITNESS:

16 **A.** I was looking at my notes from what we
17 discussed today.

18 **Q.** So you were reading your answers?

19 **A.** I was paraphrasing them, yes.

20 **Q.** When was the Plano transfer station
21 sited?

22 **A.** I think it was 2014.

06:21:05PM

06:21:23PM

1 **A.** No. Again, the 2010 census showed a
2 big population increase from the earlier census
3 data.

4 **Q.** Do you know how many platted
5 undeveloped lots are Yorkville?

6 **A.** No.

7 **Q.** Sugar Grove?

8 **A.** No.

9 **Q.** Is it fair to say if -- You apparently

10 know something about this area. Is it fair to
11 say that the growth in that area, basically for
12 all intents and purposes, is considerably lower
13 than was projected prior to the housing crash of
14 '07?

15 **A.** I will say that it would be a
16 reasonable statement to say that the growth may
17 not have been as high as anticipated, but I live
18 out that area and I drive by it, and I do see
19 development going on.

20 In 2010, you know, right before the
21 siting area, I did -- I did see some growth
22 going on. Whether or not that total growth

06:23:06PM

06:23:37PM

1 measured up to what the expectations were, I
2 don't know. I didn't, you know, look afterwards
3 to look.

4 Q. But that was the basis for your needs
5 analysis for that transfer station?

6 A. Again, yes, we used the best
7 population data we had times the waste
8 projection -- our waste generation amount to
9 determine whether or not there would be a need
10 in the future.

06:24:11PM

11 Q. And the siting was 2014?

12 A. Correct.

13 MR. CALLAGHAN: That's it.

14 Thank you.

15 HEARING OFFICER PRICE: Mr. Walsh...

16 MR. WALSH: No questions.

17 HEARING OFFICER PRICE: All right.

18 Thank you, Mr. Lardner. That concludes your
19 testimony for Criterion No. 1.

20 (Witness excused.)

06:24:30PM

21 HEARING OFFICER PRICE: Mr. Luetkehans?

22 MR. LUETKEHANS: Yeah. We would call

1 Kurt Kielisch.

2 HEARING OFFICER PRICE: So that
3 concludes Mr. Lardner's testimony, and they're
4 calling their next witness, appraiser,
5 Mr. Kielisch.

6 (Witness sworn.)

7 WHEREUPON:

8 KURT KIELISCH,

9 called as a witness herein, having been first
10 duly sworn, was examined and testified as
11 follows:

12 DIRECT EXAMINATION

13 BY MR. LUETKEHANS:

14 Q. Mr. Kielisch, would you state your
15 name and spell your last name for the record,
16 please.

17 A. Yes. My name is Kurt Carl Kielisch,
18 Kurt with K, Carl with a C, Kielisch,
19 K I E L I S C H.

06:26:10PM

20 Q. Showing you what has been marked PWC
21 Exhibit 350, is that a copy of your -- 351, is
22 that a copy of your current curriculum vitae?

1 A. Yes, it is.

2 Q. Okay. And did you prepare a
3 PowerPoint on Criterion 3 or at least a portion
4 of Criterion 3 in this matter?

5 A. I did.

6 Q. And is that PDC Exhibit 352?

7 A. Yes, it is.

8 Q. Please proceed with your presentation
9 Mr. Kielisch.

06:27:03PM

10 A. Certainly.

11 Okay. My presentation is going to
12 be looking at Criterion 3, the -- obviously, for
13 the reason we're here, the West DuPage County
14 recycling transfer station proposal, in
15 particular, the examination of the Kleszynski
16 report called Land Use Compatibility and Real
17 Estate Impact Study.

18 The first page I have on my
19 PowerPoint is my credentials; very briefly,
20 39 years in the real estate field as well as a
21 real estate appraiser, educator, and writer;
22 valued over 21 different states, over

06:27:37PM

1 \$13 billion worth of real estate; expert witness
2 on issues that deal with complexities such as
3 stigmatized properties, eminent domain issues in
4 state courts, federal courts, public service
5 commissions as well as County zoning and siting
6 councils and committees that --

7 I do have two Wisconsin Supreme
8 Court decisions that I was principal in that
9 impacted how eminent domain is done in the state
10 of Wisconsin; certified appraiser currently in
11 Wisconsin and Tennessee.

06:28:24PM

12 I have held designations in
13 13 other states, certified designations,
14 including Illinois. I'm currently not an
15 Illinois certified appraiser; ASA designated,
16 which is a senior member, American Society of
17 Appraisers, as well as the senior right-of-way
18 for the International Right of Way Association;
19 a Realtor, though, I am not a salesperson; and
20 approved instructor for real estate appraisal in
21 six different states; also, a faculty member of
22 the American Law Institute CLE, and Eminent

06:28:51PM

1 Domain Institute CLE International.
 2 BY MR. LUETKEHANS:
 3 Q. Can -- Can I stop you for a second.
 4 Have you ever testified at a
 5 pollution control facility siting hearing in
 6 Illinois?
 7 A. No, I have not.
 8 Q. Have you testified at other
 9 similar-type siting hearings, however?
 10 A. Yes, I have.
 11 Q. What types have you testified at?
 12 A. Well, I have testified in three
 13 different ones that have come to mind; one in
 14 Door County, Wisconsin; one in open-pit mine in
 15 Milwaukee, Wisconsin; and then an impact
 16 analysis of the single -- single stream
 17 recycling facility, which was in Burlington,
 18 Wisconsin.
 19 Q. How about other types of impacts
 20 analysis?
 21 A. Yes. I do a lot of impact analysis,
 22 impact studies, as well as stigmatized property

06:29:15PM

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1 report -- Kleszynski --
 2 Q. Mr. Kleszynski.
 3 A. -- Kleszynski -- Okay. I appreciate a
 4 difficult last name. Mine is also difficult.
 5 When you look at it, how it's spelled, there's
 6 advantages especially when someone is calling
 7 you that you don't know they mess up your name.
 8 You automatically know that they're there to
 9 sell you something. So Mr. Kleszynski. Very
 10 good.
 11 My -- My job was to look at this
 12 report, see whether or not that the report
 13 substantially supported his concluding opinion
 14 that the proposed facility would meet Criteria
 15 3 -- Criterion 3. And we --
 16 The next page is something I can
 17 pass over. The committee already knows the West
 18 DuPage County recycle transfer proposal, the
 19 size of the building that's going to be
 20 utilizing transfer of both solid waste, single
 21 stream recyclables, as well as the liquid hydro
 22 waste.

06:31:13PM

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1 studies.
 2 Q. For what types of facilities or what
 3 types of issues?
 4 A. Well, the issues can be the impact of
 5 wind farms, the impact of solar farms, there's
 6 impact -- I've done an analysis on impact of
 7 contaminated soils on not only the property that
 8 was contaminated but surrounding properties; of
 9 course, eminent domain issues that deal with
 10 power lines, gas and oil pipelines as well, and
 11 navigation easements that deal with airport --
 12 in the air easements and their impact on
 13 property value.
 14 Q. Okay. Please proceed. I'm sorry.
 15 A. Sure.
 16 So looking at Criterion 3, which is
 17 the next page I have, that you-all know the
 18 definition of facilities to be located as to
 19 minimize incompatibility with the character of
 20 the surrounding area and minimize the fact of
 21 value of surrounding property values.
 22 So my examination of the -- the

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1 My next two PowerPoints deal with
 2 the definition of -- of municipal solid waste,
 3 as well as single stream recyclables and hydro
 4 excavation waste, just so we all have an
 5 understanding of what those are.
 6 Looking at the neighborhood, the
 7 neighborhood, of course, at 1655 Powis Road,
 8 which is going to be the location of the
 9 proposed recycling facility, that it is on Powis
 10 Road going north to south; to the west is the
 11 DuPage Airport. Surrounding the property both
 12 to the north and south and somewhat to the east
 13 is industrial and office land uses including
 14 some vacant land that is for sale. And then
 15 approximately 3,000 feet to the east is
 16 residential land use.
 17 Q. Let me interrupt you.
 18 You said it's a proposed recycling
 19 facility. Are you aware that it's also proposed
 20 for a waste transfer --
 21 A. Yes.
 22 Q. -- municipal solid waste?

06:32:26PM

06:32:51PM

1 A. Yes, I am.
 2 Q. Okay. Please proceed.
 3 A. Thank you.
 4 Currently, it's -- the LRS, the
 5 recycling facility is at this location dealing
 6 with the waste of construction.
 7 Now, looking at the report itself,
 8 and what I'm looking at is to see whether or not
 9 this report adequately supported the -- the
 10 concluding opinion of Criterion 3 being honored.
 11 This report focused mainly on highest and best
 12 use analysis to support the opinion that the
 13 proposed facility does satisfy the impact
 14 analysis requirements of Criterion 3.
 15 And the highest and best use,
 16 however, does not meet, in my opinion, the
 17 analysis requirement to measure Criterion 3.
 18 And here is the reason why: Highest and best
 19 use is focused on the buyer or the property
 20 owner. It's the most profitable use of that
 21 property to the individual. And that is based
 22 on physically -- what's physically possible,

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1 And I -- I propose that highest and
 2 best use does not equal the Criterion 3 for
 3 those very reasons.
 4 So some of the observations --
 5 Again, the focus of the report was highest and
 6 best use. And the conclusion was since the
 7 highest and best use was for the proposed use,
 8 therefore, it met the criterion, but, again, as
 9 I've pointed out, highest and best use looks at
 10 the individual property and the individual
 11 profitability to the owner or potential buyer.
 12 It does not look at the community or outside of
 13 that property to say, Is this the best use of
 14 the property with the community involved.
 15 That -- It requires -- This
 16 Criterion 3 requires proof. It requires proof
 17 that has a minimum impact to the property value
 18 and that it's minimally in- -- incompatible to
 19 the land uses around.
 20 And just because a property can
 21 meet the physically and financially and legally
 22 permissible test that we use in highest and best

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1 what's legally permissible, what's financially
 2 feasible, and a combination of those that --
 3 that give the highest rate of return to the
 4 potential buyer or the current owner.
 5 Criterion 3, however, is different.
 6 It doesn't look at the individual and their
 7 basic most profitable use of the property.
 8 Criterion 3 looks at the least intrusive use.
 9 In other words, Criterion 3 looks at the
 10 community where its highest and best use looks
 11 at the individual property and the property
 12 owner.
 13 Q. So -- So is it fair to say they're
 14 looking at two different things?
 15 MR. MUELLER: He's leading him again.
 16 HEARING OFFICER PRICE: Try to make it
 17 direct, please.
 18 BY MR. LUETKEHANS:
 19 Q. Are -- Is highest and best in
 20 Criterion -- and lease intrusive use, are those
 21 two different things?
 22 A. Yes, they are.

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1 use, does not mean it will not negatively impact
 2 the surrounding property value.
 3 I gave an example of a pig farm. A
 4 pig farm would be zoned A- -- AG or
 5 agricultural, so it meets the legally
 6 permissible. If the pig farm is structurally
 7 sound as far as the soils and content goes, you
 8 meet that. And if the pig farm is going to be a
 9 profitable operation, then it meets that test;
 10 but a pig farm will not have a positive impact
 11 to the surrounding property values. So that's
 12 another example of how one methodology utilized
 13 in appraisal does not necessarily equate the
 14 meeting of the requirement of Criterion 3.
 15 That -- The proposed facility,
 16 being a -- a, you know, mixed-use, single-stream
 17 waste type of recycling operation, does have a
 18 potential of presenting odors and noises and
 19 creating insects, bugs, all sorts of different
 20 things. Now, it doesn't necessarily have to do
 21 that to impact negatively surrounding property
 22 value, just the belief it does. And that's

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1 called perception. Perception is what drives
 2 value in real estate.
 3 The proposed facility has potential
 4 noise and dirt and dust and other things due to
 5 its facility. The other aspect that I was
 6 looking at in observation is that there was no
 7 quantitative or analytical -- we call that
 8 qualitative -- analysis on surrounding property
 9 values.
 10 Now, qualitative is a -- that's a
 11 measurement mainly as a yes-no question.
 12 Qualitative would use things like surveys,
 13 possibly opinion surveys, possibly knocking door
 14 to door up and down Powis Road asking the -- the
 15 landowners there whether or not they see this as
 16 a positive or negative, or whether it could
 17 impact property -- property value or ability to
 18 lease or something like that. It would be
 19 interviewing, say, commercial Realtors, on that
 20 same token, looking to see what would the market
 21 respond. Is this a yes or a no as far as it
 22 meeting valuation standards.

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06:38:17PM

1 my -- my wheelhouse, if you will. I deal with
 2 value, valuation stigma, that type of thing.
 3 Not land planning, never sat on a zoning board
 4 or never wrote zoning. So that's really not
 5 my -- my capacity.
 6 My focus was on the second test and
 7 that is, minimize the effect of the value of the
 8 surrounding property value. The question is:
 9 Did the report adequately address this test?
 10 Did it give significant proof qualitatively and
 11 quantitatively to the reader -- to convince the
 12 reader that -- of their conclusion -- the
 13 appraiser's conclusion?
 14 I -- My observations of this report
 15 is there was not a qualitative analysis, nor was
 16 there a quantitative analysis; therefore,
 17 neither impact positive, negative, or neutral
 18 could be devised from reading of this report.
 19 So I concluded that the report
 20 failed on the second test of minimizing the
 21 effect of property value.
 22 Q. Okay.

06:40:04PM

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1 Now, the quantitative --
 2 quantitative analysis is the actual hard
 3 analysis that's the arithmetic analysis. That's
 4 where you would compare properties that had such
 5 an operation to those that did not both being
 6 sold, one outside of the area of influence, one
 7 in the are of influence to see whether there's a
 8 difference in property value. And you would do
 9 several of those because one does not make a
 10 market. You would want to use at least three.
 11 I like to use at least six to a dozen if I can.
 12 And that would create a pattern of whether or
 13 not there is an influence of property value,
 14 either positively, negatively, or no influence.
 15 It also answers the yes-no question, but it
 16 gives you a little bit more ammo on that yes-no
 17 question that it gives you a percentage usually.
 18 So on the two tests of the
 19 Criterion, the first is minimize incompatibility
 20 with the character of surrounding area. I have
 21 that as blank. I -- I'm not qualified to make
 22 that decision of compatibility. That's not in

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1 A. So lastly, just as a summary, you just
 2 heard my summary on my conclusion of the report.
 3 And also that though highest and best use is
 4 used in appraisal all the time, and it's one of
 5 the fundamentals. As a matter of fact, when I
 6 teach appraisal, I teach it as the hub of real
 7 estate valuation.
 8 From there, the spokes and the
 9 direction of the appraiser comes of what
 10 comparables to select, what methods evaluation,
 11 what approaches to select. That all comes from
 12 the highest and best use analysis. So that
 13 analysis in itself is a strong analysis when
 14 you're valuing an -- that individual property,
 15 but it does not stand the test of what was
 16 required in Criterion 3.
 17 Q. How would you do a quantitative
 18 analysis of effect on value of surrounding
 19 properties before or after a waste transfer
 20 station?
 21 A. Well, there would be three
 22 different -- First of all, I would do the

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1 quantitative if I could. In the quantitative --
 2 The ideal quantitative is to look in the
 3 neighborhood -- let's say, this neighborhood
 4 that had an identical type of building and
 5 operation, and when it came into effect. And
 6 then say it came into effect 2015, so we -- you
 7 would look for property sales prior to 2015 of
 8 properties that would be in close proximity, and
 9 then properties in 2000- -- after 2015, once the
 10 facility was in full operation, to see whether
 11 or not there was a -- any type of property
 12 fluctuation -- up, down, or neutral.

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13 Now, chances are you probably --
 14 You know, of course, there always was a fairly
 15 small sector there. I don't know if you're
 16 really going to find those sales. If you do
 17 there go (phonetic). But your second thing to
 18 do then is to find a facility that is similar in
 19 use -- maybe in a different proximity -- that
 20 had recently sold, and to see what -- I'm
 21 sorry -- not recently sold, but in the location,
 22 and then properties around that facility that

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1 sold before and after, and then look at that
 2 comparison to see if there is any type of
 3 impact.
 4 Another thing to do is a
 5 comparative, what we call a match-pair analysis,
 6 or I call it comparative sales analysis. And
 7 that's where you take a property that has under
 8 the influence or could be potentially
 9 influenced, by a similar facility and you
 10 compare it to another property similar to it
 11 equally substitutable that is outside of the
 12 area of the influence and see if there's any
 13 valuation difference there.

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14 Another thing to do would be to do
 15 a -- a study to see if there was any -- it's
 16 called a literature study -- to see if there's
 17 any other studies that were done in the State --
 18 in the United States or in the state of Illinois
 19 or anywhere else on -- that's trying to answer
 20 this very question of impact. That could be
 21 useful.

06:43:38PM

22 And the last thing I would do is I

1 would do a qualitative study, interview
 2 commercial Realtors as well as go up and down
 3 the area where the proposed facility is and ask
 4 those individuals in the building and property
 5 owners their opinion.
 6 Q. Okay. You did not do any of those
 7 four things that you just talked about, correct?
 8 A. I did not.
 9 Q. Why not?
 10 A. That was not the assignment. My
 11 assignment was to look at the report to see
 12 whether Criterion 3 was met with adequate proof.
 13 Q. How long would it take you to do those
 14 four things?
 15 A. If I'm not busy, three to four months.
 16 My current schedule, more like six to seven
 17 months out.
 18 Q. Okay. If you had done a comparative
 19 analysis or a match-pair analysis, is that
 20 something you would expect that you would put in
 21 your report or that would regularly be put in a
 22 report?

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1 A. Yes, because you would need that to
 2 substantiate your position of any impact, yes,
 3 no, or -- or neutral.
 4 Q. And what kind of information would be
 5 included in the report at that time just, let's
 6 say, for a match-pair analysis alone?
 7 A. Well, a match --
 8 MR. MUELLER: I'm going to object. It
 9 assumes facts not in evidence.
 10 HEARING OFFICER PRICE: Agreed.
 11 Sustained.
 12 MR. LUETKEHANS: What facts are
 13 assumed? I'm sorry.
 14 MR. MUELLER: He's speculating about --
 15 HEARING OFFICER PRICE: He didn't do
 16 the work.
 17 MR. LUETKEHANS: Correct.
 18 MR. DELAROSA: So we're not going to
 19 speculate about what it would say when he didn't
 20 do the work.
 21 MR. LUETKEHANS: Well -- Okay.
 22 HEARING OFFICER PRICE: That's the very

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06:45:03PM

1 point about --

2 BY MR. LUETKEHANS:

3 Q. What would you -- What do you normally

4 put in your report --

5 HEARING OFFICER PRICE: No. Sustained.

6 MR. LUETKEHANS: What he -- What you

7 would expect to see in this report is relevant

8 if he had done it. Mr. Kleszynski kind of

9 hinted that he did it.

10 HEARING OFFICER PRICE: Ask a question

11 about Kleszynski's report.

12 BY MR. LUETKEHANS:

13 Q. If Mr. Kleszynski had done a

14 match-pair analysis or a comparative analysis,

15 would you have expected to see it in your

16 report -- in his report?

17 A. Yes, I would.

18 MR. LUETKEHANS: Okay. Nothing

19 further.

20 HEARING OFFICER PRICE: All right.

21 Thank you.

22 First up is PODER. Anything from

06:45:16PM

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1 Then to you, Mr. Mueller.

2 CROSS-EXAMINATION

3 BY MR. MUELLER:

4 Q. Mr. Kielisch, where do you practice

5 out of?

6 A. Neenah, Wisconsin.

7 Q. Do you know what a pollution control

8 facility is?

9 A. I have a general idea, yes.

10 Q. Well, tell us what it is.

11 A. A pollution control facility -- Well,

12 simply by the language, it would be a facility

13 that tries to control pollution and reduce it.

14 Q. Do you know whether a transfer station

15 is a pollution control facility?

16 A. I do not.

17 Q. Have you ever testified at a pollution

18 control facility hearing?

19 A. No.

20 Q. Have you been to the subject site?

21 A. Yes.

22 Q. Did it look to you like it was

06:47:23PM

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1 PODER?

2 MR. DELAROSA: Actually, yes.

3 Because I would just like to

4 introduce the fact that tonight's hearing is so

5 different than the hearing that was taking place

6 at the previous location of the hearing where we

7 had sound equipment or the audience can see the

8 documentation introduced or they can see it on a

9 monitor where people can actually comprehend the

10 information that's being presented at this

11 public hearing. That's one thing, that it's a

12 disadvantage for the people at this side of the

13 table.

14 Secondly, is that we have no

15 Spanish language translation here for people

16 from the community in a minority-majority

17 community that have an interest in this along

18 with the rest of the people of West Chicago.

19 That's what I have to say. Thank

20 you.

21 No further words.

22 HEARING OFFICER PRICE: All right.

06:46:24PM

06:47:00PM

1 compatible with the surrounding area?

2 MR. LUETKEHANS: Objection, beyond the

3 scope.

4 HEARING OFFICER PRICE: Overruled.

5 BY THE WITNESS:

6 A. I'm not one to judge compatibility.

7 That is not my expertise.

8 Q. Well, you're a long-time real estate

9 appraiser, right?

10 A. Yes.

11 Q. You must have some sense of whether

12 something fits into the area or sticks out like

13 a sore thumb, don't you?

14 A. Well, that would be true, yes.

15 Q. Okay. Did the existing Lake Shore

16 facility appear to fit into the area?

17 A. The existing one?

18 Q. Yes.

19 A. Yes.

20 Q. Do you know what they do there?

21 A. Yes.

22 Q. What do they do there?

06:48:21PM

06:48:42PM

1 A. They take construction debris and they
2 recycle it, package it up, ship it out.

3 Q. What else do they do there?

4 A. That's all the knowledge I have of it.

5 Q. Are you aware of whether they have a
6 port potty business there?

7 A. No, I do not.

8 Q. Are you aware -- Are you aware of
9 whether or not there are other pollution control
10 facilities nearby?

06:49:13PM

11 A. Yes. Well, pollution control, if you
12 mean, like, a recycling type of facility, is
13 that what you're speaking of?

14 Q. No. I -- Do you know if there are any
15 other transfer stations nearby?

16 A. Yes. There's Groot, I believe is the
17 name. It's north about a quarter mile.

18 Q. And do you know how long that's been
19 there?

06:49:34PM

20 A. Well, it says on the website that it's
21 been in the -- in the family since 1914. I do
22 not know it's exact existence, I mean, at that

1 location.

2 Q. So that transfer station, to your
3 knowledge, could be 108 years old?

4 A. I would have no opinion if it is or
5 not. No. It looks pretty -- It looks more
6 modern than that for sure.

7 Q. Does it appear to fit into the area?

8 A. Again, I'm not really qualified to say
9 whether it's compatible for the area. It looks
10 like a square building.

06:50:13PM

11 Q. The -- The Lake Shore facility, you
12 said, has a potential for odors?

13 A. Yes.

14 Q. What makes you believe it has a
15 potential for odors?

16 A. Well, number one, you go on a
17 literature survey. You see that is a very
18 strong concern of individuals, that I have
19 personally experienced it in Wisconsin, and I
20 did an analysis of a single stream recycling
21 facility. And that was the big issue, was the
22 odor.

06:50:49PM

1 Q. You personally experienced odor in
2 Wisconsin?

3 A. Yes.

4 Q. And how does that relate to whether or
5 not this state of the art design will produce
6 odors?

7 A. That facility was also state of the
8 art, by the way, and went through a very
9 rigorous type of analysis and engineering to
10 prevent odors, and yet it still had the odor
11 issue, which was causing property valuation
12 issues.

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13 Q. What was the name of that facility?

14 A. I don't recall the name right here,
15 but it was in Burlington, Wisconsin.

16 Q. Okay. You experienced odors but you
17 don't know the name of the facility?

18 A. Well, yeah. I do a lot of appraisals.
19 I can't remember all the names.

06:51:45PM

20 Q. How old is that facility?

21 A. That was a new facility. It was built
22 within about two years prior to my appraisal.

1 Q. When was your appraisal done?

2 A. 2021.

3 Q. And was that a fully enclosed
4 facility?

5 A. Yes.

6 Q. Do you know what air filtration and
7 scrubbing technology that facility had?

8 A. I don't know exactly what it had, but
9 I do know it did have that air filtration
10 scrubbing that was a requirement for the City of
11 Burlington.

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12 Q. Do you know whether this facility
13 intends to mask odors or actually eliminate
14 them?

15 A. This facility here, I do not know.

16 Q. Did you hear Mr. Hock's testimony on
17 Criterion 2, which is whether the facility is
18 designed, located, and proposed to be operated
19 that the public health -- health, safety, and
20 welfare would be protected?

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21 A. No.

22 Q. So is it your opinion that this

1 facility will smell?

2 **A.** Well, in -- it has the potential, and
3 that's really not the issue. In value, what you
4 are valuing in issue is what
5 the -- what the buying public believes will be
6 happening, not necessarily what is happening.
7 And that's the perception, and that's what
8 drives value.

9 So though something may not have,
10 they may have the engineering that they did not
11 cause the -- let's say, odor for instance, the
12 perception that they do can still drive value.

13 **Q.** How far does the perception go
14 distance-wise?

15 **A.** I don't have an opinion on that.

16 **Q.** Well, if someone has an opinion that a
17 pollution control facility 100 miles from their
18 home may have odors, do you think that will
19 negatively impact value?

20 **A.** No. It must be the commonly held
21 within the market, not just one individual.

22 **Q.** So what is the proximity required in

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1 study.

2 **Q.** All right. So let me see if I
3 understand this. The only question you were
4 trying to answer was whether or not the highest
5 and best use analysis equates to whether or not
6 it minimizes impact on property values?

7 **A.** Pretty close.

8 **Q.** Okay.

9 **A.** Pretty close.

10 I would go a step further on
11 whether it met the requirement of Criterion 3,
12 was to look at outside of the property on
13 whether there was an impact on property value.

14 **Q.** You don't have an opinion on whether
15 or not this facility is compatible with the
16 surrounding area?

17 **A.** I do not.

18 **Q.** Generally, isn't it true that
19 compatible facilities tend to have less impact
20 on property values than incompatible facilities?

21 **A.** Generally, that could be true.

22 **Q.** Okay.

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1 order for the opinion to matter?

2 **A.** Well, in the analysis I did in
3 Burlington, the proximity was about a six-block
4 dis- -- six-block radius.

5 **Q.** That would be, what, maybe half a
6 mile?

7 **A.** More like probably a quarter mile.

8 **Q.** Quarter mile?

9 **A.** Quarter mile to half mile, somewhere
10 around there, yeah.

11 **Q.** So do you know how many residential
12 properties there are within a quarter mile of
13 this facility?

14 **A.** No.

15 **Q.** Isn't that something you should have
16 looked at in order to determine whether or not
17 there's a potential impact on property value?

18 **A.** That was not my assignment. My -- My
19 assignment was clear. It was: Did this report

20 meet the requirement on Criterion 3 to give
21 adequate support to the concluding opinion. My
22 assignment was not to do an appraisal or to do a

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1 **A.** Yes.

2 **Q.** So if we built a pig farm on the Lake
3 Shore property, you might be concerned that that
4 might have a negative impact on surrounding
5 property values?

6 **A.** Correct.

7 **Q.** Especially down wind, right?

8 **A.** Absolutely, down wind.

9 **Q.** Do you have an opinion, without
10 knowing the exact technology that Lake Shore
11 intends to use, as to whether or not this
12 facility will generate odors?

13 **A.** I do not.

14 **Q.** Okay. You said it also has the
15 potential for insects?

16 **A.** Yes.

17 **Q.** What kind of insects are those?

18 **A.** Well, particularly, flies, fly larva,
19 things that will -- will be attracted to the
20 smells, the sweetness, for instance, things that
21 were in bottles, that type of thing.

22 **Q.** Do you have an opinion as to whether

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1 or not this facility, which is fully enclosed,
 2 will generate insects?
 3 **A.** Again, it has the potential. I do not
 4 know if it will, nor was that my assignment.
 5 **Q.** And you suggested that Lake Shore or
 6 Mr. Kleszynski should have interviewed neighbors
 7 to see how they feel about this facility's
 8 impact on property values?
 9 **A.** That would be a qualitative analysis.
 10 That is one method to do that, and I mentioned
 11 many others.
 12 **Q.** Are you aware that Lake Shore has
 13 letters of support from neighboring business
 14 owners?
 15 **A.** I am not.
 16 **Q.** If we had those kind of letters of
 17 support, then that would be in the nature of a
 18 qualitative analysis, correct?
 19 **A.** Incorrect, that would not be. That
 20 would be more of a political survey. A
 21 qualitative analysis will go to the individuals
 22 and find out what their opinion is.

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1 method is to look at sales in the same
 2 neighborhood prior to that date of -- of
 3 operation, and then after that date of operation
 4 to measure whether or not there was an impact.
 5 **Q.** Now, with another transfer station a
 6 quarter mile away, does it become difficult to
 7 do your kind of quantitative analysis because
 8 the item that potentially impacts property
 9 values is already in the market?
 10 **A.** No. That would be exactly what you
 11 want because what you want is that item -- a
 12 facility like that one already in operation in
 13 business and then to look at property values of
 14 similar properties before that date and after
 15 that date to get a quantitative analysis of
 16 whether or not there is an impact.
 17 **Q.** Well, how far back can you go to get a
 18 meaningful quantitative analysis?
 19 **MR. LUETKEHANS:** Objection, form.
 20 **HEARING OFFICER PRICE:** Overruled.
 21 **BY THE WITNESS:**
 22 **A.** Well, you can go back -- I mean, I've

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1 If they are in support, okay, let's
 2 talk about that, if they're in support. But
 3 just because they wrote a letter of support,
 4 it's not a qualitative analysis.
 5 **Q.** So you're saying people who write
 6 letters of support aren't actually necessarily
 7 supporters?
 8 **A.** No. I'm saying they're not
 9 necessarily going to be representing what the
 10 market is doing in that area. The appraiser
 11 would need to talk to as many people as
 12 possible. And, again, that's only one part of a
 13 suggested a qualitative analysis.
 14 You also can do commercial real
 15 estate appraisers and things of that sort.
 16 **Q.** Now, you suggested that for
 17 quantitative analysis, we should have looked at
 18 sales before and after 2015, correct?
 19 **A.** That is one method, correct.
 20 **Q.** What's so magical about 2015?
 21 **A.** I gave that as an example. If a
 22 facility such as this was built in 2015, one

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1 gone back ten years, if the data isn't there,
 2 and you can go back and find data ten years.
 3 20 years is probably too far, but you can go
 4 back five, ten years.
 5 **Q.** 20 years is too far. That's what you
 6 said, right?
 7 **A.** Yes. In my opinion, right, I would
 8 try not to do that.
 9 **Q.** The Waste Connections facility has
 10 been there over 20 years. Are you aware of
 11 that?
 12 **A.** I am not. I believe you asked me
 13 before if I knew when it was there. So I do
 14 not.
 15 **Q.** So we can't meaningfully go back to
 16 before when the Waste Connections facility got
 17 there?
 18 **A.** Sure, but that's just one analysis,
 19 sir. That's just one potential quantitative
 20 analysis. That's not the only one that you
 21 could do.
 22 **Q.** Now, you heard Mr. Kleszynski's

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1 testimony that, in his opinion, property that is
 2 at its highest and best use minimizes the impact
 3 on the value of -- on the value of surrounding
 4 properties, didn't you?
 5 **A.** That is what his report said. I -- I
 6 did not hear his testimony.
 7 **Q.** You -- You disagree with that
 8 conclusion?
 9 **A.** Yes. I think that doesn't meet the
 10 compatibility test, and it certainly does not
 11 meet the test of whether it has a positive or
 12 negative impact to surrounding property value.
 13 **Q.** You can't talk about compatibility
 14 because you said you're unqualified on it?
 15 **A.** That's correct. That's why I said I'm
 16 not having an opinion on that.
 17 **Q.** Did you look at Mr. Kleszynski's
 18 credentials?
 19 **A.** Yes, I did.
 20 **Q.** Does he appear to be a qualified real
 21 estate expert?
 22 **A.** Yes, he does.

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1 **A.** Yes, that's correct. That is not a
 2 way to measure impact of surrounding property
 3 values.
 4 **Q.** In your opinion, sir?
 5 **A.** Well, no. If you look at the
 6 definition of highest and best use, it has
 7 nothing to do with a methodology to measure the
 8 impact of surrounding property values.
 9 **Q.** Mr. Kleszynski said property at its
 10 highest and best use is least likely to
 11 negatively impact surrounding property values.
 12 **Do you agree with that statement?**
 13 **A.** No, not necessarily. Highest and best
 14 use does not prove that.
 15 **Q.** But it's certainly a significant
 16 factor, isn't it?
 17 **A.** That's not the test of highest and
 18 best use.
 19 **Q.** I'm asking you if it's a significant
 20 factor, not what the test is.
 21 **A.** No, it's not a significant factor.
 22 The three tests are the significant factors.

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1 **Q.** Is it the case that sometimes
 2 qualified experts disagree on things?
 3 **A.** Yes. Yes. That's why we have court.
 4 **Q.** So the fact that you disagree with
 5 Mr. Kleszynski doesn't mean he's wrong, it just
 6 means you disagree?
 7 **A.** Well, I'm not saying he is -- Okay.
 8 I'm not getting into anything personal with
 9 Mr. Kleszynski. He could be a wonderful guy. I
 10 don't know who he is. He could be sitting here
 11 today. I have no -- And I do not go after an
 12 individual.
 13 **I simply look at the report and ask**
 14 **myself: Did this report meet the requirements**
 15 **that were set forth?**
 16 **My answer is: No, it was not.**
 17 **So I disagree. I believe that that**
 18 **report did not meet that requirement.**
 19 **Q.** And the reason for that is because you
 20 disagree with Mr. Kleszynski's opinion about the
 21 relationship between highest and best use and
 22 property values, right?

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1 **Q.** Do you think that a transfer station
 2 on this property would be its highest and best
 3 use?
 4 **A.** I did not do a highest and best use
 5 analysis. This was, again, not my assignment.
 6 **Q.** Do you believe that this property is
 7 negatively impacting surrounding property
 8 values?
 9 **A.** Again, that was not my assignment. My
 10 assignment was: Did this report substantially
 11 support the position and the conclusion of the
 12 report --
 13 **Q.** Do you have an opinion --
 14 **A.** -- in that one area.
 15 **Q.** Do you have an opinion, sir, as to
 16 whether or not this transfer station, if its
 17 built, will negatively impact surrounding
 18 property values?
 19 **A.** I do not.
 20 **(Brief pause.)**
 21 **BY MR. MUELLER:**
 22 **Q.** Sir, do you know where the Cornerstone

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1 subdivision is?
 2 A. I do not.
 3 Q. Would it surprise you if a high-end
 4 residential subdivision was built very near a
 5 pollution control facility?
 6 MR. LUETKEHANS: Objection, foundation,
 7 assumes facts not in evidence. I don't know
 8 what "very near" means.
 9 MR. MUELLER: I'll withdraw the
 10 question.

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11 HEARING OFFICER PRICE: Thank you.
 12 BY MR. MUELLER:

13 Q. If a pollution control facility exists
 14 at a location and subsequently residential
 15 development -- high-end residential development
 16 occurs in the immediate vicinity of that
 17 facility, can we infer that the facility is not
 18 having a negative impact on property values?

19 MR. LUETKEHANS: Same objection. What
 20 is "immediate vicinity"?

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21 HEARING OFFICER PRICE: Yeah. I'm
 22 going to sustain that. We've talked about

1 quarter mile. We've talked about significance.
 2 Can you put a mileage on it,
 3 Mr. Mueller?
 4 BY MR. MUELLER:
 5 Q. Within three-quarters of a mile, sir?
 6 A. Just because -- Just because the
 7 developer or someone like that decides to go
 8 through with development does not -- is not
 9 evidence of property enhancement or neg- -- or
 10 neutral or negative property value impact.

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11 It's -- It has -- You know, in
 12 order for you to do that, you would have to then
 13 compare those property values and how they were
 14 sold to ones that were outside of that
 15 influence. That is the way that you would
 16 measure that.

17 (Brief pause.)

18 BY MR. MUELLER:

19 Q. Sir, would it influence your opinion
 20 to learn that Mr. Kleszynski's testimony about
 21 highest and best use being a factor that
 22 minimizes impact on surrounding property values

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1 has been approved by the Pollution Control Board
 2 in at least two other cases in Illinois?
 3 A. That definition --
 4 Q. Yeah.
 5 A. -- of highest and best use?
 6 I would be surprised.
 7 Q. So if we can find that -- those cases
 8 for you, that might make you rethink your
 9 position?

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10 A. Well, highest and best use is an
 11 appraisal action. And whether a board or a
 12 zoning board makes the decision, I don't
 13 think -- at least to me, in my profession, that
 14 doesn't influence us and say, Well, because a
 15 politically elected board says something else
 16 contrary to what our -- our methodology would
 17 say, therefore, they're right.

18 I would say no, that would not
 19 influence me.

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20 What influences me is that
 21 tradition and the methodology that hold the
 22 appraisal organizations and appraisal

1 associations teach.
 2 Q. That's your story and you're sticking
 3 to it?
 4 MR. LUETKEHANS: Objection,
 5 argumentative.
 6 HEARING OFFICER PRICE: Sustained.
 7 MR. MUELLER: No further questions.
 8 HEARING OFFICER PRICE: Thank you,
 9 Mr. Mueller.

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10 Mr. Callaghan...
 11 MR. CALLAGHAN: No questions.
 12 HEARING OFFICER PRICE: Mr. Walsh...

13 CROSS-EXAMINATION

14 BY MR. WALSH:

15 Q. Sir, I got a couple questions for you.
 16 Have you ever testified before on
 17 Criterion 3?

18 A. No, I have not.

19 Q. Have you looked at any case law or
 20 Illinois Pollution Control Board rulings on
 21 how -- how they interpret the -- the ability to
 22 meet Criterion 3?

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1 A. No, I have not.
 2 MR. WALSH: That's all I have.
 3 Thank you.
 4 HEARING OFFICER PRICE: Redirect?
 5 MR. LUETKEHANS: One follow-up line.
 6 REDIRECT EXAMINATION
 7 BY MR. LUETKEHANS:
 8 Q. You were asked about going -- you
 9 couldn't go use a sale more than 20 years old
 10 because the Groot facility was older than
 11 20 years old.
 12 Do you recall that line of
 13 questioning?
 14 A. Yeah, but that's not what I was
 15 answering. That line of questioning, yeah.
 16 What I was -- What I was trying to
 17 say is that the question was, How would you
 18 do -- You know, how far back would you go if you
 19 did such an analysis.
 20 And my point was, I would go -- you
 21 know, I could go up to five or ten years; 20,
 22 that might be a stretch because you're going to

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1 THE WITNESS: Thank you.
 2 HEARING OFFICER PRICE: -- for your
 3 testimony.
 4 (Witness excused.)
 5 HEARING OFFICER PRICE: Why don't we --
 6 Criterion 8 is not going to take a long time, I
 7 don't think, right?
 8 MR. LUETKEHANS: The direct is not. I
 9 don't know about after that. We'll do it either
 10 way, however you would like.
 11 HEARING OFFICER PRICE: All right.
 12 Well, then what I would like to do is -- I've
 13 been informed that there are ten people -- I've
 14 been given the names -- who had previously
 15 signed up to deliver oral public comment who are
 16 not able to attend the sessions we have coming
 17 up next week at City Hall during the day.
 18 So I'm going to call those ten in
 19 the order I have them from how they signed up
 20 and were given to me. And then if there are
 21 others who have signed up previously and
 22 submitted in a timely form, you have an oral

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1 find more than enough data within the five to
 2 ten year. Plus, if you're all the way back to
 3 20 years, you could have different facilities,
 4 different technologies, things of this sort. So
 5 it's best to try to keep it as contemporary as
 6 possible.
 7 Q. And there's no magic in looking at the
 8 one down the street versus another facility that
 9 might have been put in place in the last five
 10 years?
 11 A. That is correct.
 12 MR. LUETKEHANS: Nothing further.
 13 HEARING OFFICER PRICE: Anything
 14 further from PODER?
 15 MR. DELAROSA: No questions.
 16 HEARING OFFICER PRICE: Mr. Mueller...
 17 MR. MUELLER: Nothing. Thank you.
 18 MR. CALLAGHAN: No.
 19 HEARING OFFICER PRICE: Mr. Walsh...
 20 MR. WALSH: Nothing further.
 21 HEARING OFFICER PRICE: All right.
 22 Thank you, sir --

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1 public comment, if you would like to do it
 2 tonight because of the limited nature of what
 3 technology we have, Mr. DeLaRosa's point -- and
 4 I'm not expecting any of you to have had
 5 PowerPoints that you wanted to show -- we will
 6 take that public comment as well, and then we'll
 7 return to taking testimony from Mr. Lardner.
 8 So, Mr. Lardner, thank you for your
 9 patience, but we're going to try and take
 10 advantage of the lack of technology to allow
 11 people to put in the oral public comment.
 12 So with that -- And we'll -- we'll
 13 take a break at 8:00 o'clock because it's not
 14 fair to our court reporter to put it into a
 15 death march (phonetic).
 16 So first up is Ms. Sheila Rutledge,
 17 and Ms. Rutledge will be followed by Connie
 18 Schmidt, and then on deck after that is Janice
 19 Guider.
 20 So hold on. Let me give you the
 21 microphone.
 22 MS. RUTLEDGE: Yes. Good evening. My name

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1 is Sheila Rutledge, and I'm coming to speak on
2 behalf of Lake Shore Recycling tonight, both as
3 a citizen of Incorporated West Chicago and with
4 my work on protecting the environment.

5 I first became aware of Lake Shore
6 Recycling from 2015 to 2018 when my late husband
7 and I owned Advanced Property Solutions.
8 Essentially, we renovated houses and sold
9 primarily to first-time home buyers.

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10 At that time, Lake Shore Recycling
11 was the only trash hauler that we could find
12 that would actually reclaim any recyclable items
13 from our demolition projects. Items such as any
14 type of wood, concrete, gypsum board, and metals
15 like aluminum and copper made up most of our
16 demo debris, and it was important to us that
17 those reusable items did not end up going
18 directly to landfills.

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19 As somebody who is environmentally
20 conscious, that was important because our
21 landfills are quickly filling up, with some
22 estimating they will be full by 2035. We must

1 do a better job of keeping those things out.

2 Most of the other haulers at the
3 time took all of those dumpsters directly to
4 landfills. I can find no information about the
5 existing transfer station recapturing those
6 resources.

7 According to the EPA, recycling
8 efforts reduced the amount of waste sent to
9 landfills and incinerators, conserve natural
10 resources such as timber, water, and minerals,
11 increased economic security by tapping a
12 domestic source of material, prevent pollution
13 by reducing the need to mine raw materials,
14 saves energies, supports American manufacturing,
15 and conserves valuable resources, and creates
16 new jobs in the recycling and manufacturing
17 industries in the United States.

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18 From an economic aspect, recycling
19 adds 681,000 jobs, 37.8 billion in wages, and
20 5.5 billion in tax revenues. And this equates
21 to 1.17 jobs for every 1,000 tons of materials
22 recycled.

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1 The ferrous metals industry
2 provides the largest contribution to all three
3 categories -- job, wage, and tax revenue --
4 followed by construction and demolition.

5 The first night of hearings asked
6 the question about capacity. And I suggest that
7 the rate of recycling in our surrounding
8 communities is not very good and we should
9 support a program to help educate our citizens
10 about the importance of recycling and how to do
11 it properly to increase our rates and keep
12 people from wish cycling items that contaminate
13 the streams and slow down the process.

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14 It often comes down to confusion
15 and inconvenience. People don't know how to
16 recycle, what can be recycled, or what to do
17 with those items. The top reason Americans say
18 they don't recycle regularly is a lack of
19 convenient access. LRS's plan helps to
20 alleviate some of those complaints.

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21 I've heard some people say that the
22 existing transfer station is not maximizing

1 their capacity. At our current rates of
2 recycling, that may be true, but with landfill
3 space diminishing, we must, as a community,
4 improve rates of recycling.

5 I'm an animal lover. I walk my
6 dogs often and always shake my head at the lack
7 of knowledge on how to recycle properly in my
8 community. The majority of recycling
9 receptacles at curb side are contaminated by
10 people who bag their recycling or put in items
11 that cannot be recycled at the curb.

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12 My hope is that a robust education
13 program can help to use these facilities at full
14 capacity and help our environment overall.

15 The plan Lake Shore is presenting
16 is a solid state-of-the-art facility that
17 expands the good work they're already doing. As
18 of 2019, the United States has yet to touch the
19 top ten recycling countries list. We must do
20 better.

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21 It is time for a state-of-the-art
22 recycling transfer station so that we can

1 increase the diversion of useful recyclable
2 items from our landfills. The existing facility
3 is old and it needs improvement, and I believe
4 LRS has made a solid plan to mitigate any of the
5 concerns that the local community might have.
6 Their commitment to keeping down litter, street
7 sweeping, capturing noxious odors is to be
8 commended and rewarded.

9 Competition is the bedrock of
10 business in this country. It improves services
11 and controls costs. I can only surmise that the
12 battle over the issue is not because of racial
13 injustice but simply a publicly traded company
14 spending huge amounts of behind the scenes money
15 to protect their shareholder value.

16 Thank you.

17 HEARING OFFICER PRICE: Thank you.

18 Next up is Ms. Connie Schmidt,
19 followed by Janice Guider, and then after that
20 Greg Walsh.

21 MS. SCHMIDT: Hello. My name is Connie
22 Schmidt. Today I'm here to speak as the chair

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1 collected, significant concern was not
2 documented with the current traffic and land
3 use.

4 In addition, we met with the
5 representatives of LRS to learn details of their
6 plan. We learned that the plan is not for a
7 landfill or a waste dump. It is an expansion of
8 existing services already found on this property
9 that they now own and are doing recycling of
10 materials such as construction waste. LRS now
11 wants to add household garbage do their
12 services.

13 The property is in an industrial
14 park. A particular concern to us is the
15 intention -- attention to environmental impact.
16 It appears to us that LRS has given considerable
17 attention to mitigate environmental concerns
18 with an enclosed state-of-the-art building and
19 air filtration system to protect the workers and
20 quickly closing doors as trucks and enter leave
21 to protect the community.

22 The waste transfer station will

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1 of the River Prairie Group of the Sierra Club.

2 The Sierra Club, for anyone who
3 doesn't know, is the largest grass root
4 organization in the United States. We have over
5 60 chapters across the nation and Illinois has
6 14 regional groups. The River Prairie is one of
7 the most active, and we cover here in DuPage.
8 We have over 2,600 members across this county.

9 Concerned citizens of West Chicago,
10 an advocate for environmental justice contacted
11 our group because they were concerned that a
12 waste dump was coming to West Chicago and would
13 negatively impact their community and residents
14 who are already burdened with a legacy of other
15 environmental issues.

16 From the onset, The River Prairie
17 Group's interest was a built environment plan
18 for a healthy and sustainable equitable
19 environment for all residents. We advised this
20 group that the data would drive any RPG decision
21 or action. We provided some air monitors,
22 training, data collection; and with the data

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1 make it possible for the collection vehicles to
2 travel less distance on roads, decreasing their
3 particulate emissions and fossil fuel usage, two
4 concerns we have for air quality.

5 We advocate for aggressive
6 monitoring to ensure that LRS is compliant with
7 commitment they are making in this process.
8 With very careful consideration and respect for
9 the concerns of the citizens of this community,
10 the group of the Sierra Club is determined that
11 we will not oppose this permit request and, in
12 fact, we support it.

13 HEARING OFFICER PRICE: Thank you.

14 The -- Next up is Janice Guider,
15 who will be followed by Greg Walstra, and then
16 Barbara Laimins.

17 MS. GUIDER: Good evening. My name is
18 Janice Guider.

19 And Connie Schmidt, who just spoke,
20 and I are colleagues. We both serve, Connie as
21 president, and I am chair of what we call our
22 health equity operations.

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1 HEARING OFFICER PRICE: Ms. Guider,
 2 could you pull the microphone closer to you.
 3 MS. GUIDER: Okay. What if I stand closer?
 4 Okay. And I want to take issue
 5 with the fact that there are members of this
 6 community who -- where English is not their
 7 first language. And I'm hoping as we go forward
 8 that we would make sure that there are
 9 Spanish-speaking people here to help translate
 10 and make sure people of this community
 11 understand what's going on.

07:21:34PM

12 I also work alongside Immigrant
 13 Solidarity DuPage, and I sit on several boards
 14 throughout DuPage County. Immigrant Solidarity
 15 and PODER brought the LRS expansion project to
 16 our attention believing LRS's plan would inflict
 17 racial and harmful environmental injustice upon
 18 the West Chicago community, particularly, the
 19 Latin population.

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20 From the beginning, we began an
 21 objective and robust effort to research and
 22 validate the community's concerns. After a

1 close examination of the facts, we soon realized
 2 the LRS application is not for a new waste dump,
 3 instead an expansion of its current facility
 4 with verifiable promises for increased revenue
 5 inherent with proficiency in the management of
 6 recyclables, reduce costs for residents, and the
 7 security of local jobs for West Chicago
 8 citizens.

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9 Perhaps more importantly is that
 10 LRS's plans for growth include a facility to
 11 minimize toxic particulates from escaping into
 12 the atmosphere and eventual addition of electric
 13 vehicles, beautification of the area with the
 14 addition of new tree plantings, and a plan right
 15 with the promise to improve the air quality
 16 around this industrial park.

07:23:41PM

17 We support LRS's application to
 18 expand because plans demonstrates the potential
 19 to become even a better stakeholder and to
 20 positively influence the health of all residents
 21 in the West Chicago and greater DuPage County
 22 community.

1 Thank you.
 2 HEARING OFFICER PRICE: Thank you,
 3 Ms. Guider.

4 Next is Greg Walstra, followed by
 5 Barbara Laimins.

6 MR. WALSTRA: Good evening. My name is
 7 Greg Walstra. I'm a resident of Wheaton. I've
 8 lived in DuPage County well over half my live.

9 And the reason that I'm here
 10 supporting Lake Shore with its permit
 11 application is that I've been involved in the
 12 waste industry for over 20 years in three
 13 different states. And I know people talk about
 14 their studies and the radiuses, but I can tell
 15 you that, in my opinion, it is absolutely absurd
 16 that DuPage County, with about a million people,
 17 only has one municipal solid waste transfer.

07:24:14PM

18 Effectively, DuPage County is
 19 exporting its garbage, and along with it, we're
 20 exporting the revenue that goes with it, and the
 21 jobs that go with it. And the issue -- My
 22 opinion is certainly not about capacity. It's

07:24:44PM

1 about competition. Without -- Without disposal
 2 options, waste haulers are hurt and competition
 3 is reduced and prices go up.

4 In the last five years, I've worked
 5 for a law firm in Wheaton, and we consult with
 6 several small waste haulers because of my
 7 industry experience. And I can tell you that,
 8 you know, some people have been obviously hurt,
 9 some people have had to sell out or go out of
 10 business just because without those disposal
 11 options, it just -- it hurts the small hauler.
 12 It hurts competition, raises the price, and
 13 ultimately, you know, reduces freedom. It's
 14 Economics 101.

07:25:22PM

15 So thank you.
 16 HEARING OFFICER PRICE: Thank you,
 17 Mr. Walstra.

18 Next up is Barbara Laimins,
 19 followed by David Sabathne, and Omar Espinosa is
 20 on deck.

07:25:43PM

21 MS. LAIMINS: Hi. With your
 22 permission, I would like to hold my comments

1 until next week at City Hall, after I've heard
 2 all the testimony.
 3 Thank you.
 4 HEARING OFFICER PRICE: Okay. Thank
 5 you.
 6 Next is Dave Sabathne, followed by
 7 Omar Espinosa, and then John Stoetzel.
 8 MR. SABATHNE: Good evening. My name
 9 is David Sabathne.
 10 Other than a few formative years,
 11 I'm a lifelong resident of West Chicago. I feel
 12 like brain cells are just dying by the minutes
 13 sometimes. I mean, I -- I can't possibly be the
 14 only one who listened -- I'm not an attorney.
 15 I'm not an environmentalist, and I'm not an
 16 appraiser, but the idea that we would even
 17 analyze, say, an appropriate analysis would be
 18 to take a facility that was built and compare
 19 the property values.
 20 Using the pig farm, the only
 21 comparison is, tell me what the values did when
 22 you built a pig farm next to a pig farm.

07:26:16PM

07:26:48PM

1 technical issues and bringing that to our
 2 legislatures and getting it done.
 3 Doris Karpiel, one of the great
 4 legal minds in environmental (indiscernible)
 5 Gainus (phonetic) and a bunch of people helped
 6 us. But through that process, we learned a
 7 whole bunch of things. As a result, it led us
 8 to further good decisions.
 9 While Lake Michigan water runs in
 10 tubes through West Chicago, we don't access it.
 11 We built our own water treatment plant. Because
 12 we don't take the word of everyone else, we do
 13 our own study and to find out what's good for
 14 our community. And so instead of tying on to
 15 Lake Michigan water, we built a new water
 16 treatment plant, and as a result, our water
 17 rates are less, our quality is higher, our
 18 capacity is virtually unlimited, and we have
 19 control over that element. We're very proud of
 20 that.
 21 We looked at a lot of things,
 22 potassium -- and reverse osmosis, ion exchange,

07:28:33PM

07:29:02PM

1 Everything else is irrelevant because there
 2 already exists a pig farm.
 3 Like I said, I've been a resident
 4 of West Chicago my whole life. I'm president
 5 and CEO of the Western DuPage Chamber of
 6 Commerce. I'm a former alderman of the City of
 7 West Chicago, former Scoutmaster at the age of
 8 21, a former commissioner for the DuPage Airport
 9 Authority, so I'm familiar with Mr. Luetkehans,
 10 and I chair a state-wide committee on workforce
 11 development, and I'm a trained economic
 12 developer.
 13 The short version is I'm old,
 14 experienced, I love my community such that I've
 15 committed my life to serving it.
 16 This experience as a councilman is
 17 most relevant. While serving, we successfully
 18 won a decades-long battle of the largest brown
 19 field in the country, 1.2 billion-dollar clean
 20 up of thorium in our community. That resulted
 21 in citizens becoming active and being able to
 22 talk about Picocuries and life cycles and -- and

07:27:26PM

07:27:55PM

1 do we use sodium chloride, you know, calcium
 2 chloride? What do we do? And you know what?
 3 The same thing happened when VFI came with a
 4 proposal of a transfer station in our community.
 5 Yeah, we had some of the neighbors who, you
 6 know, imagine -- as most people do -- garbage
 7 smells. You may have the same opinion about
 8 compost piles -- it's actually dump really --
 9 but I -- I -- I understand the assumption, but
 10 we don't live on assumptions.
 11 So what did we do when that
 12 proposal came? The mayor at that time, Steve
 13 Lakics, and alderman, Brenda Douglas, our public
 14 works director, Ken Dean (phonetic), and I drove
 15 to Minneapolis to find the most similar facility
 16 that we could find. And we went into it and we
 17 stayed there and we used this, like, backhoe
 18 function and packed a few trucks, and then we
 19 walked the neighborhood and we talked to the
 20 businesses and said, What kind of neighbor do
 21 you have here? How has it been?
 22 We don't have any problems. We

07:29:38PM

07:30:06PM

1 love the convenience when we need to get rid of
2 a couch or something, but for all practical
3 purpose, there isn't a problem.

4 So the assumption may be based on a
5 principle that we all generally agree with, but
6 in practice, it's not the reality.

7 I think this proposal meets the
8 spirit and intent of the use and to -- to pick
9 apart and say, Well, here is what the coach
10 says, to limit this because of a residential
11 zoning that -- that a house could never be built
12 on, would be like protecting an area of grass
13 because it was set aside to protect the species
14 while realizing that the species went extinct
15 50 years ago.

07:30:40PM

16 It could be similar to somebody
17 saying, Here are forms, fill out and make sure
18 that put on your home phone number, and then
19 rejecting it because they included a cell phone
20 number, which isn't technically at a home, but
21 it could be.

07:31:15PM

22 I mean, please. We see through

1 this. We've see the Columbo, Houdini kind of,
2 you know, antics here, but that's what we see.

3 One of the things we learned about
4 the environment is that when you hide money,
5 when you cover it all up, it gets a smell. When
6 something smells a little funny, you kind of
7 follow the money trail to find out where the
8 buldung is.

9 Now, LRS clearly is transparent.
10 They know what they're -- you know, their vested
11 interest is in this. Yes, they're a business
12 for profit, and they expect to do that.

07:31:51PM

13 How the other side affords the
14 high-powered attorneys they have here sure as
15 heck didn't get there by a neighborhood bake
16 sale. To think so, would be naive.

17 Now, West Chicago is more
18 environmentally sensitive, aware, educated, and
19 I'm proud to say, responsible. We have a long
20 history of protecting our community, the region
21 and the benefits to our community and our
22 residents, and we have unequal capacity to do

07:32:28PM

1 our own research, weigh our options, and do what
2 is best for our community. That's why you have
3 support letters from the City of West Chicago
4 and so many residents believe strongly in
5 approval of this project.

6 Thank you.

7 HEARING OFFICER PRICE: Thank you.

8 Next is Mr. Omar Espinosa. He'll
9 be followed by John Stoetzel.

07:33:12PM

10 MR. ESPINOSA: Hello. My name is Omar
11 Espinosa, and I could see myself, probably one
12 of the few minorities here.

13 And I belong at the Lions Club at
14 West Chicago. I belong at the Rotary Club of
15 West Chicago. I'm a board member of the Mexican
16 Culture Center. I'm a board member of
17 Neighborhood Food Pantries. I'm a board member
18 of H.O.M.E. DuPage. As you can see, I'm in
19 DuPage most of the time. I don't live in
20 DuPage, but I work in DuPage. I've been working
21 here for ten years, and I am in favor of the
22 construction expansion of LRS.

07:33:41PM

1 As a minority, I think that also
2 will benefit the people here for more jobs as
3 well.

4 So thank you.

5 UNIDENTIFIED SPEAKER: We're the
6 majority here, not a minority.

7 HEARING OFFICER PRICE: All right.
8 This isn't a debate. It's public comment.
9 We're not going to have that, or else we'll be
10 excusing people.

07:34:06PM

11 Next is Mr. John Stoetzel, followed
12 by Mr. Mike Hampson.

13 MR. STOETZEL: Hi. My name is John
14 Stoetzel, and I've lived and worked in DuPage
15 County since I moved to the Village of Wayne in
16 1973. I was elected to the Village Board of
17 Wayne in 1975 and served as president from 1980
18 through 1986. So I'm very aware of this area.

19 My involvement with this specific
20 property being considered tonight, which is
21 immediately north of Lake Shore's recycling
22 proposed transfer station was when I was

07:34:36PM

1 appointed around 1996 by LaSalle Bank to oversee
2 the redevelopment of a parcel that had been
3 foreclosed on and laid fallow for a number of
4 years. There was a bankruptcy and an
5 environmental issue at the time.

6 We were able to find a tenant for
7 the vacant 80,000-square-foot building that, in
8 fact, has been occupied ever since. We were
9 also able to develop two parcels of property
10 with industrial buildings both down the street
11 from the Groot facility.

07:35:13PM

12 Today I stand to represent current
13 owners of that property, Maxwell Properties,
14 LLC. The property north of Lakeside [sic]
15 Recycling property. We appreciate the
16 relationship we've had with Lakeside as a
17 property owner and a responsible neighbor.

18 I fully endorse Lake Shore's
19 Recycling as an investment in West Chicago.

07:35:44PM

20 Thank you.

21 HEARING OFFICER PRICE: Next is
22 Mr. Mike Hampson, followed by Peter Polous.

1 construction materials.

2 Thank you.

3 HEARING OFFICER PRICE: Next is
4 Mr. Peter Polous.

5 MR. POLOUS: Good evening. My name is
6 Peter Polous. I'm a commercial real estate
7 broker focused in the industrial building
8 material trade market and very familiar with the
9 waste industry, the requirements of general
10 contractors in DuPage County.

07:37:22PM

11 I spend a lot of time trying to
12 site facilities, logistics sites, industrial
13 sites, quarries, mines, landfills, and I feel
14 that this is an excellent location, incredible
15 opportunity for the Village or City of West
16 Chicago, county of DuPage County for asset
17 engagement, reducing the carbon footprint that
18 Lake Shore would have by having this facility
19 increasing competition.

07:37:53PM

20 And competition is excellent. It
21 all makes us better. It's a win-win for
22 everybody -- the consumer, the customers, and

1 MR. HAMPSON: Good evening. Thank you.

2 My name is Mike Hampson. I'm the
3 executive secretary of Chicagoland Associated
4 General Contractors. CAGC is a union-based
5 construction trade association with over
6 200 general contractors, specialty contractors,
7 suppliers, and development members.

8 The CAGC fully supports the LRS
9 waste transfer station. In an industry where
10 competition is on the thinnest of margins,
11 having a more -- having more competition will
12 greatly benefit contractors and the industry.

07:36:19PM

13 As a 20-year member of Chicagoland
14 AGC, LRS continues to be a great industry
15 partner helping the contractors achieve lead --
16 lead points while building a silver or gold
17 level green buildings.

18 An additional transfer station in
19 the second largest county where we have a strong
20 member base would allow contractors to have an
21 additional choice. And in the case of LRS, the
22 choice of having a leader in recycling

07:36:46PM

1 the competitors.

2 Thank you.

3 HEARING OFFICER PRICE: All right.
4 That concludes the list of people I was informed
5 needed to go and weren't able to go next week.
6 I have 17 other people who have registered to
7 give oral public comment.

8 Do any of those other 17 wish to
9 speak this evening?

07:38:22PM

10 (No verbal response.)

11 HEARING OFFICER PRICE: All right.
12 It's 7:40.

13 Why don't we do this. You said the
14 direct won't be long with Mr. Lardner. So why
15 don't we put the direct on, and then we'll take
16 a break.

17 Okay. Again, for everybody's
18 reference, next week we are meeting on Monday
19 from 1:00 to 5:00, and again Thursday 1:00 to
20 5:00 in the city council chambers. That's where
21 the work will be performed. If we need
22 additional time after that, we'll have to figure

07:38:50PM

1 that out. We'll see how it goes.
 2 Public comment can be either of
 3 those days for the 18 people remaining. It's
 4 18 because I'm now including Ms. Laimins. She
 5 wanted to speak next week.
 6 So for you 18, that will be your
 7 opportunity.
 8 For everybody else who hasn't
 9 registered to give oral public comment, again,
 10 you're welcome to submit your comment in written
 11 form at any time, and that will be up to 30 days
 12 after the hearing concludes. It will be your
 13 opportunity to do that. That's by statute. We
 14 welcome that information and after that, then
 15 we -- we're going to be in a bit of a sprint to
 16 allow city council to take action on the
 17 application.
 18 So with that, is the witness --
 19 Mr. Lardner, why don't you come back. I'm going
 20 to grab the microphone. You're still under
 21 oath, Mr. Lardner.
 22 MR. LARDNER: Yes, I understand.

07:39:21PM

07:39:51PM

1 plan you prepared --
 2 A. Yes.
 3 Q. -- in relation to Criterion 8?
 4 A. Yes.
 5 Q. Okay. I'll just let you proceed.
 6 A. Okay. So since we don't have our
 7 slides, I'll just go through -- I'll be reading
 8 more than I normally would here.
 9 So what I'm -- what I did was
 10 prepare a review on Criterion 8. My original
 11 slide said Criteria 8, plural, because I was
 12 doing 1 and 8. So this one is on Criterion 8,
 13 for the proposed West DuPage recycling and
 14 transfer station in West Chicago.
 15 That's a solid waste management
 16 plan consistency review. The requirement is
 17 that if the facility is to be located in a
 18 county where the county board has adopted a
 19 solid waste management plan, consistent with the
 20 planning requirements that a local solid --
 21 THE COURT REPORTER: I'm sorry. Could
 22 you slow down a little.

07:41:10PM

1 HEARING OFFICER PRICE: With that,
 2 Mr. Luetkehans, the floor is yours.
 3 WHEREUPON:
 4 JOHN LARDNER,
 5 called as a witness herein, having been
 6 previously duly sworn, was examined and
 7 testified as follows:
 8 DIRECT EXAMINATION
 9 BY MR. LUETKEHANS:
 10 Q. Mr. Lard- -- Okay. You have in front
 11 of you PWC Exhibit 800. That's your --
 12 Did you do a report in this matter
 13 regarding Criterion 8 for this property?
 14 A. Yes, I did.
 15 Q. And that's PWC 800?
 16 A. That is correct.
 17 Q. Okay. And then also in front of
 18 you -- and in front of everybody else, for the
 19 record -- is PWC 801.
 20 Do you see that?
 21 A. Yes.
 22 Q. Is that your -- Is that the PowerPoint

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1 THE WITNESS: Okay.
 2 THE COURT REPORTER: You're reading, so
 3 you're going a little fast for me.
 4 BY THE WITNESS:
 5 A. If the facility is to be located in a
 6 county where the county board has adopted a
 7 solid waste management plan consistent with the
 8 planning requirements of the Local Solid Waste
 9 Disposal Act or Solid Waste Planning and
 10 Recycling Act, the facility is consistent with
 11 that plan.
 12 Again, going over my background,
 13 I'm a professional engineer with over 35 years
 14 of experience in the solid waste field. I'm a
 15 registered professional engineer in Illinois and
 16 Indiana. I have a B.S. in civil engineering
 17 from Michigan State University and a master's of
 18 science in civil engineering from the University
 19 of Illinois, and I've prepared solid waste
 20 manage plan consistency [sic] and testimony or
 21 actually for four waste-related facilities in
 22 Illinois, two of which were transfer stations.

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1 And I've been a design engineer for
2 over 22 solid waste projects in Illinois and
3 Indiana. And I'm a member of professional
4 associations related to the solid waste
5 industry, those being the Solid Waste
6 Association of North America, U.S. Composting
7 Council, American Society of Civil Engineers,
8 Illinois Recycling Association where I'm a
9 current board member, and the Illinois Food
10 Scrap and Composting Coalition, where I'm also a
11 current board member.

07:43:02PM

12 So what I'm going to review here is
13 the best solid waste -- DuPage County solid
14 waste management plan and their five-year
15 updates. I'm going to review a past transfer
16 siting consistency determination in
17 unincorporated DuPage County near this location,
18 and provide a summary and conclusion.

19 Now, the 1991 solid waste
20 management plan prepared for DuPage County was
21 one that all the counties in Illinois were
22 required to do. They were given budgets from

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1 the State of Illinois to do solid waste
2 planning. And the goal was there to recycle
3 25 percent of their waste stream.

4 DuPage County prepared their solid
5 waste management plan and gave us four sections;
6 one was the report, and there was three sections
7 that were appendices.

8 In the report, first there is seven
9 sections. One was an introduction and
10 requirement and talked about previous planning
11 efforts; two, was existing solid waste
12 management systems and their need; three was
13 solid waste management systems; four was
14 education and information system; five was
15 definitions of proposed solid waste management
16 systems; six was implementation issues; and
17 seven was a plan of action.

07:44:11PM

18 And so in that study, they also
19 looked at the demographics of DuPage County, the
20 population. They also looked at waste
21 generation and disposal capabilities, similar
22 needs analysis that has been done for this

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1 project and which I testified on earlier evening
2 for this process.

3 They also looked at different ways
4 for recycling by commodity, for instance, like
5 paper, glass containers. They also looked at
6 opportunities for construction and demolition
7 debris recycling, for landscape material
8 recycling, and food scrap recycling. And they
9 also looked at waste processing, disposal, and
10 transfer options.

07:45:18PM

11 And the recommendations at that
12 time for waste transfer was to evaluate its
13 practicality, perform a siting analysis for if
14 they were proposed, and then continue on with
15 land filling of solid waste.

16 In the next slide that I had, I had
17 the 1991 solid waste management plan
18 recommendation, but actually this is one from
19 1996, and I'll read that: The County should
20 encourage development of three to five waste
21 transfer facilities throughout the County. The
22 County should assist the private sector in

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1 determining the most appropriate and efficient
2 locations for transfer facilities, and providing
3 education and appropriate tours to
4 municipalities, townships, or any other people
5 interested in knowing more about transfer
6 stations.

7 Going on to the 2001 solid waste
8 management plan update, in terms of the transfer
9 station disposal capacity, the plan -- and I'll
10 quote -- The permanent capacity of the DuKane
11 transfer station be increased from 1500 tons per
12 day to 2500 tons per day with a proportionate
13 increase in acceptance at the facility for waste
14 generated in DuPage County.

07:46:23PM

15 And a second recommendation was
16 that a second and/or third transfer stations
17 should be sized to accommodate the 350,000 tons
18 of waste per year and accommodate future
19 population growth and subsequent waste
20 generation.

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21 A second and/or third transfer
22 station is expected to increase competition,

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1 reduce wear on roads, reduce overall truck miles
 2 traveled, and decrease truck air emissions.
 3 So in that second recommendation,
 4 was one that a second transfer station would
 5 incentivize haulers to use -- use it due to a
 6 shorter hauling distance rather than go to
 7 DuKane transfer station; and that two, that
 8 the -- the second or third transfer station
 9 would be closer to other DuPage communities that
 10 were not as close to the DuKane facility thereby
 11 reducing the wear on roads and overall truck
 12 miles.

07:47:34PM

13 Then going on to the 2007 solid
 14 waste management plan -- and I will, you know,
 15 paraphrase or read from that -- it says: In
 16 2002, DuKane's capacity was increased to
 17 3,000 tons per day. Three new transfer stations
 18 have been proposed since the last update,
 19 however, none were approved. Transfer
 20 facilities have been constructed outside the
 21 county border that are close enough to serve our
 22 needs.

07:48:06PM

1000

1 serving southern DuPage County failed to meet
 2 this criteria.
 3 And so I had showed in earlier
 4 Figure 1 in this -- in the application, and it
 5 is Slide No. 13, is that the -- there are fewer
 6 transfer stations options in the southern part
 7 of DuPage County. I think there was two
 8 compared to, I think, four up in the northwest
 9 and as many as six in the southwest.

07:49:55PM

10 Number two, this is kind of where
 11 the ten-mile radius comes into for use in a
 12 service area delineation. Number three,
 13 recommendation they said that the position at
 14 this time is to rely on existing transfer
 15 stations both inside and outside the County
 16 borders. While this reliance comes at a cost of
 17 higher disposal rates, it is preferred method.
 18 This method will serve the county needs for five
 19 more years.

07:50:31PM

20 And then the next -- in my
 21 PowerPoint presentation, I -- I showed where the
 22 analysis was made as part of the 2007 solid

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1 So, for instance, they -- in this
 2 case, they recognized that the DuKane capacity
 3 at 3,000 tons per day was somewhat of a safety
 4 valve in case other transfer stations were not
 5 sited. And that there were other facilities
 6 outside the county that was being located in
 7 Cook County and in Kane County. In Kane, there
 8 was the Elburn transfer station and a Batavia
 9 transfer station. And in Cook County, there was
 10 that Bluff City transfer station.

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11 A second recommendation in the
 12 2007 solid waste management plan update was to
 13 provide an accurate snapshot of the current
 14 disposal waste disposal capacity. An evaluation
 15 was done of existing transfer stations and
 16 disposal facilities. The County was divided
 17 into quadrants and the consultant whom they
 18 hired at the time, Shaw Environmental, reviewed
 19 the nearest three transfer stations to each
 20 quadrant. The ideal transport distance is no
 21 more than ten miles. Out of ten tran- -- ten
 22 stations that were analyzed, only two facilities

07:49:13PM

1001

1 waste management plan. The consultant at the
 2 time divided DuPage County into centroids or
 3 population geographic centers and looked at what
 4 transfer stations were available to those four
 5 centroids within DuPage County.

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6 So, for instance, in the northeast
 7 centroid, they looked at the three transfer
 8 stations outside of Cook County, that being the
 9 Groot Chicago transfer station, the Melrose Park
 10 transfer station, and the Northlake transfer
 11 station.

07:51:47PM

12 In the northwest portion of DuPage
 13 County, they looked at -- from that population
 14 centroid -- the Bluff City transfer station in
 15 Cook County, the DuKane transfer station that
 16 was in DuPage County, and the Batavia transfer
 17 station in Kane County.

18 They looked at the service areas of
 19 transfer stations proximate to the southwest
 20 DuPage County. And those at the time, were the
 21 DuKane transfer station, the Batavia transfer
 22 station and the west Elburn transfer station.

1002

1 And then the transfer stations to
2 the southeast of DuPage County were in the -- in
3 Cook County, those were the Heartland transfer
4 station, now owned by Lake Shore Recycling; the
5 Liberty transfer station and the Groot McCook
6 transfer station, which is now Waste
7 Connections.

8 And in that slide, they showed a --
9 again, a circular service area that did not or
10 just barely covered the -- where the southeast
11 quadrant of the population was located.

07:52:27PM

12 So now going to the 2012 solid
13 waste management plan update, that rec- -- the
14 recommendation there was factors that contribute
15 to the need for new facilities are increasing
16 population, rising waste generation rate, and
17 fuel operating costs. Future conditions may
18 necessitate a new facility in the southern
19 portion of the county.

07:53:01PM

20 The maps and table from 2007 --
21 again, the maps that were those figures of the
22 quadrants -- indicate that this area is somewhat

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1 or parts of the current DuPage area. In the
2 event that occurs, there would be a service gap
3 in the affected areas, thereby creating a
4 potential need for a new facility.

5 Well, these concerns were unfounded
6 because facilities that served these
7 out-of-county facilities that were serving
8 DuPage County never ceased to -- never ceased to
9 stop serving them, and that they were providing
10 hauling services at prices that communities were
11 willing to pay.

07:54:46PM

12 And in Figure 1-2C in the
13 applicant's application, they showed a colored
14 coordinated map of DuPage County and some kind
15 of surrounding areas color-coded by the
16 different hauling companies that were serving to
17 communities in DuPage County. And there were
18 six hauling companies that were actually serving
19 them at the time. So that concern that there
20 would not be a service to these communities was
21 somewhat unfounded.

07:55:21PM

22 And then going on to the 2017 solid

1003

1 underserved and that some areas are out of range
2 for existing facilities. These conditions can
3 result in less competitive waste hauling and
4 higher costs especially in unincorporated areas.

5 So in this case, they were looking
6 at costs that might be more than residents were
7 willing to pay because they didn't have the --
8 the density for the number of customers that a
9 hauling company would desire to make it
10 profitable for them to serve them. So in this
11 case -- case, they might be treated like a rural
12 area where in rural areas they actually have a
13 transfer station where people bring their bags
14 of waste to whatever and the recycling materials
15 to and drop it off. And it's generally secured
16 or guarded, and then that's how waste is handled
17 in rural areas if it's not picked up by a waste
18 hauler.

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19 And then another conclusion in --
20 or recommendation in 2012 solid waste management
21 plan was, it is potentially foreseeable that the
22 out-of-county facilities may cease serving all

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1 waste management plan update -- and, again, I'm
2 going to read from the recommendation -- is that
3 the DuKane transfer facility is permitted to
4 accept up to 3,000 tons per day -- per operating
5 day. So it could move 939,000 tons per year.
6 However, service areas must be considered as
7 well as the market forces of private sector
8 waste hauling entities, large regions of the
9 county are not optimally served due to the
10 lengthy transportation routes which lead to
11 increased costs and air emission. To address
12 this, the County of DuPage will consider new or
13 expanded facilities handling, treating and
14 recycling waste on a case-by-case basis.

07:56:10PM

15 Now, I want to make four points
16 there: One, where they talked about service
17 areas must be considered as well as the market
18 forces, there are close by transfer stations
19 available outside the county that have been
20 capacity to provide transfer station services
21 here.

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22 Number two, they talked about

1 market forces. Here, the market forces we're
2 talking about the lengthy transportation routes
3 would lead -- which were leading to costs, these
4 being distance. So what -- you know, talked
5 about costs that residents were willing to -- to
6 pay versus their -- you know, the hauling costs
7 that a provider might be encountering.

8 And then, again, spoke to the
9 amount -- the density or the number of stops
10 that a waste hauling company can make, the more
11 that -- the closer in proximity, the easier it
12 is for them to make the cost, cost less.

13 And then three, they talked about
14 regions that optimally served are in the south
15 part -- part of DuPage County per the
16 2012 update. Again, they were talking about the
17 service in the -- the market wasn't providing
18 optimally serving the south part of DuPage
19 County at the time. Again, this is 2017.

20 And then they also talked about
21 that DuPage County will consider new or
22 expanding facilities. Now, the word

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07:57:55PM

1 MR. LUETKEHANS: I think it is relevant
2 because this is the actual board that passes
3 this solid waste management plan.

4 HEARING OFFICER PRICE: Overruled, that
5 the objection --

6 Go on, Mr. Lardner.

7 BY THE WITNESS:

8 A. Okay. The -- The resolution said the
9 application of West DuPage recycling and
10 transfer for siting -- for siting approval for
11 the West DuPage transfer recycling and transfer
12 is hereby denied. The applicant has also failed
13 to meet its burden in establishing Criterion
14 No. 8 in that the proposed facility is
15 inconsistent with the solid waste disposal plan
16 of DuPage County because the proposed facility
17 location is within one-quarter mile of another
18 transfer station and fails to reduce wear on
19 roads, reduces -- reduces overall truck miles
20 traveled, and decreased truck air emissions.

21 As part of that siting process, the
22 City of West -- West Chicago prepared a

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1 "consider" -- and I looked at the definition --
2 it means, think carefully about something before
3 making a decision. That implies that the County
4 would evaluate any new transfer station project.

5 And so in terms of being consistent
6 with the solid waste plan, you can see that
7 these -- there's been concerns from 1996 on
8 through 2017, which is the last solid waste
9 management plan update. There actually was a
10 2003 siting application called west DuPage
11 recycling and transfer. There was a siting in
12 that year, and it was for a facility about a
13 mile from the proposed facility, the west DuPage
14 Recycling and transfer siting that's going on
15 now.

16 And the board -- DuPage County
17 board prepared a resolution as part of that
18 siting, and I'll read two -- two paragraphs from
19 that: The application of --

20 MR. MUELLER: I'm going to object to a
21 previous resolution because it's not relevant to
22 this proceeding.

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07:59:13PM

1 resolution on April 7th, 2003, and it stated:
2 Whereas the County of DuPage, the County has
3 previously adopted a solid waste management
4 plan -- the plan that calls for siting of five
5 waste transfer stations to be located throughout
6 the county and, whereas granting a siting
7 approval violated the terms of the plan by
8 placing two transfer stations within the same
9 community's planning area.

10 In the application, there was a
11 letter from the DuPage County Building and
12 Zoning, April 20th. The letter was addressed to
13 West Chicago, and I'm going to read a paragraph
14 from that letter.

15 It says: The document finds that
16 service areas of existing facilities be
17 considered as well as market forces. It
18 observes that the County lacks disposal capacity
19 for the waste generated within the borders, and
20 that additional pollution control facilities may
21 be needed but will be considered on a
22 case-by-case basis. The proposed pollution

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1 control facility appears to be consistent with
2 the aforementioned solid waste management plan
3 year update in (2017.)

4 Four points to make there. It
5 says: All transfer stations service areas, not
6 just those for a particular waste transfer
7 service application, in this case, the West
8 DuPage recycling and transfer station. Number
9 two, the lack of disposal capacity in the south
10 in the 2000 update speaks to other portions of
11 the county that were -- that needed service.

08:02:04PM

12 Number three, again, consider --
13 think carefully about -- before making a
14 decision. No information was provided along
15 with that letter to indicate what DuPage County
16 thought about the West DuPage recycling and
17 transfer project.

18 In that letter, it says the
19 facility appears to be consistent with the
20 aforementioned solid waste management plan
21 five-year update. Appears -- Again, the
22 definition of appears is: Give impression that.

08:02:40PM

1 application. There was no evidence of that in
2 the -- in the DuPage County review.
3 And there is no mention of the
4 siting application that the assistance of DuPage
5 County was requested by the applicant with
6 determining the most appropriate location for
7 transfer facilities.

8 That concludes my presentation.

9 Q. Do you have an opinion, based on your
10 experience in the industry and your experience
11 and education as an engineer, as to whether this
12 proposed waste transfer station application
13 meets Criterion 8?

08:04:22PM

14 A. It does not meet Criterion 8 because
15 it is not consistent with the plan.

16 Q. And that's based on your experience in
17 the industry and your experience as an engineer?

18 A. Correct.

19 MR. LUETKEHANS: Nothing further of
20 this witness.

08:04:45PM

21 Thank you.

22 HEARING OFFICER PRICE: All right.

1 There is no statement that it is consistent. It
2 says appears consistent.
3 39.2 states that the facility is
4 consistent, not the facility appears consistent
5 with the county's solid waste management plan.

6 So my conclusion is that the West
7 DuPage recycling and transfer station is
8 inconsistent with the DuPage County solid waste
9 management plan for the following reasons: The
10 solid waste management plan updates starting in
11 2007 all focus on the need for additional
12 transfer capacity in the south portion of DuPage
13 County. Adding another transfer station in the
14 northwest portion of DuPage County will serve as
15 a disincentive to a south -- south facility
16 because it requires more travel from
17 underserved -- underserved areas. It's still --
18 It's still got to service out the area.

08:03:20PM

19 The siting application for the West
20 DuPage RTS did not consider service areas of
21 other pollution control facilities, nor did it
22 ask DuPage to consider it prior to filing the

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1 We're going to take a break. It's 8:06. So
2 let's come back together at 8:20.

3 (A short break was had.)

4 HEARING OFFICER PRICE: Do you have
5 questions, sir?

6 MR. DELAROSA: At this time, no.

7 HEARING OFFICER PRICE: Okay. So
8 Mr. Lardner is getting something. Mr. DeLaRosa
9 doesn't have questions.

10 So, Mr. Mueller, you will be --
11 soon to be up.

12 Okay. All right. Back to you.
13 Mr. Mueller has the floor.

14 CROSS-EXAMINATION

15 BY MR. MUELLER:

16 Q. Mr. Lardner, the 1991 plan
17 recommendation called for three to five transfer
18 stations in DuPage County?

19 A. I think that was a misprint. It's the
20 1996.

08:20:13PM

21 Q. It's another typo?

22 A. Correct.

1 Q. Okay. It did call for three to five
 2 transfer stations?
 3 A. That is correct.
 4 Q. How many transfer stations does DuPage
 5 County have?
 6 A. One.
 7 Q. And the 2001 plan update referred to a
 8 second and third transfer stations, right?
 9 A. Correct.
 10 Q. DuPage County still only has one,
 11 correct?
 12 A. Yes.
 13 Q. And that plan noted that the second
 14 and third transfer stations would increase
 15 competition. Do you agree with that statement?
 16 A. That's what it says.
 17 Q. Do you agree with it?
 18 A. It says -- Rephrase the question.
 19 Q. Do you agree with the conclusion of
 20 DuPage County that a second or third transfer
 21 station would increase competition?
 22 A. I think a second or third transfer

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08:21:12PM

1 statement that a second or third transfer
 2 station would reduce overall truck miles?
 3 A. Again, depending on where it's
 4 located.
 5 Q. Well, the county just sought -- made
 6 the statement without regard to location, didn't
 7 it?
 8 A. I think it implies that it was there
 9 to accommodate future population growth, meaning
 10 that areas where population growth was
 11 increasing would need a transfer station because
 12 of the distance having to travel to the DuKane
 13 transfer station.
 14 Q. Mr. Lardner, I don't know what it
 15 implies because I just can -- I read the words.
 16 You apparently are able to see into the minds of
 17 the people in DuPage County that passed this
 18 plan update.
 19 MR. LUETKEHANS: Objection,
 20 argumentative.
 21 HEARING OFFICER PRICE: Sustained.
 22

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08:23:13PM

1 station did have the potential for increasing
 2 competition.
 3 Q. I'm looking at the language from the
 4 plan. I can't see the word "potential" in
 5 there?
 6 MR. LUETKEHANS: It was -- Objection.
 7 He answered the question. The question was,
 8 what is your -- do you disagree with it? He
 9 stated what he believed.
 10 HEARING OFFICER PRICE: Overruled. Let
 11 the witness do it.
 12 BY THE WITNESS:
 13 A. Are you asking me to read what was in
 14 the plan?
 15 Q. Well, no. DuPage County -- Do you
 16 agree with DuPage County's statement, correct?
 17 A. In essence, yes.
 18 Q. And do you agree with DuPage County's
 19 statement that a second or third transfer
 20 station would reduce wear on roads?
 21 A. Depending on its location.
 22 Q. Do you agree with DuPage County's

08:21:40PM

08:22:01PM

1 BY MR. MUELLER:
 2 Q. Now, did you hear the testimony of
 3 Mr. Hock that our proposed facility will
 4 increase competition?
 5 A. I remember that.
 6 Q. Did you hear the testimony of Mr. Hock
 7 that our proposed facility would reduce wear on
 8 roads?
 9 A. I think that was his opinion, yes.
 10 Q. Did you hear the testimony of Mr. Hock
 11 that our transfer station, if it's approved,
 12 would reduce overall truck miles traveled?
 13 A. In which county?
 14 Q. In DuPage County.
 15 A. If it's in DuPage County, yes, I
 16 remember hearing him say that.
 17 Q. And did you hear his testimony that a
 18 second transfer station, our transfer station,
 19 would decrease truck air emissions?
 20 A. Yes, that was his -- his statement.
 21 Q. Now, DuPage County, when they wrote
 22 the 2001 solid waste management plan update,

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1 apparently thought all of those benefits were --
 2 were -- were useful and important, right?
 3 **A.** Yes. I think that the -- when they
 4 put together that statement, they were looking
 5 at transfer stations that would serve DuPage
 6 County or that the hauling distance was somewhat
 7 prohibitive or too far from the DuKane transfer
 8 station.

08:24:54PM

9 **Q.** So -- Well, again, I'm looking at the
 10 2007 plan update. I don't see any reference to
 11 distance. Am I missing something?

12 (Witness perusing document.)

13 BY THE WITNESS:

14 **A.** Which plan were you talking about?

15 **Q.** 2007 plan update, the one I've been
 16 reading to you from. Excuse me. I take it
 17 back.

18 2001.

08:25:36PM

19 **A.** Okay. So, again, now what is your
 20 question?

21 **Q.** Do you see any references to distance
 22 or location for the transfer station in that

1 **A.** I think there -- yeah, I would agree
 2 in -- in -- in concept that the -- the goal here
 3 was to try and find transport facilities or
 4 facilities that would serve -- transfer stations
 5 that would serve the community so that no more
 6 than ten miles had to be traveled.

7 **Q.** Then why are you using more than ten
 8 miles for some of your service areas?

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9 **A.** Because at the time these were the
 10 service areas that were identified from the
 11 siting application.

12 **Q.** From what siting application?

13 **A.** For instance, the -- the Plano
 14 transfer station siting application, there's
 15 more than ten miles traveled.

16 **Q.** Now you got me confused. Let's do it
 17 again.

18 Do you -- You agree, apparently,
 19 that the ideal travel distance for transfer

08:28:10PM

20 stations is no more than ten miles, right?

21 **A.** Again, there's a lot that goes into
 22 that.

1 plan update?

2 **A.** No. It's alluded to by reducing
 3 overall truck miles traveled, and it's the
 4 distance.

5 **Q.** Let's go to the 2007 plan update.

6 That plan also recommended more
 7 transfer stations for DuPage County, correct?

8 **A.** I don't see anywhere where they
 9 recommended that at the time, I mean, through my
 10 slide here.

08:26:30PM

11 **Q.** Have you read the entire plan?

12 **A.** Yes.

13 **Q.** Did the plan recommend more transfer
 14 stations or didn't it?

15 **A.** I don't recall that it did.

16 **Q.** You don't recall that it did or you
 17 don't recall either way?

18 **A.** Either way.

08:26:51PM

19 **Q.** Okay. And the -- the blurb that you
 20 quoted does say "the ideal transport distance is
 21 no more than ten miles."

22 Do you agree with that statement?

1 **Q.** Yes or no?

2 **A.** I would say no.

3 **Q.** Okay. So you disagree with DuPage
 4 County's finding here about the ideal travel
 5 distance?

6 **A.** I don't think it's an exact number.
 7 So I would say I would have to disagree. It
 8 could be -- It could be a little bit more than
 9 that. It could be less.

08:28:40PM

10 **Q.** You understand what the words "no more
 11 than ten miles" mean, don't you?

12 **A.** Yes.

13 **Q.** 11 miles would be more than ten?

14 **A.** Right. Correct.

15 **Q.** But you disagree with that statement
 16 by DuPage County?

17 **A.** I don't disagree with the exact number
 18 there. I'm just saying that ten miles,
 19 depending on where you're at, could be the
 20 equivalent of a few more miles because of, you
 21 know, conditions.

08:29:04PM

22 **Q.** This plan update didn't talk about

1 distances in terms of road conditions or other
2 variables, did it?
3 **A.** No. It was talking about the -- the
4 mileage from different quadrants in DuPage
5 County.

6 **Q.** And I noticed that this particular
7 update also connects reliance on existing
8 transfer stations as resulting or could result
9 in higher disposal rates, right?

08:29:51PM 10 **A.** Which plan are you referring to?

11 **Q.** 2007 plan update.

12 **A.** I don't see that in my -- in my slide.

13 **Q.** Which of the plan updates said that
14 reliance on existing facilities will result in
15 higher disposal rates?

16 **A.** I think that was a 2017 where it says
17 will lead to increase costs. Large regions in
18 the county are not optimally served due to
19 lengthy transportation routes which lead to
20 increased costs and air emissions.

08:30:53PM

21 **Q.** So as recently as 2017, the county
22 found that reliance on existing transfer

1 stations will result in higher disposal rates,
2 correct?
3 **A.** That was the 2012 solid waste
4 management plan. It says: These conditions can
5 result in less competitive waste hauling and
6 higher costs especially in incorporated areas.

7 **Q.** Do you agree with that statement?

8 **A.** In concept, it could.

9 **Q.** And would higher disposal rates
10 generally be a bad thing?

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11 **A.** No.

12 **Q.** So if you had a choice of paying a
13 lower rate or a higher rate, it wouldn't matter
14 to you?

15 **A.** If I was getting better service at the
16 rate, yes, it would.

17 **Q.** Now, turning to the next page where
18 you show service areas in the northeast part of
19 DuPage County ...

08:32:25PM

20 **A.** Which slide are you referring to?

21 **Q.** I don't know. It's called 2007 Shaw
22 Environmental report.

1 **A.** Okay. Yes. That's the -- That's
2 those service area quadrants.

3 **Q.** All right. You've got a transfer
4 station called Groot Chicago listed.

5 **A.** That was in there, correct.

6 **Q.** That service area is not a ten-mile
7 radius circle, is it?

8 **A.** It's not a circle. It's more of a
9 rectangle.

08:33:14PM

10 **Q.** It's a big rectangle that goes from
11 Lake Michigan all the way to the western edge of
12 DuPage County?

13 **A.** Correct.

14 **Q.** Would that be more than 20 miles?

15 **A.** I don't have a scale on this drawing
16 so I -- I can't make an exact --

17 **Q.** Let me -- Let me try to help you here,
18 sir.

19 Do you know what township lines
20 are?

08:33:45PM

21 **A.** Yes.

22 **Q.** How big is a standard township?

1 **A.** It six miles by six miles.

2 **Q.** Okay. And DuPage County is, other
3 than the southeast corner, three townships by
4 three townships, right?

5 **A.** Yes.

6 **Q.** So DuPage County's regular width, from
7 east to west, is 18 miles?

8 **A.** Correct.

9 **Q.** And the service area for Groot Chicago
10 appears to be almost twice the width of DuPage
11 County, right?

08:34:22PM

12 **A.** Well, maybe not twice, but it's larger
13 than DuPage County, I'll grant that.

14 **Q.** So why aren't we using the county's
15 recommendation for a ten-mile maximum travel
16 distance when we look at Groot Chicago?

17 **A.** Because I think that it was the
18 county's reliance on out-of-county disposal
19 services, even though it said it might increase
20 costs.

08:35:04PM

21 **Q.** So when the county looks at
22 out-of-county transfer stations, the ten-mile

1 rule doesn't apply?
 2 **A.** I think they're showing portions of
 3 the county with- -- you know, with- -- within a
 4 ten-mile radius of the -- that Groot Chicago
 5 transfer station.

6 **Q.** Can -- Can you, sir, show me anywhere
 7 in the plan update -- any of the plan updates
 8 where the county writes that the ten-mile rule
 9 no longer applies?

08:35:41PM 10 **A.** I don't think -- There was nothing
 11 there. They said this was an ideal location or
 12 ideal distance they had quoted.

13 **Q.** All right. Let's look at the next
 14 page, comes from Appendix F: Service areas of
 15 transfer stations proximate to northwest DuPage
 16 County.

17 Do you see that?

18 **A.** Yes.

19 **Q.** And there's a big circle that
 08:36:10PM 20 surrounds the Batavia transfer station, correct?

21 **A.** Correct.

22 **Q.** What's the radius of that circle, sir?

1 **A.** I think that was 15 miles. As I
 2 mentioned earlier this evening, that was a
 3 statement out of one of their -- I think the
 4 2000- -- I'm not sure exactly what solid waste
 5 plan, but it talked about a 15-mile radius.

6 **Q.** So you abandoned DuPage County's
 7 ten-mile rule when drawing the Batavia transfer
 8 station service area, right?

9 **A.** In this area, you know, again, that
 08:36:51PM 10 was the -- in this particular appendix, that's
 11 what they used as the 15-mile. Again, it
 12 depends on driving distance. If you're in a
 13 more developed area, ten miles could be the
 14 equivalent of 15 miles in a rural area.

15 **Q.** So do you think 15 miles is better
 16 than ten or is ten better than 15, or don't you
 17 know?

18 **A.** It depends on what you're talking
 19 about.

08:37:20PM 20 **Q.** Now, let's go to the 2012 solid waste
 21 plan update. That's the one that says: Fewer
 22 transfer stations can result in less competitive

1 waste haul.

2 Do you agree with that statement?

3 **A.** It didn't talk about fewer transfer
 4 stations. It just says -- indicating areas are
 5 somewhat underserved and then some areas are out
 6 of range for existing facilities. It says:
 7 These conditions can result in less competitive
 8 waste hauling and higher costs especially in
 9 unincorporated areas.

08:38:22PM 10 Again, they were talking about
 11 residents who lived in the southern part of the
 12 county and that were too far away from -- for a
 13 hauler to serve them.

14 **Q.** Now, it seems to me that several of
 15 the DuPage County plan updates talk about
 16 competitive factors; is that correct?

17 **A.** They're talking competition in that,
 18 you know --

19 **Q.** Well, I'm --

08:39:08PM 20 **A.** -- what -- its service. And, again,
 21 where they're talking about here in -- in the
 22 southern portion of the county, there wasn't as

1 much competition because there were fewer
 2 transfer stations that were -- were close enough
 3 to serve them.

4 **Q.** Where does it say that in a plan
 5 update, what you just said?

6 **A.** That- -- That's my interpretation.

7 **Q.** Ah, your interpretation.

8 Now, going back to my original
 9 question: The county plan updates seem to
 08:39:35PM 10 consistently mention competitive factors as
 11 something they look at, right?

12 **A.** The word "competition" is -- was in
 13 several of the plans, and they also could say
 14 "can result in less competitive." It's not a
 15 definite statement.

16 **Q.** I guess I got to ask you: Do you want
 17 to change your testimony on Criterion 1 to now
 18 include competitive factors, because you've
 19 testified that you didn't include competitive
 08:40:10PM 20 factors when deciding there was no need?

21 MR. LUETKEHANS: Objection --

22 HEARING OFFICER PRICE: Overruled.

1 MR. LUETKEHANS: -- misstates the
 2 testimony.
 3 HEARING OFFICER PRICE: That's
 4 overruled.
 5 BY THE WITNESS:
 6 A. So, again, your question?
 7 Q. Do you want to change your testimony
 8 on Criterion 1 where you disregarded competitive
 9 factors in concluding that there was no need?
 10 A. No.
 11 Q. The 2017 or 2012 plan update suggests
 12 a possible transfer station in southern DuPage
 13 County, correct?
 14 A. That statement was there, yes.
 15 Correct.
 16 Q. Does it rule out other locations in
 17 the county?
 18 A. It makes no mention of other --
 19 Q. Does that plan update say that a
 20 location in a nonsouthern portion of the county
 21 is inconsistent with the plan?
 22 A. It does not say that, no.

08:40:33PM

08:41:09PM

1 carefully?
 2 A. Yes.
 3 Q. Could you find a reference to the
 4 southern portion of the county?
 5 A. Not in a 2017 waste management plan
 6 update.
 7 Q. So if it doesn't mention the southern
 8 portion of the county, why do you want to insist
 9 that that's what DuPage County's plan was
 10 thinking about?
 11 A. Because both -- both mention the
 12 underserved parts of the -- of the county.
 13 Q. And it says also that the county of
 14 DuPage will consider new or expanded facilities,
 15 right?
 16 A. Yes.
 17 Q. So if you have a new or expanded
 18 facility to propose, that would seem to be
 19 consistent with the plan; isn't that right?
 20 A. Depends if they considered it.
 21 Q. Are you aware of the fact that DuPage
 22 County has signed a secondary host agreement

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08:43:26PM

1 Q. And then we go to the 2017 plan
 2 update. That's the most recent one, correct?
 3 A. That is correct.
 4 Q. And that says that large areas or
 5 large regions of the county are not optimally
 6 served due to lengthy transportation routes.
 7 Do you see that?
 8 A. Yes.
 9 Q. So would lengthy transportation routes
 10 be a bad thing?
 11 A. In this case, it -- for this -- Again,
 12 they're going back to the regions that were not
 13 optimally served. I interpret, again, that to
 14 be the southern part of the county that wasn't
 15 being optimally served and it was increasing the
 16 transportation costs for that area.
 17 Q. Okay. That's your interpretation?
 18 A. Correct.
 19 Q. We looked at the 2017 plan update
 20 carefully and can't find any reference in there
 21 to the southern portion of the county.
 22 Have you looked at that plan update

08:41:55PM

08:42:30PM

1 with Lake Shore?
 2 A. Yes.
 3 Q. Do you consider that -- Is that
 4 consideration on their part of a new or expanded
 5 facility?
 6 A. I have no opinion on that.
 7 Q. Well, you did opine that because the
 8 DuPage County expert on solid waste planning who
 9 said this proposal appears to be consistent,
 10 that because she didn't say "is consistent," the
 11 plan is automatically inconsistent; is that
 12 right?
 13 A. I just stated that she didn't say that
 14 it is consistent.
 15 Q. Well, appears to be consistent is
 16 pretty close to a finding of consistency, isn't
 17 it?
 18 A. No.
 19 Q. She didn't say it appears to be
 20 inconsistent, did she?
 21 A. That's not what's there, no.
 22 Q. Then why would you believe that

08:44:15PM

08:44:42PM

1 because she only said "appears to be consistent"
 2 that our proposal is actually inconsistent with
 3 the plan?
 4 **A.** Because she gave no reason behind it.
 5 **Q.** DuPage County is not the siting
 6 authority, are they?
 7 **A.** No.
 8 **Q.** So they don't have to consider our
 9 proposal in detail, do they?
 10 **A.** There's no -- There's no regulation
 11 or -- or law that states that, no.
 12 **Q.** But DuPage County did consider it
 13 sufficiently to -- to execute a secondary host
 14 agreement and to give us a letter of the
 15 appearance of consistency, right?
 16 **A.** It did give you the letter, I agree.
 17 **Q.** And they did execute a secondary host
 18 agreement with us?
 19 **A.** I agree with that.
 20 **Q.** Do you know what the evidence that the
 21 2003 siting hearing was?
 22 **A.** No.

08:45:09PM

08:45:39PM

1 Is that what you said?
 2 **A.** If it's in there and -- and with
 3 the ...
 4 **Q.** I didn't hear your answer, sir.
 5 **A.** Yes, they do -- Some focus on the
 6 south portion of DuPage County but not all.
 7 **Q.** Show me the focus on the southern
 8 portion of the county in the 2017 plan update.
 9 **A.** There is no mention of that. It was
 10 in an earlier version -- earlier updated
 11 version.
 12 **Q.** This says starting in 2007 "all
 13 focus." Do you know what the word "all" means?
 14 **A.** Yes.
 15 **Q.** You selected that?
 16 **A.** Yes.
 17 **Q.** And that's state- -- that word is
 18 incorrect as to the 2017 plan update; isn't that
 19 true?
 20 **A.** I would agree.
 21 **Q.** And then you say "adding transfer
 22 station to the northwest portion of DuPage

08:47:51PM

08:48:11PM

1 **Q.** You just quote the findings even
 2 though you don't know the evidence?
 3 **A.** That is correct.
 4 **Q.** Was that proposal the same as this
 5 one?
 6 **A.** No.
 7 **Q.** Do you know if that proposal had
 8 evidence about reduced wear on roads, reduced
 9 overall truck miles, and decreased truck air
 10 emissions?
 11 **A.** No.
 12 **Q.** This proposal does that evidence on
 13 all of those figures or factors, doesn't it?
 14 **A.** It was introduced by a consultant,
 15 yes.
 16 (Brief pause.)
 17 BY MR. MUELLER:
 18 **Q.** I want to turn to your conclusions.
 19 Your first statement is the SWMP
 20 updates, starting in 2007, all focus on the need
 21 for additional transfer capacity in the south
 22 portion of DuPage County.

08:46:27PM

08:47:16PM

1 County will serve as a disincentive to a south
 2 facility."
 3 Do you have any evidence of that?
 4 **A.** No. I think it's implied because
 5 they're talk- -- earlier versions talked about
 6 the need for a south facility to reduce the
 7 travel distance that was going to the DuKane
 8 facility at the time.
 9 **Q.** Well, in 2017, we didn't talk about a
 10 south facility?
 11 **A.** That's correct.
 12 **Q.** So you have no evidence that there
 13 will be a disincentive, do you?
 14 **A.** No.
 15 **Q.** And then your third conclusion is that
 16 the siting application did not consider service
 17 areas of other pollution control facilities,
 18 right?
 19 **A.** Yes.
 20 **Q.** Is that a requirement of this solid
 21 waste management plan?
 22 **A.** Well, the solid waste management plan

08:48:51PM

08:49:23PM

1038

1 is a conclusion, said that the document -- it
2 says "service areas of existing facilities be
3 considered."

4 Q. Mr. Lardner, you're testifying about
5 consistency with the solid waste management
6 plan, right?

7 A. Yes.

8 Q. Does this third conclusion that you
9 have, have any requirement for that kind of
10 consideration in any of those solid waste
11 management plans?

08:49:58PM

12 A. In the 2017 solid waste management
13 plan update, it said service areas must be
14 considered.

15 Q. We considered our service area, didn't
16 we?

17 A. It says ...

18 Q. Do you recall Mr. Hock testifying
19 about other transfer stations and their service
20 areas and the fact that they would have some
21 impact on this service area?

08:50:36PM

22 A. Yes.

1040

1 A. It says service areas must be
2 considered.

3 Q. And your -- your belief is that even
4 though Mr. Hock testified about other service
5 areas, he really didn't consider them?

6 A. He didn't testify to the whole service
7 area that the tran- -- other -- other facilities
8 had.

9 Q. You're correct. He didn't testify
10 about the Lake Michigan shoreline portion of the
11 Chicago Groot service area?

08:52:12PM

12 MR. LUETKEHANS: Objection,
13 argumentative.

14 HEARING OFFICER PRICE: Sustained.
15 BY MR. MUELLER:

16 Q. Your fourth conclusion, there's no
17 mention in the siting application that the
18 assistance of DuPage County was requested.

19 Is it a requirement of the solid
20 waste management plan that the county's
21 assistance be requested when you are trying to
22 site a facility in a municipality?

08:52:38PM

1039

1 Q. So he did consider them?

2 A. Yes.

3 Q. So your third conclusion is also
4 wrong?

5 A. (No verbal response.)

6 Q. Let's go to the fourth one.

7 A. I would -- I would say not exactly
8 wrong. It's -- Again, he talked -- he didn't
9 show the entire service area. He just talked
10 about other transfer stations.

08:51:03PM

11 Q. Did he consider service areas of other
12 transfer stations?

13 A. No, not service areas.

14 Q. And then -- And just backing up for
15 one second, we've determined that the
16 consideration of service areas of other
17 pollution control facilities is not a plan
18 requirement, right?

19 A. I think the plan says to consider
20 service areas of other pollution control
21 facilities.

08:51:44PM

22 Q. Let's go to 2017. What does it say?

1041

1 A. The plan reads that the -- that the
2 service areas of existing facilities be
3 considered and that the proposed control
4 facility appears -- excuse me -- be considered
5 on a case-by-case basis. So it does say to
6 consider it.

7 Q. We're done with that one.

8 A. Okay.

9 Q. So I'm asking you whether or not
10 there's a requirement that we ask for the
11 county's assistance in developing --

08:53:11PM

12 A. Not assistance, no. You're correct.

13 Q. So there's no such requirement?

14 A. No.

15 Q. So at least conclusions one, two, and
16 four are not valid, right?

17 A. I would say they're not valid. I
18 would just say that, you know, in your
19 interpretation of that, that you feel they're
20 not.

08:53:35PM

21 Q. And how many transfer stations does
22 DuPage County have now?

1 A. One.
 2 Q. Still only one?
 3 A. Correct.
 4 MR. MUELLER: Thank you, sir.
 5 HEARING OFFICER PRICE: Mr. Callaghan?
 6 CROSS-EXAMINATION
 7 BY MR. CALLAGHAN:
 8 Q. The 2003 siting that you mentioned --
 9 A. Yes.
 10 Q. -- did you look at the -- the file on
 11 that?
 12 A. No, I did not.
 13 Q. Where did you learn about it?
 14 A. Just through -- through research.
 15 Q. Research.
 16 What kind of research?
 17 A. With -- With the -- With the attorney
 18 that was -- who I'm working with.
 19 Q. The attorney told you about it?
 20 A. We -- we discussed it, yes.
 21 Q. But you didn't know about it before
 22 that?

1 A. I knew about the -- that it was --
 2 that the 2003 was -- was not approved. And we
 3 asked about that, yeah. The 2000 [sic] siting
 4 was not approved and we discussed it and I said
 5 I would like to see the resolution.
 6 Q. You -- You asked him about it or he
 7 told you?
 8 A. No. I knew about the 2003 siting
 9 application not being approved and I asked him,
 10 Was there a resolution?
 11 And he said, Yes, and he provided
 12 it to me.
 13 Q. How did you learn the 2003 application
 14 was not approved?
 15 A. Because I was living in the area and
 16 practicing in the solid waste industry and I
 17 followed it.
 18 Q. Did you go to the hearings?
 19 A. No.
 20 Q. Do you know how big that site is?
 21 A. Which site?
 22 Q. The 2003 site.

1 A. No.
 2 Q. Is there any comparison between that
 3 site and the site that we're talking about in
 4 these hearings?
 5 A. I'm not familiar enough to make a
 6 comparison, no.
 7 Q. But you put it in your report?
 8 A. No, because, in -- in general, I was
 9 talking -- looking at facilities that DuPage
 10 County wanted be on the DuKane facility and --
 11 and to serve other portions of DuPage County.
 12 And, clearly, updates of the plan showed that
 13 that was what their interest was.
 14 Q. Do you know anything other than what
 15 is shown on this page about it, on slide -- it
 16 doesn't have a number -- the 2003 West DuPage
 17 recycle transfer siting slide?
 18 A. No. Just -- Just what I remember
 19 recall at the time, no, there's no more.
 20 MR. CALLAGHAN: That's all we have.
 21 Thank you.
 22 HEARING OFFICER PRICE: Mr. Walsh...

1 MR. WALSH: Just a couple questions.
 2 CROSS-EXAMINATION
 3 BY MR. WALSH:
 4 Q. Mr. Lardner, did you consult with
 5 DuPage County in the development of a plan or
 6 any of the updates?
 7 A. No.
 8 Q. Did you discuss the meaning of any of
 9 the provisions of the plan or any of the updates
 10 with anybody from DuPage County?
 11 A. No.
 12 Q. So your testimony is based on your
 13 interpretation of the words and the provisions
 14 in the plan and the updates, correct?
 15 A. Yes.
 16 Q. You don't have any independent
 17 knowledge as to what the county intended when it
 18 created the provisions in the plan or the
 19 updates other than your interpretation of those
 20 provisions, correct?
 21 A. Correct.
 22 MR. WALSH: Okay. Thank you.

1 That's all I have.
 2 HEARING OFFICER PRICE: Redirect...
 3 REDIRECT EXAMINATION
 4 BY MR. LUETKEHANS:
 5 Q. Let's start kind of where we ended,
 6 which was the -- the county board resolution
 7 board CB0002-04.
 8 And you've cited the finding of the
 9 DuPage County board as it relates to the holding
 10 facility in 2003 as it relates to Criteria
 11 No. 8; is that correct?
 12 A. Correct.
 13 Q. Okay. And could you read, starting
 14 with the "proposed facility" and through the
 15 words "transfer station" in paragraph 2?
 16 A. The proposed facility location --
 17 MR. MUELLER: Objection, that's not
 18 proper redirect. That's just repeating direct.
 19 HEARING OFFICER PRICE: Overruled for
 20 now.
 21 BY THE WITNESS:
 22 A. It says: The proposed facility

08:57:30PM

08:58:03PM

1 this application was filed?
 2 A. Correct.
 3 Q. So it make sense that they hadn't seen
 4 the application at the time they approved their
 5 secondary host agreement?
 6 A. Yes.
 7 Q. Let's talk about this southern
 8 portion.
 9 You made a mistake -- Would it be
 10 fair to say you made a mistake when you said in
 11 conclusion number one, "all focus"?
 12 A. Yes.
 13 Q. Okay. So -- But the two prior storm
 14 water management plans, they do focus on that,
 15 correct?
 16 A. Yes.
 17 Q. And is there anything you read -- and
 18 I think Mr. Hock admitted it. Is there anything
 19 that you read that 2017 somehow overruled the
 20 2007 or 2012?
 21 A. No, it did not overrule it. I didn't
 22 see anything to that.

08:59:23PM

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1 location is within one-quarter mile of another
 2 transfer station.
 3 Q. And it says above that -- Yeah.
 4 Okay. It's because the proposed
 5 facility location was within a quarter mile of
 6 another transfer station, that's the reason they
 7 gave, correct?
 8 A. Correct.
 9 Q. Not based on the size of the lot?
 10 That had -- That's not based in Criteria 8 --
 11 their Criteria 8 finding, is it?
 12 A. No.
 13 Q. Okay. Do you know when DuPage County
 14 signed the host agreement with L- -- the
 15 secondary host agreement with LRS?
 16 A. I think it was 2019 or '20.
 17 Q. Okay. Yeah.
 18 Actually, it was April of 2019. I
 19 don't think there's any dispute that.
 20 That was before this -- That was
 21 two and a half years before this application was
 22 filed, correct -- actually, three years before

08:58:25PM

08:58:55PM

1 Q. Did you consider it to be
 2 supplementing those prior --
 3 A. Yes.
 4 Q. Did you disregard competitive factors
 5 in your needs analysis?
 6 A. No.
 7 Q. In fact, if I remember correctly, you
 8 discussed all the competition that was already
 9 there?
 10 A. Yes. There was -- There's many
 11 transfer stations that are serving the proposed
 12 service area of the West DuPage County transfer
 13 and recycling facility.
 14 Q. We heard about lengthy transportation
 15 routes.
 16 Are the transportation routes any
 17 lengthier -- or are they significantly lengthier
 18 to the current Groot facility than they would be
 19 to the Lake Shore recycling facility a quarter
 20 of a mile away?
 21 A. No. They're essentially the same.
 22 Q. Okay. So the transportation costs

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1 from the hauler to -- or the actual
2 transportation costs from the hauler to the
3 current facility in DuPage County versus the one
4 a quarter of a mile down the street is minimal,
5 at best?

6 **A.** That is correct.

7 **Q.** You were asked about the second or
8 third transfer station is expected to increase
9 competition, reduce wear on roads, reduce
10 overall truck miles traveled, and decrease truck
11 air emissions. That's from the 2001 plan. Do
12 you recall that?

13 **A.** Yes.

14 **Q.** And you heard -- Mr. Mueller asked you
15 if Mr. Hock testified to those things, to some
16 of those issues, correct?

17 **A.** Yes.

18 **Q.** You're not here to testify to any of
19 those issues, are you?

20 **A.** No.

21 **Q.** In fact, have you looked at those
22 issues?

09:01:28PM

09:01:45PM

1 it does in a suburban less-developed area.

2 **Q.** Would it be fair to say that the
3 traffic time in the northeast corner of DuPage
4 County is slightly different -- is relatively
5 different than that in Plano or Kendall County?

6 **A.** Yes.

7 **Q.** You got these four quadrant maps, and
8 I think they were originally Appendix E, F, G,
9 and H in the original document that Shaw or that
10 the county had, correct?

11 **A.** Right.

12 **Q.** Okay. Are these your maps?

13 **A.** No.

14 **Q.** Okay. You took these from the plan.
15 You did not -- You did not make these up?

16 **A.** No.

17 **Q.** Okay. So this isn't -- This Groot
18 Chicago service area that goes probably
19 25 miles, I'm not going to deny, that -- you

20 didn't do that, correct?

21 **A.** No. That was their service area
22 selection.

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1 **A.** Not closely, no.

2 **Q.** Let's go to the 2007 solid waste
3 management plan update slide.

4 **A.** Okay.

5 **Q.** And you were asked a bunch of
6 questions about the word "ideal" or the ideal
7 transport distance is no more than ten miles.
8 Do you recall?

9 **A.** Yes.

10 **Q.** Is there anything ideal about having
11 two transfer stations next to each other in
12 DuPage County?

13 **A.** No.

14 **Q.** And you talked about ideal -- that --
15 I think you kind of hinted or implied that the
16 ideal distance may be different depending on
17 where the transfer station is located?

18 **A.** Right. Again, in a -- in a
19 less-developed area, the mileage might not be as

20 important a factor as it is in the

21 highly-developed area. You know, going ten
22 miles in a developed area, it takes longer than

09:02:29PM

09:03:00PM

1 **Q.** Okay. And you just took what the
2 solid waste management plan said regarding these
3 quadrants and put it in your PowerPoint?

4 **A.** Yes.

5 **Q.** In the 2012 -- Well, in a couple -- in
6 the 2007 and in the 2012 solid waste management
7 plan updates, it talks about the southern
8 portion of the county, correct?

9 **A.** Yes.

10 **Q.** To your knowledge, has -- do any of
11 the solid waste management plans after the
12 2017 -- I guess that's the only one -- does that
13 at any time conflict with that statement that
14 the southern portion is the one that needs a
15 transfer station?

16 **A.** No.

17 **Q.** And then could you look at that slide,

18 2012 solid waste management plan update for me?

19 **A.** Yes.

20 **Q.** Okay. This is all -- The first
21 paragraph is all in one paragraph in the plan,
22 correct?

09:04:34PM

09:05:03PM

1 A. Yes.

2 Q. Okay. So the first two sentences talk

3 about certain things. The second sentence talks

4 about the southern portion of the county, right?

5 A. Correct.

6 Q. And then the third sentence, is that

7 talking about the southern portion of the county

8 again?

9 A. Yes.

10 Q. And the fourth sentence that says,

11 "these conditions can result in less competitive

12 waste hauling," is that, again, talking about

13 the need for a new facility in the southern

14 portion of the county?

15 A. Yes.

16 Q. Okay. So those all relate to that

17 southern portion concept?

18 A. Yes.

19 (Brief pause.)

20 BY MR. LUETKEHANS:

21 Q. Let's talk about your conclusions.

22 Mr. Mueller tried to say that

09:05:23PM

09:06:04PM

1 most -- for most of the nights, correct?

2 A. Yes.

3 MR. LUETKEHANS: Thank you,

4 Mr. Lardner.

5 HEARING OFFICER PRICE: PODER, anything

6 from you?

7 MR. DELAROSA: No, not at this time.

8 HEARING OFFICER PRICE: All right.

9 Then back to you, Mr. Mueller.

10 MR. MUELLER: Very briefly, Mr. Price.

11 RE-CROSS-EXAMINATION

12 BY MR. MUELLER:

13 Q. Mr. Lardner, do you have the 2007 plan

14 update in front of you?

15 A. The slide?

16 Q. No, the actual plan update. I don't

17 want your interpretations.

18 A. No. I don't have it in front of me,

19 no.

20 Q. Are you aware that in addition to the

21 section from the 2007 plan that was quoted in

22 your slides, that plan also says DuPage County

09:07:28PM

09:07:52PM

1 because the word "all" was in there means your

2 conclusion was wrong.

3 Would you agree with that?

4 A. No.

5 Q. It's just -- It's still -- You still

6 have the same conclusion if you take the word

7 out "all"?

8 A. That would be correct.

9 Q. Okay. And then the second bullet

10 point says, Adding another transfer station in

11 northwest portion of DuPage County will serve as

12 a disincentive to a solid facility.

13 That's your opinion?

14 A. That is because it -- because it makes

15 it less attractive for someone to put a transfer

16 station in the southern part of the -- of the

17 county.

18 Q. Okay. Have you seen any evidence in

19 this hearing that that is -- that -- that

20 conflicts with that statement?

21 A. None that I've heard.

22 Q. Okay. And you've been here for

09:06:33PM

09:06:58PM

1 should encourage the development of three to

2 five waste transfer facilities throughout the

3 county?

4 A. Yes, that's correct.

5 Q. You interpret that to mean that all

6 three to five new waste transfer facilities

7 should be in the southern portion of the county?

8 A. I would -- I interpret that to mean it

9 should serve areas outside -- in DuPage County

10 that were far enough away from the DuKane

11 facility so as not to make a driving distance,

12 again, a factor.

13 Q. So you don't interpret it as meaning

14 it should be in the south only?

15 A. I think they're talk about unserved

16 areas.

17 Q. It doesn't say that, does it?

18 A. It does not specifically mention the

19 south, no.

20 Q. So as recently as 2007, DuPage County

21 wanted, in addition to a transfer station in the

22 southern portion of the county, they wanted

09:08:33PM

09:09:02PM

1 three to five overall new transfer stations,
 2 right?
 3 A. Correct, to serve the area of waste
 4 being generated, that wasn't going to DuKane.
 5 Q. It doesn't say that, does it?
 6 A. It talks about it earlier in --
 7 Q. Does it say that in the plan?
 8 MR. LUETKEHANS: Can -- Let the witness
 9 finish the answer, please.
 10 HEARING OFFICER PRICE: Overruled. He
 11 can handle himself. You led him --
 12 MR. LUETKEHANS: No. I'm just
 13 saying --
 14 HEARING OFFICER PRICE: That's enough.
 15 MR. LUETKEHANS: All I'm asking --
 16 HEARING OFFICER PRICE: Overruled.
 17 Ask a question.
 18 MR. LUETKEHANS: All I'm asking is that
 19 the witness --
 20 HEARING OFFICER PRICE: Overruled.
 21 MR. LUETKEHANS: -- be allowed --
 22 HEARING OFFICER PRICE: Overruled.

1 MR. LUETKEHANS: -- to finish his --
 2 finish his answer.
 3 HEARING OFFICER PRICE: Answer the
 4 question.
 5 BY THE WITNESS:
 6 A. Could you repeat the question? I'm
 7 sorry.
 8 MR. LUETKEHANS: He couldn't finish his
 9 answer.
 10 BY THE WITNESS:
 11 A. Repeat the question.
 12 HEARING OFFICER PRICE: Well, that's
 13 because you did most of the testifying,
 14 Mr. Luetkehans. I would like to hear from the
 15 witness.
 16 BY THE WITNESS:
 17 A. What was the question?
 18 Q. Let me ask a different one.
 19 A. Okay.
 20 Q. Do you have any indication in your
 21 ability to interpret the plan of where these
 22 three to five additional transfer stations

1 should be?
 2 A. There is no specifics given on that,
 3 no.
 4 MR. MUELLER: Thank you.
 5 That's all I have.
 6 HEARING OFFICER PRICE: Mr. Callaghan?
 7 MR. CALLAGHAN: Just a couple.
 8 RE-CROSS-EXAMINATION
 9 BY MR. CALLAGHAN:
 10 Q. Have you looked in the area of
 11 southern DuPage County to determine whether
 12 any -- there was any location that would meet
 13 the require- -- the legal requirements for a
 14 transfer station?
 15 A. I have not specifically looked at
 16 that. I do know that there are some large
 17 tracks of -- there are some large tracks of
 18 undeveloped. Whether they meet that criterion,
 19 I have not examined that, no.
 20 Q. Do you know if DuPage County has done
 21 that analysis?
 22 A. No.

1 Q. Do you know that DuPage County
 2 concluded that there are no such locations in --
 3 in southern DuPage County?
 4 A. I remember reading that, that they
 5 found that the county was not -- because of this
 6 development, could not find other places to
 7 develop transfer stations.
 8 MR. CALLAGHAN: Thank you.
 9 HEARING OFFICER PRICE: Mr. Walsh...
 10 MR. WALSH: I don't have anything
 11 further.
 12 HEARING OFFICER PRICE: Thank you,
 13 Mr. Lardner.
 14 (Witness excused.)
 15 HEARING OFFICER PRICE: Do you have
 16 another witness here this evening?
 17 MR. LUETKEHANS: Yes. We would call
 18 Joe Abel to the stand.
 19 HEARING OFFICER PRICE: Madam Reporter,
 20 would you swear in the witness, please.
 21 (Witness sworn.)
 22 (Brief pause.)

1 WHEREUPON:
2 JOSEPH ABEL,
3 called as a witness herein, having been first
4 duly sworn, was examined and testified as
5 follows:

6 DIRECT EXAMINATION

7 BY MR. LUETKEHANS:

8 Q. Mr. Abel, could you please state --
9 MR. MUELLER: Mr. Price, before the
10 witness starts, we were handed a CV and a
11 one-page exhibit.

09:13:29PM

12 Is that all --

13 MR. LUETKEHANS: That's it.

14 MR. MUELLER: -- there is with this
15 witness?

16 MR. LUETKEHANS: Yep.

17 MR. MUELLER: Okay. Thanks.

18 BY MR. LUETKEHANS:

19 Q. Mr. Abel, could you please state and
20 spell your name for the record?

09:13:40PM

21 A. Joseph Abel -- Joseph H. Abel,
22 A B E L.

1 HEARING OFFICER PRICE: Mr. Abel ...

2 BY MR. LUETKEHANS:

3 Q. You got to speak into the mic.
4 How are you currently employed?

5 A. I'm a planning and zoning consultant.

6 Q. Could you provide us with the main
7 history of your employment background or your --
8 yeah, your education and employment background?

9 A. Yes. I have a degree in city and
10 regional planning with a minor in architecture
11 from the University of Illinois. I received
12 that -- I hate to tell you -- in 1959. I did
13 graduate work at the University of Chicago
14 center for urban studies, and I also completed
15 an economic development institute program at the
16 University of Oklahoma. It was a summer
17 program. So that's my educational background.

09:14:06PM

18 I started my planning career in
19 Lake County, Illinois with the Lake County
20 Regional Planning Commission and worked on a
21 number of projects. It was one of the first
22 counties to develop county-wide comprehensive

09:14:41PM

1 plans. So I got in on the very ground level of
2 preparing large area comprehensive plans. Most
3 communities had been doing planning but not very
4 many counties, and Lake County was the first.

5 After spending three years at the
6 Lake County Regional Planning Commission, I then
7 was hired by Carl Gardner & Associates, probably
8 the premier planning consulting firm in the
9 Chicago area. Back in that time frame, I was
10 the principal consultant for a number of
11 municipalities -- Cary, Illinois; Deerfield; Fox
12 River Grove; Glendale, Wisconsin; Indian Head
13 Park; Morris, Illinois; but more importantly,
14 worked on the development of the Village of Oak
15 Brook. I actually worked very closely with Paul
16 Butler on the actual design of Oak Brook during
17 that time frame.

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18 I also, because I had worked at
19 Lake County, specialized also in developing new
20 county plans and accompanying zoning ordinances.
21 I developed the first plan -- comprehensive plan
22 and zoning ordinance for Grundy County and then

09:15:53PM

1 did all of the municipalities in the county,
2 prepared their land use plans and -- and zoning
3 ordinances -- Iroquois County, Kankakee County
4 and Kendall County; also did a lot of urban
5 renewal work with Carl Gardner, and things of
6 that nature.

7 I actually then interviewed with
8 DuPage County to be the consulting planner
9 through Carl Gardner & Associates, went through
10 the entire process. And then I got a phone call
11 saying good news/bad news. The bad news was the
12 county -- DuPage County wanted to prepare their
13 first comprehensive plan in this particular area
14 and have their own planning department and we
15 want to hire a consultant, we want to hire you.

09:16:36PM

16 I had to make a decision and became
17 the first planning director for DuPage County in
18 1970 and was in charge of developing the first
19 land use plan and then accompanying zoning
20 ordinance for DuPage County. I directed the
21 entire program for 17 years, had a staff of
22 approximately 40. And, again, we were the first

09:17:12PM

1 county in Illinois, other than Grundy County,
2 which I had done to do a comprehensive plan that
3 actually included all the municipalities. So my
4 directive was, do not go to the county board
5 with a comprehensive plan until all
6 37 municipalities were included and signed off
7 on the plan. It took us seven and a half years
8 to accomplish that, but we developed the
9 comprehensive plan.

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10 Obviously, starting with 1970, I've
11 been working in the area and am very familiar
12 with it.

13 After the plan was adopted, I then
14 was in charge of the comprehensive revision
15 zoning ordinance. And by the time I left, I was
16 in charge of the entire development process in
17 the county. I was in charge -- I was the
18 director of the zoning board. I was the -- was
19 the secretary to the zoning board of appeals,

09:18:26PM

20 was in charge of the zoning department, of the
21 building department, and the planning
22 department. So we called it the county

1 development department.

2 Well, after 17 years, I guess I got
3 a little itchy and I was approached by the City
4 of Chicago to head their economic development
5 program. And so from 1987 to 1992, I was head
6 of the economic development for the City of
7 Chicago, responsible for developing industrial
8 parks, setting up programs. We did work at the
9 airports, and we set up an international trade
10 council during that time frame. The budget
11 there was 1.3 million, and I had a staff of 15.

09:19:09PM

12 In 1992, I decided it was time
13 to -- to start off on my own. And so since
14 1992, I've had my own firm and have had many,
15 many municipalities that I have under contract,
16 presently working very closely with Oak Brook
17 Terrace.

18 But other than that, doing
19 primarily with the public and private sector.

09:19:49PM

20 I've done expert testimony at the federal
21 courts, local courts, and as an expert witness
22 primarily zoning cases, and I have done some

1 site work for environmental facilities.

2 Q. Are you cert- -- Is PWC Exhibit 602 a
3 copy of your curriculum vitae?

4 A. Yes.

5 In addition, I am a member of the
6 American Institute of Certified planners. And in
7 my planning profession, I have been very active.
8 I was director of the Chicago metropolitan
9 section of the Illinois chapter of the American

09:20:32PM

10 Institute of Planners and also was elected
11 president of the Illinois chapter of the
12 American Planning Association and have been a
13 member of the American Institute of Certified
14 Planners for about 50 years.

15 Q. And what is that?

16 A. Requires -- Well, educational
17 background has to first be met. You have to
18 have a degree in city and regional planning from
19 a recognized university, have to have a certain
20 number of years of experience, and then you have
21 to keep up your qualifications every year in
22 terms of going to conferences and classes and

09:20:58PM

1 things of that nature. And I have maintained my
2 AICP, I think, since about 1978.

3 Q. Okay. Are you familiar with the
4 property that is the subject of this application
5 for the siting of a waste transfer station?

6 A. Yes.

7 Q. And how are you familiar with it?

8 A. As director of planning directly for
9 17 years for the county. As I said, I was
10 secretary to the zoning board of appeals. And
11 so I did go out every night -- every Thursday
12 night with the zoning board to public hearings.

09:21:36PM

13 When I was there, we actually went
14 out to the communities for the public hearings.
15 Now you have to go to the -- to Wheaton. But in
16 terms of developing the plan for the county, I
17 had become very familiar obviously with all of
18 the communities. We actually had the advantage
19 of going under contract with a number of
20 municipalities after we prepared the
21 comprehensive plan. And one of the communities
22 that we contracted with was the City of West

09:22:04PM

1 Chicago.

2 So I -- I also was -- worked on the

3 Groot facility, which is approximately a quarter

4 of mile north of the subject property, and I had

5 done a lot of work for the airport. We worked

6 very closely with the DuPage County Airport all

7 the years I was with the county. So that entire

8 area we did some specialized planning studies

9 for that area. And so I'm very familiar with

10 Powis Road, its entire length from North Avenue

11 to Roosevelt Road.

09:22:41PM

12 Q. Okay. In front of you is PWC

13 Exhibit 350. Do you recognize that?

14 A. Yes.

15 Q. Okay. And can you -- do you -- We

16 don't have the big one so I just have a small --

17 and you have it in front of you, but can you

18 locate the proposed transfer station location?

19 A. Yes. If you look carefully at it,

20 where the number 18 is, that's Powis Road, and

21 you'll see the end of the runway of the airport

22 and --

09:23:16PM

1 Q. You got to put it a little closer to

2 you, Joe. I think she's --

3 A. Pardon?

4 Q. You got to put that mic a little

5 closer to you.

6 A. Oh, yeah.

7 The -- The airport runway just

8 about ends directly across from the subject

9 property, and it's approx- -- the property is

10 approximately midway between North Avenue and

11 Hawthorne Road to the south.

09:23:46PM

12 Q. What is located directly to the east

13 of the subject property?

14 A. The two rail lines.

15 Q. And are you familiar with the rail

16 line parc- -- with rail line parcels in DuPage

17 County that are no longer utilized as

18 railroad -- rail lines and are now owned by

19 someone or some other entity that is not a

20 railroad?

09:24:11PM

21 A. Yes.

22 Q. How is that?

1 A. Just through the years following some

2 of the vacations that have taken place. I

3 happen to be working on a project right now in

4 the -- near the Village of Glen Ellen and

5 Glendale Heights. And the property that I'm

6 working on is just directly north of a

7 railway -- rail line that was -- was vacated.

09:24:47PM

8 I recently was involved in a

9 project in Indiana also dealing with vacated

10 rail lines. We actually are using the rail

11 lines on the -- on the particular property for

12 additional parking.

13 Sort of interesting that my first

14 assignment out of school was in Lake County and

15 what people don't remember is there was a major,

16 major electrical rail system in Lake County that

17 was vacated, and we studied that very carefully.

18 First, we tried to stop the

19 vacation and then we had to decide how to handle

20 all the vacated parcels as part of the planning

21 process. So I've been involved with vacated

22 rail lines and things of that nature for quite

09:25:20PM

1 sometime.

2 Q. Are there vacated rail lines that

3 are -- Well, forget that.

4 Do you know the zoning of those two

5 railroad parcels?

6 A. Yes.

7 Q. What is the zoning?

8 A. It's the R-1 estate residential in the

9 City of West Chicago.

09:25:49PM

10 Q. Now, how many different development

11 projects -- and I know not to the exact

12 number -- have you consulted on in private

13 practice over the past 30 years?

14 A. Literally, hundreds.

15 Q. Do you understand how it would be

16 difficult to develop these two rail parcels

17 directly to the east as residential in their

18 current size and location?

19 A. Yes.

09:26:13PM

20 Q. Why is that?

21 A. Well, it's a linear zoning at this

22 point. It's long, narrow, and just wouldn't be

1 possible to develop.
2 As I recall, the zoning
3 classification requires a minimum of
4 40,000 square feet. And just to do a series of
5 40,000 square foot [sic] would just not be
6 practical.

7 Q. Does that mean these railroad parcels
8 directly to the east of the subject property
9 cannot be developed as residential?

09:26:54PM 10 A. No. They definitely can be developed
11 as residential.

12 Q. How -- How could that occur?

13 A. Combining with the adjacent
14 properties.

15 Q. Okay. So when you say adjacent
16 property, do you -- it could be to the east --
17 it could be to the west of that; is that
18 correct?

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

09:27:12PM 20 He's calling for witness to speculate on facts
21 not the evidence.

22 MR. LUETKEHANS: Well, he's here to

1 give his opinion.

2 MR. MUELLER: The properties to the
3 west and east are not zoned residential.

4 MR. LUETKEHANS: Well, we're going to
5 get to that.

6 HEARING OFFICER PRICE: I'm going to
7 allow Mr. Luetkehans a little room here.

8 I -- I generally agree. We haven't
9 established a foundation that -- although he's

09:27:37PM 10 an authority in planning, that he's a
11 residential home builder, so I'm looking forward
12 to you tying that up.

13 BY MR. LUETKEHANS:

14 Q. Let me ask you a question: Have you
15 ever been involved in residential home
16 development as a consultant?

17 A. Yes. Through my -- the years I've
18 been doing this, I have designed hundreds of
19 residential subdivisions from senior housing to
20 small lot development to estate properties.

09:28:02PM 21 Designing and laying out subdivisions is part of
22 what we do, not only preparing comprehensive

1 plans, but also designing subdivisions
2 throughout DuPage County, throughout the Chicago
3 metropolitan area. I'm trying to think of the
4 closest one to this subject property. It's
5 probably just on the north side of North Avenue.

6 But the question you -- you asked
7 is --

8 Q. Well, let- -- let's not go to the
9 question yet. So let me ask another question.

09:28:44PM 10 As community develop- -- As
11 development director at DuPage County, did you
12 oversee or did your -- did you oversee the
13 development or approval of residential zoning
14 projects in DuPage County?

15 A. Every subdivision had to come through
16 our approval before it was granted permission to
17 develop.

18 Q. Okay.

09:29:11PM 19 A. You have to remember that the time
20 frame that I was at the county, from '70 to '87,
21 we were the fastest growing county in the state
22 of Illinois, the third fastest growing county in

1 the country.

2 Our zoning board was out every
3 Thursday, 50 Thursdays out of a year. We
4 handled sometimes three -- We had to break our
5 zoning board appeals into two groups going out
6 every Thursday. We handled three cases probably
7 a night. So that's two times three is six,
8 times 50. That's how many zoning cases we had,
9 and most of those were residential development.

09:29:52PM 10 We were the fastest growing county in the state
11 of Illinois.

12 Q. Okay. How is the farmland to the east
13 of the prop- -- of the railroad currently zoned?

14 A. It's in two zoning classifications.
15 Part of the area is still unincorporated, and
16 the area that is directly -- directly adjacent
17 to the railroad is zoned manufacturing in the
18 City of West Chicago. And then as you go a
19 little further to the east, it's zoned
20 R-2 residential.

09:30:24PM 21 Q. Okay. Do you know what the word
22 "consolidation" means from a real estate or

1 zoning perspective?
 2 A. From a zoning and planning
 3 standpoint --
 4 Q. Yeah.
 5 A. -- it's to consolidate as many
 6 properties as possible to -- to develop your --
 7 to get a good development.
 8 Q. Have you seen residential developments
 9 that consolidated different PIN numbers or
 10 different parcels throughout the years?
 11 A. Oh, yeah.
 12 Q. And have you seen properties be
 13 consolidated with different zoning on --
 14 underlying zoning on them?
 15 A. Yeah. I'm presently working on a very
 16 large 100-acre development in Oak Brook Terrace
 17 where we're developing a new town center, and it
 18 has multiple zoning on it right now and we're
 19 going to hopefully pull it all together and
 20 bring it into one development.
 21 Q. Okay. And have you been involved with
 22 the rezoning of parcels that are commercial or

09:30:48PM

09:31:16PM

1 for whatever -- whether that be office or
 2 industrial into residential?
 3 A. That's what we're doing right now on a
 4 number of projects.
 5 Q. Okay. Could the railroad parcels
 6 being consolidated, in your opinion, at some
 7 point if -- if the railroad was vacated?
 8 Obviously, when the railroad is there, it can't
 9 happen.
 10 A. Can't happen.
 11 Q. But once the railroad --
 12 MR. MUELLER: I'm going to object.
 13 BY MR. LUETKEHANS:
 14 Q. In the railroad is vacated, could you
 15 ever -- is it possible that they could be
 16 consolidated with another parcel and be used as
 17 residential?
 18 MR. MUELLER: I'm going to object. The
 19 statute calls for examination of current
 20 conditions. We can't speculate about a possible
 21 vacation of the busiest east-west rail line in
 22 the state, nor can we speculate about future

09:31:50PM

09:32:09PM

1 zoning.
 2 MR. LUETKEHANS: Well --
 3 MR. MUELLER: It could eventually be
 4 zoned residential and we can build hundreds of
 5 houses there, but that's not what we're required
 6 to look at now.
 7 MR. LUETKEHANS: What we're required to
 8 look at is the current zoning --
 9 HEARING OFFICER PRICE: The objection
 10 is overruled.
 11 MR. LUETKEHANS: -- which is
 12 residential.
 13 HEARING OFFICER PRICE: You can just --
 14 The objection is overruled.
 15 BY MR. LUETKEHANS:
 16 Q. Do you remember the question,
 17 Mr. Abel?
 18 A. No.
 19 Q. Okay. And I'll try and ask it, and
 20 I'll probably ask it worse, so I apologize.
 21 But is -- do you -- is there --
 22 From a zoning perspective and land use

09:32:40PM

09:32:49PM

1 perspective, if the railroad was vacated as
 2 you've seen happen in DuPage County in the past
 3 or as you testified to has happened, is there
 4 any zoning -- could that parcel be consolidated
 5 with one of the other parcels to the east and be
 6 developed as residential from a land use and
 7 zoning standpoint?
 8 A. Yes. And they might be wanting to
 9 pick up additional land area just to accommodate
 10 particular density thereafter. So there's --
 11 there's definitely an advantage of adding any of
 12 that rail line -- any vacated rail line to the
 13 property to the east.
 14 In fact, like I said, one of the
 15 properties I'm working on now down near --
 16 finished in Indiana, that's exactly what
 17 happened. There was a manufacturing operation
 18 and they took over the easement for additional
 19 parking.
 20 Q. Do you have an opinion as to -- with a
 21 reasonable degree of planning certainty as to
 22 whether the railroad parcels directly to the

09:33:30PM

09:33:59PM

1 east of the subject property could be ever used
2 as residential parcels?
3 A. Yes, definitely could be used for
4 residential purposes. In fact, that's how it's
5 zoned right now.

6 MR. LUETKEHANS: Thank you, Mr. Abel.
7 Nothing further.

8 HEARING OFFICER PRICE: PODER...

9 MR. DELAROSA: Nothing at this time.

09:34:28PM 10 HEARING OFFICER PRICE: Mr. Mueller...

11 CROSS-EXAMINATION

12 BY MR. MUELLER:

13 Q. Mr. Abel, you work out of your house,
14 don't you?

15 A. No. I work out of an office in
16 Wheaton.

17 Q. Well, you show your address as a
18 residential address in Glen Ellyn.

19 A. Yes. 200- --

09:34:42PM 20 HEARING OFFICER PRICE: Mr. Abel, I

21 really need you to use the microphone.

22 THE WITNESS: Yes. Yes.

1 I -- All of my work that I did at the office was
2 using aerial photography that was from 2021.
3 Q. Is this a photograph that you were
4 provided by your attorney?

5 A. Yes. I could have printed out my
6 own --

7 HEARING OFFICER PRICE: Mr. Abel, I
8 know we don't have a stand, but nobody can hear.

9 You're a very soft-spoken and articulate person,
10 but you absolutely have to speak into the
11 microphone. I can barely hear you.

09:36:52PM

12 THE WITNESS: I'll stay right on top of
13 it.

14 BY THE WITNESS:

15 A. I use primarily computer-generated
16 aerial photography while I was working on this,
17 so it's always on a screen in front of me. And
18 this was printed out so that -- because of the
19 fact that there wasn't a screen here tonight.

09:37:24PM

20 So I don't know when they did it.

21 Q. I think my question is: Did -- Did
22 your attorney provide you with this photograph?

1 BY THE WITNESS:

2 A. 200 Forest is my home address where I
3 have an office, but I work out Gary Weber &
4 Associates. They do all of my graphics, all my
5 secretarial, and I have accommodations there.
6 It's in downtown Wheaton.

7 Q. That's not your office, though, is it?
8 It somebody else's office that you use
9 sometimes?

09:35:08PM 10 A. I use it all the time.

11 Q. So why don't you put it down as your
12 address?

13 A. That's just my preference.

14 Q. Sir, looking at your resume, I don't
15 see anything on here after 1992 other than you
16 working as a self-employed consultant; is that
17 correct?

18 A. Yes.

09:35:58PM 20 And this Exhibit PWC 350 that was

21 handed out, do you know how old that aerial
22 photograph is?

22 A. I would guess it's fairly recent.

1 A. Yes.

2 Q. So whatever photography you generate
3 is different from what your attorney provided
4 you here, right?

5 A. No, it's identical. I have photos
6 probably in my file over on the bench. This
7 area has not changed dramatically. Like I say,
8 I just finished a big distribution facility
9 about a half a mile to the west on North Avenue
10 over the Christmas holidays. And I've done a
11 number of projects in this area.

09:38:02PM

12 And this aerial photograph, whether
13 it was -- it's two years old or three years old,
14 wouldn't make any difference. Nothing has
15 dramatically changed in this -- this particular
16 area over the last two or three years.

17 Q. Speaking of nothing having changed,
18 the -- the railroads still operate there,
19 correct?

09:38:27PM

20 A. Correct.

21 Q. And the -- those railroads are
22 actually quite busy and active, aren't they?

1 A. The Union Pacific is. The Canadian
2 National is a single -- single track, and the
3 others -- the Union Pacific is a double track.

4 Q. So that other railroad is the Canadian
5 National Railroad?

6 A. Yes.

7 Q. And Union Pacific, that's a main
8 east-west line, right?

9 A. Correct.

09:39:04PM 10 Q. Who hired you, Mr. Abel?

11 A. Mr. Luetkehans.

12 Q. And have you been paid?

13 A. No, but I will be.

14 Q. How much are you going to be paid?

15 A. It's on an hourly basis.

16 Q. The -- How much time do you have in
17 this so far?

18 A. About 20 hours.

19 Q. And what's your hourly rate?

09:39:46PM 20 A. 275.

21 Q. Now, you said you've seen railroads
22 vacated in the past?

1 A. Yes.

2 Q. What railroads in DuPage County have
3 you seen vacated?

4 A. Major line now is -- that I'm familiar
5 with because I working on the project is -- I
6 forget which line it was, but it's halfway
7 between St. Charles and North Avenue on Main
8 Street in Glen Ellyn. That was where the
9 crossing was.

09:40:22PM 10 Q. So one DuPage railroad, that you can't
11 identify, has been vacated?

12 A. No. When I was with the county,
13 there's the EJ&E line was vacated in the West
14 Chicago area close to Wheaton Christian Academy.
15 So there have been a number of them throughout
16 the 30, 40 years.

17 Q. And I thought I heard you correctly to
18 say, given the nature of the activity on these
19 railroad tracks and the zoning to the east, it
20 would be impossible to develop that -- those
21 railroad tracks at the present time into estate
22 homes. Is that -- Did I hear you correctly?

09:41:07PM

1 A. It's presently zoned estate. If -- If
2 it were vacated --

3 Q. I'm not asking if.

4 Can it be developed into estate
5 homes now?

6 A. No.

7 Q. In fact, it would be -- and I think
8 you used the word -- "impossible," right?

9 A. Nothing is impossible, but it wouldn't
10 be practical.

09:41:42PM

11 Q. How high are the berms on the east and
12 west side of those rail lines?

13 A. I'm not sure.

14 Q. Are there access roads to those rail
15 lines in the immediate vicinity of the proposed
16 site?

17 A. Nothing that crosses over it.

18 Q. Now, if the DuPage Airport were
19 vacated and that property was rezoned

09:42:28PM

20 residential, then we could also build houses on
21 the property of what is now the DuPage Airport,
22 right?

1 A. If the airport was vacated?

2 Q. Yes.

3 A. Yes.

4 (Brief pause.)

5 BY MR. MUELLER:

6 Q. So your conclusion about the
7 possibility of developing residential uses on
8 these railroad tracks requires not one, but two
9 assumptions about what might happen in the
10 future, correct?

09:43:17PM

11 A. Well, the first assumption is that it
12 would have to be vacated.

13 Q. Right.

14 And the second assumption would be
15 that you would have to rezone adjoining
16 property?

17 A. The difference is between -- when you
18 mention the airport, that's an --

19 Q. I'm not asking about the airport.

09:43:41PM

20 A. No. I'm just -- I'm giving a
21 comparison between the two sides.

22 One is developed. The thing that

1 was interesting to me as a planner is that the
 2 entire -- over 200 acres directly to the east is
 3 agricultural, for all practical purposes, vacant
 4 land. It's used for agricultural purposes and
 5 does lend itself to a major redevelopment.
 6 This is a very dynamic area in
 7 DuPage County. And to be able to find a site
 8 like this that has been sitting vacant -- I was
 9 with the county for 17 years, and nothing
 10 happened on this site and nothing has happened
 11 on the land to the east since I've been gone.
 12 This area is right for redevelopment; and,
 13 therefore, has the potential for being a
 14 mixed-use residential area which would include
 15 residential. And that residential could be
 16 within a thousand feet of the subject property.
 17 Q. So to get back to my question, your
 18 assumption about the possibility of residential
 19 development on those railroad tracks requires
 20 two things to happen in the future, correct?
 21 A. No. The property does not have to
 22 have any building on it.

1 Q. No.
 2 A. It would just be part of the setback.
 3 Q. I'm asking if the potential future use
 4 requires us to vacate the railroad tracks?
 5 A. Yes.
 6 Q. Okay. That's one thing that has to
 7 happen in the future, right?
 8 A. Yes.
 9 Q. And the second thing that has to
 10 happen is that you need some other property
 11 that's contiguous that also has to be rezoned,
 12 correct?
 13 A. Oh, yeah. It would definitely have to
 14 be rezoned.
 15 Q. And that, again, is a future
 16 contingency?
 17 A. That's correct.
 18 That's what planning is all about.
 19 Q. Mr. Abel, have you ever heard -- when
 20 people say the word "if," ever heard the phrase,
 21 if ifs were skiffs, we would be all be sailors?
 22 MR. LUETKEHANS: Objection,

1 argumentative.
 2 BY THE WITNESS:
 3 A. No.
 4 MR. MUELLER: That's all I have.
 5 HEARING OFFICER PRICE: Mr. Callahan...
 6 CROSS-EXAMINATION
 7 BY MR. CALLAGHAN:
 8 Q. Mr. Abel, the -- what is the zoning
 9 classification of the railroad property?
 10 A. ER-1 estate residents district.
 11 Q. Okay. And the reason the railroad
 12 property in and of itself would be difficult to
 13 develop is -- we have an exhibit that was
 14 provided by the applicant of a tax map, and it
 15 shows each railroad has 100 feet of width.
 16 A. Correct.
 17 Q. So it's 200 feet wide for the
 18 entire -- both rights of way, correct?
 19 A. Yes.
 20 Q. And the minimum lot width is, at the
 21 building line, 200 feet. It's virtually
 22 impossible to just develop the railroad track,

1 correct?
 2 A. Correct. I've said.
 3 Q. I know.
 4 A. Yes.
 5 Q. I just wanted to go through that.
 6 Now, on the east side of the
 7 Canadian National Railroad track, are you aware
 8 that there's a creek that runs along there?
 9 A. Yes.
 10 Q. Okay. So there's -- not only would
 11 you have to consolidate with property to the
 12 east, you would have to deal with a creek in
 13 between those two parcels, correct?
 14 A. No. It would be part of the
 15 development.
 16 Q. The creek would cut -- completely cut
 17 the two parcels off from each other?
 18 A. From a design standpoint, there's a
 19 way of getting around that. That parcel I'm
 20 working on now in Oak Brook Terrace, we're
 21 creating a whole system of lagoons and lakes and
 22 there will be walkways and things of that

1 nature. So it's -- the creek can be
2 incorporated. It might even be able to be
3 moved, I don't know, but that's a design
4 feature.

5 **Q.** You can engineer anything is what
6 you're saying?

7 **A.** You can design anything, yes.

8 **Q.** Do you know how this property came to
9 be zoned ER-1?

09:47:55PM 10 **A.** No. I don't know why West Chicago
11 rezoned it.

12 **Q.** I'm going to show you a section of the
13 zoning ordinance, which I think explains it.

14 And it's a fairly typical -- I'm going to mark
15 it City Staff Exhibit 1.

16 HEARING OFFICER PRICE: Actually, City
17 Staff 2.

18 MR. CALLAGHAN: 2.

19 HEARING OFFICER PRICE: You have the

09:48:31PM 20 GHA report.

21 MR. CALLAGHAN: Oh, I forgot about

22 that.

1 Can I have your pen?

2 HEARING OFFICER PRICE: You have the
3 GHA report.

4 That's my job.

5 (Brief pause.)

6 BY MR. CALLAGHAN:

7 **Q.** You're familiar with that kind of a
8 zoning classification?

9 **A.** Oh, yes.

09:49:11PM 10 **Q.** And what does it provide for?

11 **A.** I'll just read it: Any land -- Any
12 land whose classification is not shown on the
13 official zoning map and land hereinafter and
14 next to the city shall be automatically
15 classified these are ER-1 estate until
16 differently classified by amendment. Streets,
17 alleys, public rights of way shall comply with
18 Subsection 64.

19 This is pretty standard.

09:49:41PM 20 **Q.** Right.

21 **A.** And I have written that into many of
22 the ordinances that I've done, I've had to be

1 very careful. The ordinances that I have

2 written --

3 HEARING OFFICER PRICE: Mic -- Mic.

4 BY THE WITNESS:

5 **A.** I've prepared the planning standards
6 for zoning ordinances. I'm not an attorney and
7 do not prepare --

8 **Q.** Sure.

9 **A.** -- the complete zoning ordinance.

09:49:59PM 10 **Q.** So my whole point of raising this is,
11 it is likely that this property was

12 automatically zoned upon annexation into this
13 district, ER-1.

14 **A.** Yes, but if they didn't want it to be
15 ER-1 and -- on their map, they would have
16 rezoned it.

17 **Q.** Right.

18 **A.** They had that ability at any time to
19 rezone this property to some other zoning

09:50:21PM 20 classification. And the way the -- the way the

21 ordinance is written, it's the zoning that's

22 there today, a thousand feet away from any zoned

1 residential.

2 **Q.** Right. I understand.

3 **A.** West Chicago has the right at any time
4 to rezone this property.

5 **Q.** And if this were to be consolidated or
6 the property next-door was -- was rezoned to
7 some other classification -- I mean -- Strike
8 that.

9 Any property can be rezoned at any
10 time, correct?

09:50:54PM 11 **A.** That's correct.

12 **Q.** And so this doesn't change the use of
13 the property, the ER-1 classification?

14 **A.** But that's not the way the ordinance
15 reads. It's how the land is rezoned today, and
16 it's zoned ER-1 residential.

17 **Q.** My whole point is: The zoning of the
18 railroad property has nothing to do with the use
19 of the property, correct?

09:51:20PM 20 **A.** That's -- You have to ask the City of
21 West Chicago that.

22 **Q.** Well, is it -- is it being used for

1 residential?
 2 **A.** No.
 3 **Q.** It's being used for railroad?
 4 **A.** Yes. I have many parcels that are
 5 zoned differently than they're used.
 6 **Q.** You mentioned that you did work for
 7 Groot?
 8 **A.** Yes.
 9 **Q.** What did you do for Groot?
 10 **A.** Their initial siting.
 11 **Q.** Of the transfer station down the
 12 street?
 13 **A.** Yes.
 14 **Q.** And you testified about Criterion 3?
 15 **A.** Yes.
 16 **Q.** Okay.
 17 **MR. CALLAGHAN:** That's all -- That's
 18 all I have.
 19 **HEARING OFFICER PRICE:** Thank you,
 20 Mr. Callaghan.
 21 **Mr. Walsh...**
 22 **THE WITNESS:** Just for the record,

1 though, at that time, the railroad was zoned
 2 industrial.
 3 **MR. WALSH:** No questions.
 4 **MR. CALLAGHAN:** Can I -- I'm sorry.
 5 **HEARING OFFICER PRICE:** Back to you,
 6 Mr. Callaghan.
 7 **BY MR. CALLAGHAN:**
 8 **Q.** Have you looked at the floodplain maps
 9 for the property to the east?
 10 **A.** I looked at just a generalized land --
 11 environmental map.
 12 **Q.** Do you know if there was floodplain on
 13 the property to the east?
 14 **A.** No.
 15 **Q.** Do you know if there's wetlands on the
 16 property to the east?
 17 **A.** No.
 18 **MR. CALLAGHAN:** That's all I have.
 19 **Thanks.**
 20 **HEARING OFFICER PRICE:** Mr. Abel, I --
 21 I need to ask because my job is the record.
 22 **You don't know or there aren't?**

1 You said no. I'm not sure if you meant you
 2 didn't know or that there are none.
 3 **THE WITNESS:** I don't know. All I know
 4 is that it's presently used for agricultural
 5 purposes. And I just said before, just like
 6 with the creek, and in DuPage County, you design
 7 around your environmental problems.
 8 **HEARING OFFICER PRICE:** I appreciate
 9 that. I just want to make sure we get what we
 10 needed on the record.
 11 **All right. Redirect,**
 12 **Mr. Luetkehans...**
 13 **MR. LUETKEHANS:** Yeah.
 14 **REDIRECT EXAMINATION**
 15 **BY MR. LUETKEHANS:**
 16 **Q.** You were asked about doing work --
 17 **HEARING OFFICER PRICE:** You passed,
 18 right?
 19 **MR. WALSH:** Correct. I have no
 20 questions.
 21 **BY MR. LUETKEHANS:**
 22 **Q.** You were asked about doing wok for

1 Groot previously.
 2 **Did you also do work for West**
 3 **Chicago related to a prior transfer station?**
 4 **A.** Yes.
 5 **Q.** And that was the holding facility in
 6 2003?
 7 **A.** Correct.
 8 **Q.** The airport is not zoned residential,
 9 however, is it?
 10 **A.** That's correct.
 11 **Q.** Unlike the railroad, it's actually
 12 zoned airport?
 13 **A.** It's special district, yes, on its
 14 own.
 15 **Q.** You were asked about railroads vacated
 16 in DuPage County, and you mentioned, you know,
 17 the one at St. Charles -- between St. Charles
 18 and North Avenue on Main Street in Glen Ellyn.
 19 **We have a -- We have a bunch of trails**
 20 **throughout DuPage County, correct?**
 21 **A.** Correct.
 22 **Q.** And those trails, what were they

1 before they were trails?

2 A. Most of them were railroad right of
3 ways.

4 Q. When you said this property is a CN
5 Railroad, you don't know who owns that railroad,
6 do you, that -- those -- those parcels
7 themselves?

8 A. No.

9 Q. Okay. And you don't know who gets the
10 tax bills for those parcels?

09:54:30PM

11 A. No.

12 Q. Mr. Mueller kind of tried to imply
13 that you're working out of your house, you know,
14 and you're kind of not working.

15 How many --

16 MR. MUELLER: I'm going to object to
17 what I implied.

18 BY MR. LUETKEHANS:

19 Q. How -- Well, let me just ask the
20 question: How many projects do you work on per
21 year for the last five years would you say?

09:54:48PM

22 A. Between 25 and 50, all over the

1 Chicago metropolitan area. I mean, it's
2 full-time, and that's why I have to have a
3 backup of Gary Weber & Associates that provides
4 all of my drafting, my secretarial.

5 So, in effect, I really have a
6 staff of about 15. What I am is a marine maker.
7 I bring in the work to Gary Weber & Associates,
8 and I probably generate enough to keep a good
9 portion of their staff busy. So if -- if I

09:55:36PM

10 didn't have this fortunate opportunity, I would
11 have to have a staff of at least five or six to
12 keep up with all the projects that I have.

13 Q. And you -- do you regularly testified
14 in front of zoning boards and -- to this day?

15 A. Oh, yeah. I mean, I just finished a
16 large -- Just to give you an example, on North
17 Avenue, we just finished a large parking --
18 truck parking facility, also a large
19 distribution facility -- all on North Avenue --

09:56:16PM

20 and also an indoor storage facility on North
21 Avenue. So that's just some of the different
22 kinds of clients.

1 And then I have residential zoning
2 cases -- commercial. The communities I
3 represent right now, the only community is Oak
4 Brook Terrace, and -- but, again, it's more than
5 enough to keep a big staff going.

6 Q. And the aerial you were provided, we
7 provided that to you, correct?

8 A. Yes.

9 Q. But you looked at it, or did you look
10 at it first?

09:56:50PM

11 A. Yeah. It's identical to the one that
12 I've been using for last two weeks up on the
13 wall in my -- in the office.

14 MR. LUETKEHANS: Nothing further.

15 Thank you, Mr. Abel.

16 HEARING OFFICER PRICE: PODER...

17 MR. DELAROSA: Nothing further.

18 HEARING OFFICER PRICE: Thank you.

19 Mr. Mueller...

09:57:06PM

20 RE-CROSS-EXAMINATION

21 BY MR. MUELLER:

22 Q. Mr. Abel, you said, I think twice,

1 under questioning from your attorney and also
2 from Mr. Callahan, that what matters is the
3 zoning now, correct?

4 A. I'm not sure what reference you're --

5 Q. Well, you were asked whether any
6 property could be rezoned at any time?

7 A. Yes.

8 Q. And you said what matters, though, is
9 the zoning now, right?

09:57:47PM

10 A. From the standpoint of the requirement
11 of this hearing, that's what I was getting at.

12 It's -- It's -- The fact is that it says, no
13 transfer facility within a thousand feet of a
14 residential piece of property zoned.

15 It's zoned that now, and that's
16 what you have to live with.

17 Q. I --

18 A. That's not my problem. It's in the
19 ordinance. And unfortunately, the City has left
20 that zoned residential, and you are within a

09:58:19PM

21 thousand feet of a residentially-zoned piece of
22 property. That's the point I was trying to

1 make.
 2 Q. And we've admitted that, Mr. Abel.
 3 A. Yes.
 4 Q. If you say that what matters is the
 5 zoning now, also in the "now," you can't develop
 6 the property as a residence, can you?
 7 A. No --
 8 Q. Thank you.
 9 A. -- because it's zoned residential.
 10 MR. MUELLER: That's all I have.
 11 HEARING OFFICER PRICE: Mr. Callahan...
 12 MR. CALLAGHAN: Nothing.
 13 HEARING OFFICER PRICE: Mr. Walsh...
 14 MR. WALSH: No.
 15 HEARING OFFICER PRICE: Thank you,
 16 Mr. Abel.
 17 THE WITNESS: You're welcome.
 18 HEARING OFFICER PRICE: That concludes
 19 the testimony.
 20 THE WITNESS: Sorry I didn't pull this
 21 closer.
 22 HEARING OFFICER PRICE: Well, we didn't

09:58:45PM

09:58:53PM

09:59:26PM

09:59:48PM

1 MR. DELAROSA: Okay. We probably
 2 intend to call two to three witnesses.
 3 HEARING OFFICER PRICE: They need to be
 4 at city hall on Monday. They need to be ready
 5 to go.
 6 MR. DELAROSA: Okay.
 7 HEARING OFFICER PRICE: And then it
 8 will be City Staff. I don't know that we'll get
 9 to you on Monday. I might take the time to fill
 10 it in with any public comment that needs to
 11 happen.
 12 And then the following Thursday we
 13 have more work to do, and probably City Staff
 14 will be at that time.
 15 Okay. Thank you, everyone.
 16 (WHEREUPON, the hearing of the
 17 above-entitled cause was
 18 adjourned until 1:00 p.m.,
 19 January 16th, 2023.)
 20
 21
 22

10:00:14PM

1 have a stand. It's awkward. I appreciate your
 2 patience. You'll hand me the microphone.
 3 So that's going to conclude our
 4 work for this evening, right at 10:00 o'clock.
 5 So well done, all parties.
 6 We next convene, for everybody,
 7 Monday afternoon, 1:00 o'clock, at city hall in
 8 council chambers.
 9 Mr. Luetkehans, how many more
 10 witnesses?
 11 MR. LUETKEHANS: We have one more
 12 expert, and we may have a short witness that --
 13 testify for a few minutes --
 14 HEARING OFFICER PRICE: Okay.
 15 MR. LUETKEHANS: -- a fact -- a fact
 16 witness.
 17 HEARING OFFICER PRICE: All right. So
 18 we have one more expert testimony and then a
 19 fact witness.
 20 PODER, how many witnesses are you
 21 going to call? They need -- They need to be
 22 ready on Monday.

09:59:48PM

STATE OF ILLINOIS)
) SS.
 COUNTY OF DU PAGE)

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 hereby affix my electronic signature this 28th day of January, 2023.

/s/ Kim A. Kocimski
 KIM A. KOCIMSKI, CSR

CSR No. 084-004610

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