

BEFORE THE DU PAGE COUNTY
ZONING BOARD OF APPEALS

A conditional use to allow an) Z17-015
asphalt batching plant.) Lorig Construction

June 29, 2017

6:00 p.m.

PROCEEDINGS HAD and testimony taken before the
DU PAGE COUNTY ZONING BOARD OF APPEALS, taken at the DuPage
County Administration Building, 421 N. County Farm Road,
Wheaton, Illinois, before LINDA M. CIOSEK, C.S.R. a Notary
Public qualified and commissioned for the State of Illinois.

BOARD MEMBERS PRESENT:

MR. BARRY KETTER, Acting Chairman.

MR. JOHN HAKIM, Commissioner.

MR. THOMAS LAZ, Commissioner.

MR. DENNIS MORAN, Commissioner.

MR. JACK MURPHY, Commissioner.

ALSO PRESENT:

MR. PAUL HOSS, Zoning & Planning Supervisor.

MR. MIKE FERENCAK, Zoning Administrator.

E X H I B I T S

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1 CHAIRMAN KETTER: I'm going to call the meeting to
2 order. It's going to be handled as a new hearing. It's a
3 new filing. We'll start from scratch. I'll open the record
4 by reading in some of the information.

5 It's a zoning request for a conditional
6 use to allow an asphalt batching plant. The owner of the
7 property is Jean Road Properties, LLC. The property is
8 located at 9900 S. Route 83 in Lemont. It's in Downers
9 Grove. The publication date was June 14th, 2017, and the
10 public hearing, of course, is tonight, June 29th.

11 The comments: DUDOT mentions that it has
12 no jurisdictional authority over the subject property
13 adjacent to a roadway right-of-way and defers its review to
14 the highway jurisdictional authority. Health Department has
15 no objections or concerns with the petition. Stormwater has
16 no objections or concerns with the concept of the petition
17 and states additional information may be required at the
18 time of permit application. It notes that this parcel
19 contains floodplain, wetlands and buffer areas which may
20 require additional information, and it could also affect any
21 proposed sign designation.

22 Forest Preserve has an objection. They
23 filed a letter. I'll note right now that their legal
24 counsel is here, who is the former Chief Judge of DuPage

1 County, who has other commitments. He may have to leave
2 during the hearing, so we will defer to him. He'll make his
3 comments once I get the record done and then we'll start the
4 presentation. Hearing no objections it makes it easier for
5 me just to do that.

6 Public Works has no comment. Willowbrook
7 has no objection or concerns with the petition. Burr Ridge
8 has an objection. There is a letter. Lemont objects, sent
9 a letter. Downers Grove Township has made no comment. The
10 Downers Grove Highway has made no comment either, and
11 Tri-State Fire District, which encompasses this area, has no
12 comment.

13 The property in question is 21.73 acres.
14 Having said that, we'd ask the comments from Mr. Elsner, and
15 then we will proceed to the case in chief of the applicant.

16 MR. ELSNER: Mr. Chairman, Commissioners, Mr.
17 McCluskey, Mr. Luetkehans, for the benefit of the record, my
18 name is Jack Elsner. I'm the general counsel for the DuPage
19 County Forest Preserve District. On June 27th our Executive
20 Director filed an objection to the conditional use
21 application by Lorig Construction Company. Thank you for
22 the opportunity to address you and mention a couple of
23 points that are in our objection.

24 The Forest Preserve District owns the

1 property west and east of the subject property. The
2 2,492-acre Waterfall Glen Forest Preserve lies adjacent to
3 the proposed asphalt plant. It is one of the most
4 ecologically impressive parcels of open space in DuPage
5 County. Over 740 native plant species are found at the
6 preserve. Over 300 species of mammals, birds, fish,
7 amphibians and reptiles, and another 300 species of
8 invertebrates use that forest preserve either year round or
9 during their migrations.

10 Additionally, Waterfall Glen is home to
11 two Federally-listed wildlife species, two Federally-listed
12 plant species, at least nine State-listed wildlife species,
13 and five State-listed plant species. Given the valuable
14 natural resources in Waterfall Glen next to the proposed
15 conditional use, the District conducted a review of the
16 requested conditional use for an asphalt batching plant. We
17 determined that the proposed use of the property will have a
18 detrimental impact to the natural resources in Waterfall
19 Glen.

20 In 2012, Waterfall Glen was dedicated as
21 a nature preserve by the State of Illinois because of the
22 preserve's high quality resources. Specifically, this site
23 represents the finest example of bottom land forest in
24 DuPage County and supports State-threatened plant and bird

1 population. Numerous Illinois species in the greatest need
2 of conservation, and regionally rare species of amphibians,
3 birds and natural plants are also to be found there.

4 The Forest Preserve District objects to
5 the requested conditional use for an asphalt batching plant
6 on the subject property and recommends that the Zoning Board
7 of Appeals vote to deny the conditional use.

8 Thank for your attention, and thank you
9 for your service to DuPage County.

10 CHAIRMAN KETTER: Thank you.

11 (Applause.)

12 CHAIRMAN KETTER: You know, if I could say one thing:
13 Your applause aren't going to sway us one way or another,
14 and if you do it, it only delays this and we're not going to
15 move ahead. So I'm assuming you'll get your chance
16 eventually to speak, and then it will be very clear which
17 side of it you're on, pro or con.

18 I'm not sure if we'll finish tonight, so
19 we'll start with the applicant's presentation and see how
20 far we get. We have a standing rule that we adhere to. We
21 do really not go beyond 9:00 unless we're close to ending
22 because we work, I'm sure you work, and minds don't stay
23 sharp after three hours. So with that in mind, we'll start
24 and we'll see where we're at right around that time.

1 I look to the applicant, whoever is going
2 to start with their presentation and we can proceed from
3 there. At this point, to speed it up, anybody you have here
4 tonight that are going to be a witness, why don't they raise
5 their hand, we'll swear in all yours and that way you can
6 just proceed as you go along.

7 THE COURT REPORTER: Would you raise your right
8 hands, please.

9 (Whereupon, the oath was duly
10 administered by the Notary.)

11 CHAIRMAN KETTER: State your name for the record and
12 then just start your presentation.

13 MR. DORAN: Sure. Good evening. My name is Jason
14 Doran, I am an attorney representing the petitioner Lorig
15 Construction. Would you like us to tender our exhibits to
16 you now? I think that might be a good idea.

17 CHAIRMAN KETTER: All right. Before you do that so I
18 don't forget, let me just -- I was handed some to begin
19 with, and that's kind of in the way of housekeeping. For
20 purposes of the record, listed under Objectitioner's Exhibit
21 No. 1 will be a group exhibit. It will be a letter from the
22 -- we have a letter from the DuPage Forest Preserve, the
23 Village of Burr Ridge, the Illinois Ornithological Society,
24 and then we have a number of letters from homeowners. Those

1 will be, like I said, marked and put into evidence as
2 Objector's Exhibit 1.

3 (Whereupon, the documents were
4 marked Objector's Group Exhibit
5 1 for identification.)

6 CHAIRMAN KETTER: Do you want to just cite for the
7 record your exhibits now, we can list them. You start with
8 1 and we'll just, in numerical order, go through them and
9 then we'll proceed from there.

10 MR. DORAN: We have a Group Exhibit A which contains
11 a number of exhibits that we'll be referencing throughout.
12 We have an Exhibit B which is a map of the zoning of DuPage
13 County. We have an Exhibit C which is essentially a diagram
14 of pictures regarding asphalt batching plants currently used
15 in DuPage County.

16 CHAIRMAN KETTER: Just for purposes of the record, do
17 you have a survey and a site plan?

18 MR. DORAN: We do. Our site plan we'll be submitting
19 as the one that's on the board here.

20 CHAIRMAN KETTER: We'll mark that as Applicant's
21 Exhibit 1. We usually do them numerical, so when we get to
22 your A, we can rename it.

23 MR. DORAN: We can name it 3 as well.

24 CHAIRMAN KETTER: Okay. That will be 1.

1 MR. DORAN: Our site survey is here.

2 CHAIRMAN KETTER: Will be 2, and then A will be 3.
3 Is that a booklet?

4 MR. DORAN: It is a booklet.

5 CHAIRMAN KETTER: All right, then the booklet will be
6 3.

7 MR. DORAN: And then we have 4 and 5 as well.

8 (Whereupon, the documents were
9 marked Petitioner's Exhibits 1
10 through 5 for identification.)

11 CHAIRMAN KETTER: And for purposes of the record, 4
12 is?

13 MR. DORAN: 4 is a diagram of the county zoning
14 pulled off the county website, and 5 is -- it's a group
15 exhibit of photographs of existing uses of asphalt plants in
16 DuPage County.

17 MR. LUETKEHANS: I'm Phil Luetkehans on behalf of
18 many of the objectors. At some point I'll give you names of
19 many of them. I would ask for copies of whatever exhibits
20 are --

21 CHAIRMAN KETTER: I was just going to get to it. I
22 know we have at least one legal representative for
23 objectors, so we'll proceed. Tentatively do you have any
24 objection from what you heard on the exhibits?

1 MR. LUETKEHANS: No.

2 CHAIRMAN KETTER: All right, so your exhibits will be
3 admitted and made part of the record.

4 MR. LUETKEHANS: Just so I'm clear, the three-ring
5 binder I've been handed is Exhibit 1?

6 MR. DORAN: Exhibit 3.

7 MR. LUETKEHANS: Thank you.

8 CHAIRMAN KETTER: Is this an additional?

9 MR. DORAN: There are two, so this is Exhibit 4, this
10 is Exhibit 5.

11 CHAIRMAN KETTER: Those are that you mentioned
12 already?

13 MR. DORAN: Correct. There's no additional.

14 Good evening, my name is Jason Doran.
15 I'm the attorney representing Lorig Construction Company.
16 We're here today on the petition as mentioned regarding a
17 conditional use for an asphalt plant at 990 -- excuse me,
18 9900 S. Route 83 in Lemont.

19 That property is currently zoned I-1,
20 which is general industrial district. Our use is a
21 permitted and anticipated use under the Zoning Ordinance.
22 So it's already been anticipated by that ordinance subject
23 to certain conditions.

24 We're going to show this evening that we

1 are in compliance with all those conditions, and therefore,
2 my client, the petitioner, has a right to use the property
3 for this purpose under the ordinance.

4 Zoning, I-2 zoning in DuPage County, there are very
5 few places for that zoning. I'm going to reference Exhibit
6 4, and at the bottom of that exhibit you can see where our
7 use is. This map was pulled directly off of the County
8 website. It shows where the I-2 zoning is in the dark pink.
9 If we are not permitted to use the property for this
10 purpose, there is no other place in this county, or no other
11 place in this county that we would be permitted to be able
12 to use this use. There's certainly no place that's as ideal
13 as this place for that use.

14 Our use is regulated by the IEPA, so not
15 only the County. The County is not the only one that's
16 looking at this, we would also have to apply with the
17 Illinois Environmental Protection Agency, and the use is
18 continually regulated under that.

19 This evening you're going to hear the
20 testimony of David Lorig. He is the owner of Lorig
21 Construction Company. He's also the owner of the property
22 through an entity, Jean Roads Property, LLC.

23 You're also going to hear testimony from
24 Steven Zemba. He's the health risk assessment specialist,

1 Dr. Stephen Zemba, excuse me. His conclusions are going to
2 show that there are no health concerns with emissions from
3 this use.

4 You're going to hear from Thomas Thunder,
5 Dr. Thomas Thunder. He's one of the audiologists. We've
6 done a sound study. You're going to hear that the noise
7 levels resulting from this use are going to have no effect
8 on the neighborhood.

9 You're going to hear from Michael
10 Werthmann, who's a traffic expert. He did the traffic study
11 which we presented in evidence, showing that this use is not
12 going to affect or negatively affect traffic, nor will there
13 be any additional road improvements needed for this use.

14 These conditions that we are -- there are
15 a list of conditions in the ordinance that we have to show
16 that we fall within. We are going to show that the use is
17 not detrimental to the neighborhood, or general public
18 welfare. We're going to show that it's in compliance with
19 the County's comprehensive plan. It does not impair light
20 or air adjacent to any of the properties. It does not
21 increase any hazard from fire or danger or other properties,
22 or diminish property values. It does not increase traffic
23 congestion or increase flood damage, and it will not incur
24 additional public expense for fire protection.

1 We were aware of objections to this use,
2 and we attempted to address those objections. One of the
3 objections that we were aware of was from Burr Ridge. It
4 was a general objection to the use. We contacted Doug
5 Pollack who is the Director of Community Development at Burr
6 Ridge. We asked him if there was anything we can do to
7 answer questions regarding that. We were told there was a
8 zoning hearing on the 19th, which we participated in. We
9 provided Mr. Pollack and the Village of Burr Ridge our
10 expert report, our audiologist's report, which directly
11 addressed Burr Ridge's general conditions and show that it's
12 within the parameters of Burr Ridge's general conditions.

13 We also attended a village board meeting on
14 the 26th, and we were heard at the village board meeting
15 there as well. Regardless, they did vote to object, and
16 that's the subject of this objection exhibit that was
17 presented.

18 We also contacted Lemont. We actually
19 contacted them on a number of occasions. I did get a call
20 back from George Schaffer yesterday. He indicated that they
21 are objecting. He gave some general reason why a visual
22 impact, but did not give specifics. We did offer
23 information to Lemont as well.

24 We also contacted the Forest Preserve,

1 Mr. Ed Stevens. We left two messages with the Forest
2 Preserve. Last Friday I got a call saying that -- from Chad
3 Hills saying their executive director was on vacation, and
4 that they were just generally objecting based upon
5 detrimental impact on natural resources. We offered
6 additional information, but because he was on vacation, it
7 did not get out to him. It wasn't asked for.

8 We also contacted -- and forgive me, it's
9 Phil Luetkehans; is that correct?

10 CHAIRMAN KETTER: Yes.

11 MR. DORAN: And Phil contacted me back. We played
12 phone tag for a while. We eventually had a conversation. I
13 eventually had a conversation with him and asked him if
14 there was any way we could address any of his objections.
15 He indicated he didn't believe there was, and therefore
16 we're here today without addressing any objections from
17 Phil Luetkehans.

18 CHAIRMAN KETTER: Before you go further, could I just
19 clarify one thing? I had looked before tonight and then I
20 went down to confer with staff. Maybe I misunderstood you.
21 Did you say this is the only zoned I-2 in DuPage County?

22 MR. DORAN: No, I did not. I said it's one of the
23 few. There is others. You can see to the left of this
24 diagram --

1 CHAIRMAN KETTER: That answers my question. I think
2 there's six or seven.

3 MR. DORAN: Yes, I believe there are seven.

4 For my first witness this evening I'm
5 calling David Lorig.

6 (Whereupon, the witness was
7 previously duly sworn in.)

8

9 D A V I D L O R I G,

10 Called as a witness by the Petitioner herein, having been
11 first duly sworn, was examined and testified as follows:

12

13 EXAMINATION

14 By: Mr. Doran

15 Q. Could you state your name for the record.

16 **A. My name is David Lorig.**

17 Q. And, Mr. Lorig, are you the owner of Lorig
18 Construction Company, or one of them?

19 **A. Yes, I am the owner of Lorig Construction
20 Company.**

21 Q. And are you also the owner of Jeans Road
22 Properties, LLC?

23 **A. Yes.**

24 Q. And Jeans Road Property is the owner of the

1 piece of real estate; correct?

2 **A. That is correct.**

3 Q. Mr. Lorig, can you give us some background on
4 your education, your role with Lorig Construction, and how
5 long you worked with Lorig Construction.

6 **A. Lorig Construction is a family business,**
7 **approximately 30 years. I've been there the entire time.**
8 **My background actually is an undergraduate from Indiana**
9 **University, and I have a law degree also from Duke**
10 **University. I've been the president of Lorig Construction**
11 **for approximately 15 or 20 years.**

12 Q. And how long has Lorig Construction been in
13 the roadway business, or in the construction business?

14 **A. Since 1986.**

15 Q. And what type of clients does Lorig
16 Construction have?

17 **A. So generally we're in the highway -- what they**
18 **call highway heavy construction business. We only work in**
19 **the Chicago area. Our main clients are IDOT, tollway, the**
20 **various counties, City of Chicago, Metra. Those are the**
21 **main entities that we work for.**

22 Q. And have you recently completed any projects
23 in DuPage County?

24 **A. Yes, we have worked for DuPage County**

1 throughout the years. Last year actually we finished a
2 project for DuPage at Highland Avenue and Route 56 and I-88,
3 the bridge repair project. We were voted as DuPage County
4 Contractor of the Year for that project. We also were the
5 DuPage County Contractor of the Year in 2011 for a bike path
6 bridge over a railroad. We also -- since we're standing
7 here in this building, there is a large railroad bridge just
8 outside of this building over County Farm Road where
9 everybody used to get stuck in traffic. We built that
10 bridge approximately about 15 years ago. And, again, just
11 staying with DuPage County, we just received another
12 contract from DuPage County within the last month on
13 Winfield and Ferry Road by Route 59. So we do an extensive
14 amount of work for DuPage County. Again, also we've worked
15 for IDOT, the tollway, Metra as I mentioned. We've probably
16 won an award -- it would be quite lengthy of a list, but
17 we've won awards basically every year from those agencies:
18 IDOT Contractor of the Year multiple times and Tollway
19 Contractor of the Year multiple times.

20 Q. You mentioned the DuPage Contractor of the
21 Year 2016. You also won DuPage Contractor of the Year in
22 2011, you won the IDOT Interchange Contractor of the Year in
23 2014, the IDOT New Bridge Construction Award in 1999, 2004,
24 2008, 2010, 2011, 2012, 2013; Metra Contractor of the Year

1 2012, IDOT Urban Improvement Award in 2012 and Work Zone
2 Traffic Award of Accidents 2011; is that correct?

3 **A. Yes, that's correct.**

4 Q. So it's safe to say you have a good reputation
5 in the industry?

6 **A. That's correct. I'm very proud we have an
7 excellent reputation.**

8 Q. And you will continue that, to be a good
9 neighbor under this proposed use?

10 **A. That's correct.**

11 Q. So, David, we mentioned that Jean Roads
12 property is the owner of this parcel. What year was this
13 parcel purchased?

14 **A. We purchased the property in 2008.**

15 Q. And can you tell me what the size of this
16 property is?

17 **A. It's approximately 21 acres.**

18 Q. What was the prior use of this property?

19 MR. LUETKEHANS: Objection, relevance.

20 MR. DORAN: I'm going to --

21 CHAIRMAN KETTER: Subject to tying it up.

22 THE WITNESS: For many years before our use it was an
23 auto junkyard.

24 BY MR. DORAN:

1 Q. So prior to 2008?

2 A. **Correct.**

3 Q. What are you currently using the property for?

4 A. **We are currently using it as a contractor**
5 **storage yard.**

6 Q. And can you describe the current traffic use
7 on the property.

8 A. **So, the traffic is --**

9 CHAIRMAN KETTER: You know, now we're getting beyond.
10 If you want to lay what the traffic will be for this, what
11 is now there isn't going to matter. Are you going to
12 increase it, or is it going to be safety concerns?

13 MR. DORAN: Part of the use is we are going to
14 actually be substituting this use for -- we have a current
15 use that we're going to be substituting out, so we just
16 wanted to show that this current use is not going to be part
17 of that continuing use.

18 CHAIRMAN KETTER: Why don't you just ask him that and
19 you can move on, you don't need all the rest. It's going to
20 be a new use, the use you're proposing, if it's granted. If
21 not, it's going to stay what it is.

22 MR. DORAN: Okay.

23 BY MR. DORAN:

24 Q. So it's going to be a new use on this

1 property?

2 **A. Yes.**

3 Q. The existing traffic is not going to be a
4 factor, it's going to be replaced?

5 **A. That is correct.**

6 Q. Does the current property have any open issues
7 with DuPage County or any other municipality?

8 **A. No, there are no open issues.**

9 Q. Can you describe what surrounds this property?

10 **A. Sure. On the east side is a Route 83,**
11 **elevated Route 83. On the south side of the property is the**
12 **Des Plaines River. On the west side is woods, a forest**
13 **preserve I'm guessing, and on the north side is a ComEd**
14 **right-of-way. Well, first there's a railroad and then a**
15 **ComEd right-of-way.**

16 Q. Are there any residential business properties
17 directly adjacent to this site?

18 **A. On the north side of the property, on the**
19 **other side of the railroad, and on the other side of the**
20 **ComEd right-of-way, I'm going to say approximately 1,000**
21 **feet away, is some residents.**

22 Q. And I'm referring to what's been marked as, I
23 believe, it's Exhibit 3, tab 6. Can you take a look at
24 that, Mr. Lorig?

1 **A. Yes.**

2 Q. Is that a picture from the site near where the
3 residents are?

4 **A. That's correct, that's actually a picture from**
5 **the residents to the site.**

6 Q. And if you flip that page and look at the
7 second picture, there's a superimposed imagine of an asphalt
8 plant. Do you believe that image actively reflects what the
9 plant would look like?

10 **A. Yes.**

11 MR. LUETKEHANS: Objection, foundation.

12 CHAIRMAN KETTER: Sustained. Do you want to lay a
13 foundation. Who took the pictures?

14 THE WITNESS: I did.

15 MR. LUETKEHANS: Who laid the asphalt plant, what
16 scale? I need something.

17 CHAIRMAN KETTER: I just gave the lead-in, I'm not
18 going to do the whole thing.

19 MR. LUETKEHANS: Exactly. That's all I'm asking.

20 CHAIRMAN KETTER: I was giving the introduction and
21 see where it went.

22 MR. LUETKEHANS: Sorry.

23 BY MR. DORAN:

24 Q. Mr. Lorig, did you take this picture?

1 **A. I did.**

2 Q. And how did the superimposed imagine get
3 placed in the picture?

4 **A. I hired a graphic artist to superimpose it. I**
5 **gave him a picture of an asphalt plant and told him to**
6 **superimpose it in this picture.**

7 MR. LUETKEHANS: I'll object.

8 CHAIRMAN KETTER: I think you're going to have a
9 little problem with this. Other than a visual aid, I guess
10 I don't know how you're going to qualify it, that somebody
11 else did it and superimposed it and it is an asphalt plant
12 or anything else.

13 MR. DORAN: It's for demonstrative purposes only.

14 CHAIRMAN KETTER: For demonstrative purposes we can
15 just accept it and move on.

16 MR. DORAN: Okay.

17 BY MR. DORAN:

18 Q. Let's talk about the facility that's going to
19 be placed on this property. Can you explain what type of
20 facility is going to be put on the property? Asphalt?

21 **A. Yes. We are going to put up an asphalt plant**
22 **and we are going to put up a new asphalt plant, not an old**
23 **one, and just -- that is important because the technology in**
24 **asphalt plants from many years ago is completely different**

1 than it is today, so we are committing that we will put a
2 brand new asphalt plant up on the site.

3 Q. Mr. Lorig, I'm looking to Exhibit 3, tab 4.
4 That exhibit shows marketing material regarding an asphalt
5 plant explaining the use. Is this the type of asphalt plant
6 you plan on putting on this property?

7 A. Yes.

8 Q. And can you describe the plant, how the plant
9 works?

10 A. Sure. The process is simply almost like
11 making a cake where you take certain ingredients and you mix
12 them together, and out on the other end comes your final
13 product. The materials, you heat them up, and out comes the
14 final product. And the ingredients I'll call it are types
15 of aggregate, recycled materials, and some liquid asphalt
16 which comes from the oil refineries.

17 Q. Is there a difference between this plant and
18 let's say a plant that was built 20 years ago?

19 A. Yeah. I mean some of the issues that I know
20 people had, and I'm going to say 20, 30 years ago with --
21 I'll say noise or odors, things like that, those have all
22 been changed over the last 20 years. That's why it's very
23 important to have a new plant.

24 Q. So there's technology on these plants that

1 differ that reduce odors, reduce noise?

2 **A. Yes.**

3 Q. And your plant will have all that technology?

4 **A. That is correct.**

5 Q. Can you tell me what the footprint of this
6 plant will be on your 20-acre property?

7 **A. The footprint of the plant itself is**
8 **approximately one to one and-a-half acres.**

9 Q. And can you tell me when or how you intend to
10 operate this facility?

11 **A. So the asphalt plant is generally, based on**
12 **our climate in Chicago, generally open from April 1st, let's**
13 **call it, to the end of November until about Thanksgiving, is**
14 **then generally closed during the winter months. During the**
15 **months that it's open, the eight months it's open, we'll**
16 **approximately be working five days a week, sometimes six**
17 **days a week, let's call it, from 6:00 a.m. to 6:00 p.m. or**
18 **7:00 p.m.**

19 Q. How much asphalt will be produced on a daily
20 basis?

21 **A. Difficult to estimate, but I'm estimating**
22 **approximately 800 tons of asphalt a day on an average.**

23 Q. And in addition to the truck traffic that is
24 there now, what additional traffic will you estimate will

1 occur?

2 **A. So the truck traffic, I'm saying, is going to**
3 **be approximately 50 to 80 truckloads a day.**

4 Q. Is that an increase from the current use?

5 **A. It's going to be an increase somewhat, but on**
6 **some of the days currently we have 20, 30, 40 trucks a day.**

7 MR. LUETKEHANS: Mr. Chairman, I don't mean to
8 interrupt, but I couldn't hear how many trucks he said a
9 day, I apologize.

10 THE WITNESS: I said 50 to 80, I believe.

11 MR. LUETKEHANS: Thank you.

12 BY MR. DORAN:

13 Q. So how much of an increase over the current
14 use?

15 **A. Depending on the day, a maximum of 80. Could**
16 **be a lot less.**

17 Q. So a maximum of 80, but how much of an
18 increase over the current?

19 **A. Say, 40.**

20 Q. So percentage-wise?

21 **A. It could double the truck traffic very easily.**

22 Q. And you mentioned the site is not operational
23 in winter, so bad weather is not a factor?

24 **A. That's correct. Just by nature of the**

1 **business, if there's a bad snow storm or even terrible**
2 **thunderstorm or rain or anything like that, typically when**
3 **you have bad traffic, the asphalt plants are closed.**

4 Q. What about traffic from the employees, how
5 many employees will be coming in and out of the site?

6 A. **There is not that many permanent employees.**
7 **Let's just call it ten people that are permanently based**
8 **there.**

9 Q. So I would like you to look at Exhibit 3. I
10 would like to talk about the way the Route 83 is set up
11 today. So it's Exhibit 3, tab 6, and we're actually going
12 to pass the image of the asphalt plant. There are four
13 pictures there.

14 Can you give a general explanation of how
15 the traffic flows through this area?

16 A. **Sure. I have somebody that's going to testify**
17 **in some more detail, but generally --**

18 CHAIRMAN KETTER: You know, are you going to put a
19 traffic expert on?

20 MR. MC CLUSKEY: Yes.

21 CHAIRMAN KETTER: Why don't we just proceed on, then
22 there will be no objections as to his qualifications to
23 speak on the road. The pictures speak for themselves. Most
24 of us have been up and down there, and your expert can

1 address the different issues.

2 MR. MC CLUSKEY: That's fine.

3 BY MR. DORAN:

4 Q. So do you anticipate any issues with traffic,
5 essentially trucks backing up?

6 A. No.

7 Q. And why is that?

8 A. Because the Jeans Road gives us access to it.
9 There's no left turns are going to be needed, and there's
10 plenty of room on our site, even if for some strange reason
11 there's a bunch of trucks there at one time, our site is
12 going to have plenty of room to keep the trucks in line on
13 property and not on the street.

14 Q. You mentioned that you have a 20-acre site?

15 A. Correct.

16 Q. Will there be any material stored on the site?

17 A. There will be some material stored on-site.
18 You have to have some of the aggregates that we talked about
19 so they're all ready to use when you're making asphalt. So,
20 yes, there will be some material stored on site.

21 Q. Your site is part of a floodplain. As part of
22 this process, I would like to refer to Exhibit 3, tab 5.
23 Isn't it true that you reached out to the Kane-DuPage Soil &
24 Water Conservation District?

1 **A.** **Yes, we reached out to the Kane Soil & Water**
2 **Conservation District prior to this, I believe several**
3 **months ago, and they -- in the packet here they gave a land**
4 **use opinion with several comments concerning floodplains, et**
5 **cetera, et cetera, and we will answer all of their**
6 **questions. Actually in the exhibit is a letter from my**
7 **engineering consultant Spaceco that he's going to do the**
8 **design and he will answer any stormwater/floodplain issues**
9 **that Kane-DuPage Soil & Water Conservation District had, so**
10 **they will come by that report.**

11 **Q.** **You will be in compliance with that report?**

12 **A.** **Our plan would be in compliance with it, yes.**

13 **Q.** **Is there any signage that's going to be used**
14 **with this use, any additional signage?**

15 **A.** **No, I don't anticipate any additional signage.**

16 **Q.** **Isn't it true that this property, that the use**
17 **is regulated by the Illinois Environmental Protection**
18 **Agency?**

19 **A.** **Yes, the Illinois EPA regulates all asphalt**
20 **plants in Illinois. You have to apply for a permit and**
21 **obtain a permit from the EPA, and they are in charge of**
22 **monitoring, regulating everything that goes on with that**
23 **asphalt plant.**

24 **Q.** **Do you have any other experience with asphalt**

1 plants, Mr. Lorig?

2 **A. Yes. We own an asphalt plant in Crystal Lake**
3 **we've been running for approximately four years up in**
4 **Crystal Lake.**

5 Q. Have you had any public complaints from that
6 facility?

7 **A. We have not had any complaints.**

8 Q. During the four-year period that you've owned
9 the facility, have you ever required assistance from the
10 governing municipalities; fire department, police
11 department, or first responder's department?

12 **A. No.**

13 Q. In your opinion, are there odors emanating
14 from the Crystal Lake facility?

15 **A. No.**

16 Q. You mentioned that you hired the engineering
17 company Spaceco. Isn't it accurate that Spaceco did also
18 reach out to IDOT?

19 **A. Correct.**

20 Q. And you received no response from IDOT
21 regarding this use?

22 **A. That's correct.**

23 Q. Do you know of any other plants that operate
24 in DuPage County?

1 A. Yes, there are four other plants that are
2 currently operating in DuPage County; one in Elmhurst, one
3 in Naperville, one in Addison, and one in West Chicago.

4 Q. And did you compile some information regarding
5 these properties as compared to your property?

6 A. I did. That is our Exhibit 5, I believe.
7 It's this set of pictures that you have.

8 Q. And could you explain what these pictures
9 mean?

10 A. Yes, I can walk through these pictures, and we
11 actually have extras here so in case anybody needs them.
12 The first picture is one of my competitor's, an asphalt
13 plant in Naperville. And it's just a close-up of their
14 plant so you could see kind of the layout of a plant. And
15 it's right in Naperville right on Aurora Road.

16 Second picture is the picture of that
17 asphalt plant again. You see the red dot in the middle?
18 That is the same plant on a thousand-foot scale. And you
19 see all the houses, the schools. Again, it's right on
20 Aurora Road, which is the same as Ogden right near 59, kind
21 of right in the middle of everything in Naperville.

22 The third picture, and there is a number
23 3 on the side, is a plant on the same thousand-foot scale as
24 the one I just saw, and that is in Elmhurst. And, again,

1 you can see all of those little dots throughout that picture
2 are homes, businesses, everything.

3 Page 4, picture number 4 is the plant
4 that we are proposing on our site. Again, the same
5 thousand-foot scale as we used on all three, and you can see
6 the -- I guess I'll just call it less density. Even the
7 small amount of buildings on that are to the east of our
8 site, and those are all contractors and trucking storage
9 yards there.

10 So, now just to give it a different
11 perspective, I'm turning to picture number 5. Picture
12 number 5, again I'm back to the asphalt plant that's
13 successfully running in Naperville. I'm now on a 200-foot
14 scale, and you can see that it's directly on one side of the
15 street on Aurora Road and there is an entire subdivision in
16 there within that 200-foot scale. Right there. Again, I'm
17 forgetting the traffic and everything, and there is no left
18 turns, all that. I'm just showing you the proximity to the
19 residences.

20 Now we'll turn to page 6. Page 6 is the
21 asphalt plant that's being run successfully by one of my
22 competitors in Elmhurst. Again, the same 200-foot scale,
23 and you can see all the houses there on the left side of the
24 picture, and actually the plant is a little closer than that

1 dot because that dot is from Google Earth, and the plant is
2 on the left side of Salt Creek there, so it's even closer.
3 You can see all those houses and those buildings there right
4 on the left side.

5 Page 7, that is our site, the same
6 200-foot scale, just to keep it in perspective, from the
7 last two pictures I showed you. Obviously, as they say, a
8 picture is worth a thousand words. It's quite clear what's
9 happening there. Actually there is one on the very top of
10 that picture, they mentioned a U-Haul Naperville dealer.
11 That does not exist. Google Earth must have something
12 there. There is no U-Haul there, so there is actually
13 nothing in that picture except our yard on a 200-foot scale.

14 Last picture, page 8. Again I'm back on
15 the same 200-foot scale for the plant that's being run
16 successfully in Naperville. And I just moved the plant down
17 to the bottom of the picture so you could see the entire
18 subdivision or housing -- or I'm not sure what it is,
19 condos, everything. There's the restaurants there, there's
20 the mall right there on the right side of the picture, all
21 within that close proximity to that plant.

22 MR. DORAN: I've got nothing further.

23 THE WITNESS: Thank you.

24 MR. MC CLUSKEY: No cross?

1 MR. LUETKEHANS: I'm going to wait. Do you want me
2 to cross now, or do you want me to wait until they all
3 testify?

4 CHAIRMAN KETTER: Probably let's get his whole
5 presentation done.

6 MR. MC CLUSKEY: Okay. I'm going to call Mr. Zemba.

7
8 S T E P H E N G E O R G E Z E M B A,
9 Called as a witness by the Petitioner herein, having been
10 first duly sworn, was examined and testified as follows:

11

12 EXAMINATION

13 By: Mr. McCluskey

14 Q. Mr. Zemba, I'm going to refer to tab number 1
15 on Group Exhibit 3 of your binder. Could you state your
16 full complete name for the record?

17 **A. Steven George Zemba.**

18 Q. And where do you reside, sir?

19 **A. I'm a resident of Barre, Vermont.**

20 COMMISSIONER HAKIM: I couldn't hear you.

21 THE WITNESS: Steven George Zemba.

22 BY MR. MC CLUSKEY:

23 Q. Mr. Zemba, take the microphone and push it a
24 little closer to your mouth; okay, so people can hear you.

1 All right. Briefly describe your
2 credentials and your educational background.

3 A. I received my Bachelor's degree from Carnegie
4 Mellon University in 1983, I got a Master's degree in 1985,
5 and Ph.D in 1989, both from the Master's Institute of
6 Technology. All those degrees are in mechanical
7 engineering.

8 Q. Okay. So you went to Carnegie Mellon, you
9 have your Bachelor's Degree from Carnegie Mellon, mechanical
10 engineering from MIT, and your Ph.D from MIT?

11 A. Correct.

12 Q. Briefly describe your -- not your education,
13 but your work background. What do you do for a living?

14 A. My work background is mostly in the area of
15 health risk assessment, and that basically means looking at
16 chemicals in the environment, trying to figure out how much
17 people are exposed to those chemicals, and whether there is
18 any danger associated with that exposure.

19 Q. Have you had an opportunity to work and check
20 the exposure to asphalt plants?

21 A. I have worked on a number of asphalt plants
22 over the years, starting in, I believe, 1996 I believe is
23 the first one.

24 Q. All right. You've been a mechanical engineer

1 since 1983; is that correct?

2 **A. Well, registration on mechanical engineers is**
3 **different. You can get your degree in mechanical**
4 **engineering. I've held a professional engineering license**
5 **since 1995. It takes a little while to get that.**

6 Q. All right. Now, in this case you were asked
7 to look at the Lorig plant; correct?

8 **A. That's correct.**

9 Q. And what specifically were you asked to do?

10 **A. Well, I was given -- the impression was there**
11 **were some concerns with neighbors over basically odors and**
12 **health risks that might be associated with the emissions or**
13 **pollutants from the hot mix asphalt plant, and asked to**
14 **evaluate those and determine their significance.**

15 Q. With respect to that, what did you do in order
16 to allay the fears of the surrounding neighborhood?

17 **A. Basically used my experience with hot mix**
18 **asphalt plants and testing that's been conducted by other**
19 **hot mix asphalt plants over the years compiled by the U.S.**
20 **EPA.**

21 Q. Mr. Zemba, could you speak up, please? I'm
22 having a hard time hearing you.

23 CHAIRMAN KETTER: Why don't you just take the mic
24 out.

1 THE WITNESS: Is this better? Can you hear in the
2 back?

3 AUDIENCE: Yes.

4 THE WITNESS: So the process that I went through was
5 I started with trying to ask the question or answer the
6 question what pollutants come out of hot mix asphalt plants.
7 And to do that, I looked at information that's been compiled
8 for many years by the United States Environmental Protection
9 Agency and other agencies. The specific data is called
10 AP-42, which is the EPA's emission factors. And the EPA
11 has also done some specialized testing of hot mix asphalt
12 plants from the year 2000, mostly because of some of the
13 issues associated with the odor from hot mix asphalt plants.

14 BY MR. MC CLUSKEY:

15 Q. Okay. Did you do some testing?

16 A. I did no testing of my own. These plants have
17 been tested extensively by others, so I'm using information
18 that's been compiled.

19 Q. So you're using data and information that's
20 regularly relied upon by experts in your field?

21 A. Yes. If I could draw an analogy to that, one
22 of the things about hot mix asphalt plants is they're not
23 considered to be major sources of air pollution. The
24 Illinois EPA consider them to be minor sources, and that's

1 kind of an arbitrary distinction. But say we had a major
2 source of air pollution like a big power plant, the reason
3 that we want information on those types of plants is so we
4 can evaluate whether it would be safe to build a new one.
5 So if I had a new (indecipherable) power plant, as an
6 example, I might be worried about the mercury coming out of
7 that power plant, and I wonder how many mercury we would
8 have from a new power plant. And AP-42 and EPA has compiled
9 exactly that type of information.

10 Q. Did you come to some conclusions in this case?

11 A. I did.

12 Q. What were your conclusions?

13 A. The conclusion is that basically the emissions
14 from this proposed plant by Mr. Lorig would be small. It
15 wouldn't be zero certainly, there would be certainly
16 pollutants emitted into the air, but once you look at
17 dispersing those pollutants into the atmosphere --
18 (indecipherable) for any other big users, not these smaller
19 users, those concentrations are predicted at locations like
20 the Emerald Ridge Housing Development and other locations
21 around the plant, and there would be minor increases in air
22 pollutant concentrations. Essentially, they mostly would be
23 so minor you couldn't even measure the difference between
24 what's out there today in background concentrations of all

1 these pollutants and what the Lorig plant would add to the
2 atmosphere.

3 Q. So based on that, you felt that there would be
4 no harm to the neighborhood and the surrounding area as a
5 result of this asphalt plant emissions?

6 A. That's correct. I found that the increased
7 concentrations were so small that you couldn't measure them.
8 But I also did what's known as a health risk assessment.

9 Q. What is that?

10 A. A health risk assessment looks at
11 concentrations in the air -- freeze them, and combines that
12 with other testing that have been done on toxicology
13 pollutants over the years to find out how dangerous they
14 are. For instance, what level is safe to breathe.

15 In a health risk assessment, you look at
16 two different end points, standard: If there is a chance of
17 getting cancer, the additional chance of getting cancer from
18 breathing pollutants that would be emitted by the Lorig
19 asphalt plant. And there are some known carcinogens.
20 The question, however, is what concentrations would be out
21 there in the neighborhood. And that was the goal we set.
22 (Indecipherable) -- predicted concentrations combined with
23 information on the capability of those to cause cancer, and
24 predict the additional cancer risk.

1 Q. What was the result of that study?

2 A. The results was that it would be a very, very
3 small increase in that cancer risk associated with the
4 emissions. I want to get the number right.

5 Q. I know you had a percentage in your report.
6 Please refer to that.

7 A. I will. On the fourth page of the last page
8 of my report is that estimate, and that increase in cancer
9 risk would be 0.2 in a million for a person living at what I
10 call the worst case residence where the air pollutant
11 concentrations increases, however small they are, would be
12 highest. And 0.2 in a million is below the level of which
13 regulatory agencies like EPA or Illinois EPA consider a
14 diminimus level. Usually that's a level of one per million.
15 So, any person can have an extra chance of getting one in a
16 million cancer risk of getting cancer. Background risk of
17 cancer I should note is 23 percent. About 23 percent of us
18 will die from cancer. That's one of the leading causes of
19 death. So, this takes your risk of getting cancer from
20 230,000 in a million to 230.2, a very, very small increase.
21 And it's one when permitting air pollutant sources that
22 regulatory agencies usually consider that to be an
23 acceptable level of risk. In fact, diminimus.

24 Q. So it's way below the U.S. EPA standard?

1 A. Yes, it was. In some context, most states,
2 and I don't specifically recall what Illinois does on a
3 case-by-case basis, but most states would find a risk of
4 about 10 in a million to be an acceptable level. And this
5 number is 0.2.

6 Q. Now, behind your -- strike that.

7 Your conclusion in your report was that
8 there's only trace changes to air quality that are indicated
9 by the evaluation of the proposed Lorig hot mix asphalt
10 plant?

11 A. Correct, and I would like to call attention to
12 two figures to demonstrate that. There were a number of
13 things to consider in this report, but I wanted to call out
14 two specifically. On the second page of the report -- I
15 checked, it's the third page of the report. It should be
16 labeled figure 2, but the caption is missing.

17 Q. Sir, I'm having a hard time. Slow down and
18 just enunciate, please. Thank you.

19 A. On the third page of my report there are two
20 figures. The first figure shows particulate matter, and
21 it's a (indecipherable) called PM2.5. What that refers to
22 are small particles in the atmosphere, smaller than 2
23 and-a-half (indecipherable) you can't see them. They are
24 much smaller than the width of a human hair. But because

1 they're so small, they stay suspended in the air. And the
2 concern over those particles is that they get deep into your
3 lungs when you breathe them. We are all breathing those
4 particles right now. And what's shown in that figure is the
5 level that was measured in 2015 in Naperville, which is the
6 closest location the EPA monitors for PM2.5. And that level
7 is 9 micrograms per cubic meter. Basically they call that
8 background. Everybody is breathing that roughly every day.
9 And that background level is below the Federal standard, the
10 safe level of the national air quality standard of 12
11 micrograms per cubic meter, but it's not that far away. 12
12 is not that much smaller than 9, so you wouldn't want to
13 permit an air pollution source that would increase the
14 concentration by 4 and put it over the national ambient air
15 quality standard. That's why we predicted the concentration
16 that would be expected due to exhaust emissions you find
17 from a hot mix asphalt plant, and that number comes out to
18 be very small, can't even see it on the chart. So it's not
19 going to add to the existing level very much. That's why I
20 say you couldn't possibly measure it, you couldn't
21 distinguish it from 9.04 or whatever that number is going to
22 be.

23 Q. So your conclusion was the expected changes in
24 the air quality will not present any significant health risk

1 to the nearby residences?

2 A. That was one conclusion. The second
3 conclusion is it wouldn't change the air quality in a
4 noticeable way, and that was what that figure was trying to
5 show.

6 Also the second part of that,
7 formaldehyde, which is a suspected carcinogen, one of those
8 chemicals the EPA believes causes cancer. That, again, was
9 a background level. That's 1.2 micrograms per cubic meter.
10 That was actually estimated in a study by the EPA for 2001
11 called the National Air Toxins Assessment. It assesses
12 (indecipherable). This is a nationwide study. The
13 increases concentrations would be very, very small, wouldn't
14 change the 1.2 micrograms by any significant level.

15 MR. MC CLUSKEY: Thank you. I have no further
16 questions.

17 I call my next witness. I would call Mr.
18 Tom Thunder, my acoustics expert.

19
20 T H O M A S T H U N D E R,
21 Called as a witness by the Petitioner herein, having been
22 first duly sworn, was examined and testified as follows:

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EXAMINATION

By: Mr. McCluskey

Q. State your name for the record, please.

A. Dr. Thomas Thunder.

Q. And could you please present your credentials, your educational background, and what you do for a living?

A. Sure. I've been before this board before, so I'll briefly summarize. I have a doctorate degree in audiology, which is hearing science, and I have post-graduate training at the Illinois Institute of Technology in acoustical engineering, licensed by the State in Illinois in audiology, and I'm a board certified noise control engineer by the Institute of Noise Control Engineering.

Q. And how long have you been in this business?

A. Too long, probably. For a long, long time. When I graduated at Northern Illinois University, I wanted to go in the area of hearing acoustics, and that's what I do, both field of hearing and acoustics together, so most of my work is occupational and environmental noise issues. I also get involved in forensic issues that have to do with audibility and so forth. Much of my work is teaching. I've been on staff at Rush University and Northern Illinois University for almost 30 years teaching courses in

1 acoustics, cycle acoustics, and hearing loss prevention.

2 Q. You're 65 years old, sir?

3 A. Yes.

4 Q. You look great.

5 A. Thanks.

6 Q. Tell me what did you do for this case?

7 A. Well, I was asked to, like most clients, to
8 investigate and address noise issues and to evaluate
9 potential impact from the new noise source that would be
10 introduced into the area.

11 Q. What did you do?

12 A. Well, the first thing we do is we have to get
13 reliable and credible noise source data. If we don't get
14 that, then it really sheds a cloud of suspicion over the
15 entire study.

16 Q. As an expert, why is that important?

17 A. Well, garbage in, garbage out basically. If
18 you don't have good data, you can't really go anywhere. And
19 sometimes I have data from my clients and I just look at it
20 and just wonder how in the world was it ever developed. So
21 we insisted we go out to a comparable facility, which we
22 did. We went up to the Crystal Lake facility that the
23 petitioner has. It's an older plan, as you heard, a little
24 noisier and so forth, but we proceeded to make noise

1 measurements.

2 Q. So you used that as a control?

3 A. Yes, we did. Well, as the base, the
4 benchmark. And so we went there and made measurements of
5 the asphalt plant as well as a crusher that was there, and
6 the report, that graph is shown on figure 1. If you look at
7 that, you'll see it's just a recording. I like to do
8 recordings so we get a chance to listen to it. We can
9 analyze it any way we want. We can analyze the different
10 frequencies produced by, but basically that report shows you
11 from the asphalt plant at 100 feet we are looking at 75
12 decibels, which is almost the sound of a blender in your
13 kitchen. And then we went over the rock crusher at 50 feet
14 measured a level of 70 decibels, which is about as loud as a
15 vacuum cleaner in your home. So that's the two pieces of
16 data that you start with.

17 Q. All right. Did you do any studies at the
18 site, of the Lorig site in Lemont Township?

19 A. Yes, I had my fill engineer go out to the site
20 to do a site inspection, drive around the area to take a
21 look at the site, examine the topography to be able to list
22 the different noise sources that were there. Part of doing
23 a noise study and assessing impact is to be able to go out
24 and find out what kind of background noise levels already

1 exist, because a lot of noise issues has to do with
2 expectations. If the noise of this new source is
3 significantly above the ambient sounds, then it could very
4 well be an impact.

5 Q. What does that mean, ambient sounds?

6 A. Ambient sound is that all encompassing sound
7 that you hear. Sometimes it's called the background. It
8 means the same thing. If you go out there without the
9 source operating and measure the noise, that's called the
10 ambient sound, the sound that already exists out there.

11 Q. And did you do some testing out there?

12 A. Yes, yes. We placed a recorder, we placed it
13 as close to the residential area, a good position to be, so
14 it reflects what they hear and not what anybody else hears,
15 and we let that recorder run for a fairly long time in order
16 to be able to see how these noise levels change over time,
17 particularly if the petitioner wants to operate into the
18 evening hours, then it becomes very important to establish
19 what these nighttime hours are.

20 MR. LUETKEHANS: Objection at this time as to
21 foundation and the fact that this information was illegally
22 obtained by being put on our property without permission.
23 We would ask that he not be allowed to testify to this.

24 MR. MC CLUSKEY: I disagree. I'll have him set the

1 foundation.

2 BY MR. MC CLUSKEY:

3 Q. Did you put this on the street property?

4 A. **No, it was not on the street.**

5 Q. Where did you put it?

6 A. **It was off to the perimeter of the property at**
7 **the very southern edge of the homeowner property, the**
8 **residential, and the brick wall somewhat obscured.**

9 MR. LUETKEHANS: It was on the townhome association
10 property; right?

11 THE WITNESS: It was on the townhome property, yes,
12 and I believe that, as an acoustical engineer, that was the
13 best position for that.

14 MR. LUETKEHANS: Again, I would ask that be stricken
15 as being illegally obtained.

16 MR. MC CLUSKEY: Well, if we're going to rule on a
17 criminal activity here, I think this is outside the bounds
18 of this board with respect to that.

19 CHAIRMAN KETTER: I think I'm going to admit I'm not
20 sure. We've kind of broadened the parameters of due process
21 to not adhere to a strict court system. I guess, you know,
22 if it's a major point, rather than err, what I would say
23 then is that we will stop this here, we'll get a State's
24 Attorney's opinion, and that will clear up the matter one

1 way or the other.

2 MR. MC CLUSKEY: I'd like to make an offer of proof
3 here and let it go in as an offer of proof.

4 CHAIRMAN KETTER: I was just going to let you finish,
5 subject to being stricken if the State's Attorney finds this
6 was illegally gotten and should not be part of the record.

7 MR. MC CLUSKEY: That's fine, Mr. Chairman, I agree
8 with that. Thank you. Go ahead.

9 THE WITNESS: Refresh my memory.

10 BY MR. MC CLUSKEY:

11 Q. You set up the machine. What type of a
12 machine are we talking about?

13 A. It's just a small recorder. It's a microphone
14 on a tripod like a regular camera tripod, and it comes down
15 into a small lunch box-type of device that has a hand-held
16 recorder. It's a digital recorder, so it's small, it's
17 obscure, it's not in anybody's way. It's there for the
18 purpose of just trying to determine what are the ambient
19 noise levels in that area. It's the best way to assess
20 that.

21 Q. You're trying to determine what the noise
22 levels were in order to satisfy the objectors; correct?

23 A. Absolutely.

24 Q. All right. So you put that --

1 CHAIRMAN KETTER: Just a quick question because we're
2 going to send this to the State's Attorney's Office. Did
3 you make any attempt to get permission to go on to wherever
4 you went to put the device there?

5 THE WITNESS: There was no attempt to do that
6 considering the time frame that we were under. As we looked
7 and tried -- our normal course is to try to put it as close
8 to residential property without going --

9 CHAIRMAN KETTER: I understand that. It's just for
10 the record if they're going to look at it. You're
11 acknowledging that it was on whatever that association's
12 property and there was no consent?

13 MR. MC CLUSKEY: Mr. Chairman, I don't mean to be
14 disrespectful, but I don't really know if that was
15 homeowner's property. It was in a street that may be within
16 --

17 MR. LUETKEHANS: Well --

18 MR. MC CLUSKEY: Wait a second -- was it in a street
19 that was contained within the homeowners association. I've
20 never seen a plat of survey to determine.

21 CHAIRMAN KETTER: He said it was on a wall, so unless
22 you have a wall going down the street, we're not dealing
23 with the street.

24 MR. LUETKEHANS: It was not on the street. I have

1 photographs. Mr. Thunder just said it wasn't on the street,
2 it was on residential property, and I have photographs of
3 it. So I have photographs of it, and in fact I called
4 immediately upon being received, and Mr. Thunder took it
5 down. But no one asked us. They knew I represented the
6 townhome association from the last meeting.

7 CHAIRMAN KETTER: All right. For the purposes of the
8 record then, it's not on the Lorig property, it's on other
9 property, and you didn't call anybody to get it approval?

10 THE WITNESS: No, I didn't.

11 BY MR. MC CLUSKEY:

12 Q. All right. Is this machine the type of
13 machine that's used by experts in your field in order to
14 measure the noise levels?

15 A. Yes, it is.

16 Q. Okay. And did you calibrate that machine
17 correctly?

18 A. Yes, the calibration tone was put on the
19 recordings, so that when it's analyzed in our laboratory, we
20 can get the correct data.

21 Q. Did you take -- what was your sample? How
22 long was it?

23 A. The sample turned out to be eight and-a-half
24 hours until it was disconnected.

1 Q. Did somebody disconnect that without your
2 permission?

3 A. **Yes, somebody disconnected it.**

4 Q. So somebody touched your property without your
5 permission; is that correct?

6 A. **That's correct.**

7 Q. Okay. Did anybody call you and seek
8 permission to touch your property, sir?

9 A. **No, I didn't receive a call.**

10 Q. Okay. Well, you did talk to Mr. Luetkehans,
11 didn't you?

12 A. **I did not talk to him, no. I heard a message
13 that he left, and we had taken the equipment down the next
14 morning as he asked.**

15 Q. You were able to get eight and-a-half hours?

16 A. **Yes.**

17 Q. It was enough of a sample?

18 A. **Yes, it is.**

19 Q. Did you reach some conclusions in this case?

20 A. **Yes. As figure 3 shows the noise levels
21 throughout that whole time period. The average ambient
22 noise level by the homeowners right there at the edge was 53
23 decibels, and that's very much in line with the estimated
24 background noise level that the American National Standards**

1 would give you for that kind of an environment. So we felt
2 very comfortable that that was, indeed, an accurate and
3 credible measure of background noise.

4 Q. Okay. Did you reach some conclusions in
5 summary with respect to the amount of data you collected at
6 the Crystal Lake plant versus the Lemont site, and whether
7 the levels would be acceptable?

8 A. Yes. The procedure in doing this is to take
9 the source data that we got from Crystal Lake and to use an
10 international standard of predicting sound levels at a
11 distance. Now, the distance, the added distance is almost
12 1,000 feet from where the plant would be located to the
13 homeowners, and so we used the international standard to
14 determine what the attenuation reduction of sound is. That
15 standard tells us that there will be about 20 decibels drop
16 in sound, just because of the geometrical spreading of
17 sound, of the dissipation. There's an additional four
18 decibels dropped due to vegetation and the atmosphere and
19 things of that sort. By the time you predict it at the
20 other end, we find out that the asphalt plant with the
21 crusher that we measured would be about 52 decibels. That's
22 the prediction level that we have at the property line.

23 Q. Okay. And did you check it with the
24 appropriate standards, whether it meets the appropriate

1 standards?

2 **A.** **Yes, there is the Illinois Noise Code that's**
3 **been in existence for over three decades. That stipulates**
4 **that this is an industrial use, and that would be considered**
5 **class C land. Residential use is considered class A land,**
6 **and they have a stipulation of 61 dB during daytime hours,**
7 **and 52 decibels obviously falls well within that.**

8 **Q.** **How about the Village of Lemont, did you check**
9 **with their standards?**

10 **A.** **I don't believe they have any.**

11 **Q.** **They follow the State of Illinois?**

12 **A.** **Then it would certainly meet that with a good**
13 **margin of error.**

14 **Q.** **How about the Village of Burr Ridge who had an**
15 **objection?**

16 **A.** **That was brought to my attention that Burr**
17 **Ridge was concerned about the noise, too, so I read over**
18 **their performance standard, and their performance standard**
19 **is actually more strict than the State of Illinois. Their**
20 **level of daytime operation is 55 decibels, which is**
21 **consistent with the U.S. EPA limit for noise. Now, the US**
22 **EPA doesn't have limits, they have guidelines that villages**
23 **and states and so forth are allowed to use, but the U.S.**
24 **EPA uses 55 dB as a guideline or limit for daytime noise**

1 before it would impact a neighborhood, and that's done with
2 a reasonable margin of safety, so 55 dB is the limit that's
3 used by EPA, and it's also used by Burr Ridge. So if we
4 measure or predict 52 decibels, then that falls within that
5 more strict standard.

6 Q. So even the Village of Burr Ridge, it's within
7 their standard?

8 A. Yes, it is.

9 Q. So did you come to a conclusion with respect
10 to if this plant was operational, whether it would meet all
11 the proper standards for noise and be well below or within
12 the standards of Burr Ridge and Lemont and the surrounding
13 areas?

14 A. Yes, it would meet the State of Illinois noise
15 codes, it would also meet the Burr Ridge noise code, and if
16 you look at the ambient noise that would measure, the most
17 important question is is it going to be an impact. Who
18 cares what the code is, is this going to be an impact. That
19 background noise -- the comparison with the background noise
20 tells us it wouldn't be an impact because 52 dB is
21 comparable to the background noise that already exists at
22 that location.

23 Q. So it would blend in?

24 A. Yes, yes.

1 MR. MC CLUSKEY: Okay. Thank you. I have no further
2 questions.

3 CHAIRMAN KETTER: As I said, we will get an opinion
4 and that will determine what we do with this. Just for the
5 record, I think it's important because the only way you can
6 do a valid test is you have to be on the subject area to get
7 it, so that --

8 MR. MC CLUSKEY: Then I would have to seek permission
9 to come out here and have it done again, because I think it
10 wouldn't be fair to a full hearing if I don't have this
11 audiologist testify. Thank you.

12 I'll call my next witness --

13 CHAIRMAN KETTER: I'm assuming you're not going to
14 get permission.

15 MR. LUETKEHANS: Honestly, I'm not sure that's true.
16 The reality of it is I might have given permission, but at
17 least I would have had an acoustician there to sit there and
18 see what they were doing and actually get the results of the
19 test. That's why it's a problem.

20 CHAIRMAN KETTER: Rather than go for the opinion,
21 would you like him to go out with your expert?

22 MR. LUETKEHANS: I would have to look at the
23 parameters, et cetera. I mean, they knew I was here and
24 they never called me.

1 CHAIRMAN KETTER: All right, we'll just proceed to
2 get an opinion.

3
4 MICHAEL ALLEN WERTHMANN,
5 Called as a witness by the Petitioner herein, having been
6 first duly sworn, was examined and testified as follows:

7
8 EXAMINATION

9 By: Mr. McCluskey

10 Q. Could you state your full complete name for
11 the record.

12 A. Michael Allen Werthmann.

13 Q. All right. Briefly discuss your educational
14 credentials in order to testify as an expert today.

15 A. I have a Bachelor's of Science in Civil
16 Engineering from Michigan State University. I have been
17 practicing traffic and transportation engineering now for 27
18 years since graduating from Michigan State. I'm a principal
19 and partner with the firm of Kenig, Lindgren, O'Hara &
20 Aboona, Inc.

21 Q. You also have a Master's Degree from the
22 Kellogg School of Management, Northwestern University?

23 A. Yes. I'm also a licensed professional
24 engineer in the State of Illinois, also a certified

1 professional traffic operations engineer, and once again,
2 been practicing for over 27 years.

3 Q. Okay. Tell me how does that relate to the
4 study that you did today, or you're going to testify to
5 today.

6 A. As part of our assignment was to conduct a
7 traffic impact study for the proposed facility. This is
8 what myself and my firm specialize in is conducting traffic
9 impact studies for various types of development.

10 Q. How long have you been doing that, traffic
11 impact studies?

12 A. For 27 years.

13 Q. All right. And describe what that means, a
14 traffic impact study.

15 A. The traffic impact study, actually basically
16 three phases to an impact study. The first phase is to go
17 out and examine the existing physical and operating
18 characteristics of the roadway system. This includes
19 extensive field observation and field work, traffic counts,
20 collecting various data and information. The second phase
21 is determining the traffic characteristics of the
22 development of the facility, the volume of traffic that will
23 be generated throughout use, then the third phase is to add
24 this traffic to the roadway system to see what impacts it

1 has on the roadway system and what improvements are needed
2 to mitigate any impacts.

3 Q. Let's go to your conclusions first, and then
4 I'll ask you what you did to reach your conclusion. Did you
5 reach a conclusion in this case?

6 A. Yes. Is it all right if I present what we
7 found?

8 Q. Go ahead.

9 A. First of all, we heard the site is located on
10 the west side of Illinois 83. It's in an industrial area as
11 you've seen. The industrial area contains many construction
12 companies; truck/freight companies, landscape companies, a
13 bus yard, a number of other facilities that generate a
14 similar type of traffic that the proposed facility is.

15 Regarding the operation of the facility,
16 as you heard Mr. Lorig indicate, it will operate pretty much
17 from 6:00 a.m. to 6:00 p.m. April 1st to November 30th, so
18 it's really only generating traffic eight months out of the
19 year. The other four months it will be closed during the
20 winter months. On average, it will process about 800 tons
21 of asphalt per day. On a peak day, it could generate more.
22 We looked at that analysis, and it generates twice as much
23 on a peak day. It will have about ten employees.

24 From a trip generation standpoint, we

1 look at the number of tons that it will generate and the
2 type of trucks that will be delivering it. According to Mr.
3 Lorig, the asphalt and the materials will be delivered by
4 20-ton semi-trailer dump trucks. These can carry 20 tons of
5 aggregate or asphalt per load. As such, on daily basis on
6 an average day, the facility is projected to generate, as
7 you heard, about 80 round trip truck trips per day. On a
8 peak day, it may be double that, it may be 160.

9 What's unique about an asphalt plant is
10 the traffic is pretty much distributed throughout the day
11 through a 12-hour day, so the volume of traffic generated in
12 any one hour is relatively low. On an average day, we're
13 looking at six to seven, maybe eight round trips in an hour,
14 which is not a significant volume of traffic in the traffic
15 world.

16 The other thing about an asphalt plant is
17 the traffic is metered. You can only fill up one truck at a
18 time, so you fill up that truck, it goes and gets tarped,
19 and then takes off, and then the next truck comes. So this
20 traffic is metered. It's not all leaving at one time or
21 arriving at one time, which just helps to distribute that
22 traffic along the roadway system. In addition, this
23 traffic, as you've heard, will not be all new traffic to the
24 roadway system. As you've indicated as we've heard, the

1 facility or the construction yard has been operating since
2 2008 and does generate traffic now, truck traffic. That
3 will be eliminated with the proposed asphalt plant.

4 As it pertains to the route to and from
5 the facility, the majority of all the truck traffic will
6 travel to the facility via Illinois 83 to Jeans Road where
7 the access drive is located on Jeans. As you all know,
8 Illinois 83 is a four-lane major arterial roadway. It is
9 classified as a class 2 truck route. As such, it has been
10 designed to accommodate this type of traffic. Based on the
11 current traffic volumes on 83, the asphalt plant will
12 represent about a 1 percent or less than a 1 percent
13 increase in traffic on 83. Jeans Road is a local industrial
14 road serving the various businesses, one lane in each
15 direction. It carries a relatively low volume of traffic at
16 low speeds. However, a high percentage of that traffic is
17 truck traffic.

18 The intersection of 83 and Jeans Road, as
19 you've heard, Jeans is lower than 83. It runs under 83, so
20 there's ramps on either side of 83, bringing the traffic up
21 from Jeans Road to Illinois 83. There is a ramp on the east
22 side and the west side. This is unique in the fact that
23 all of the traffic is able to make right turns into and out
24 of Jeans Road. Because there's a ramp on each side, it

1 really minimizes the amount of left turns at this
2 intersection, which provide for a much more efficient
3 operation.

4 Q. And safer.

5 A. And a safer operation. One unique
6 characteristic about the intersection is the fact that when
7 you're traveling southbound on 83 and you make a right turn
8 onto Jeans Road, you basically have to make a U-turn because
9 you come down from a ramp, come all the way around and then
10 you go back north to come down the ramp. That U-turn is a
11 tight U-turn, so as trucks make that turn, they need to use
12 the majority of the ramp, or a good portion of the ramp in
13 order to complete their turn. As such, they're encroaching
14 on the other lane of traffic on the ramp.

15 Q. Let me see if I understand. You're talking
16 about the ramp on Jeans Road, not on Route 83?

17 A. No, on Jeans Road. As you're coming south on
18 83, you're making that turn, and you're completing the turn
19 onto the ramp. Given the distance between the ramp and 83,
20 the truck needs to swing out to complete that turn. While
21 this is not a typical design, it has been operating this way
22 for many, many years, and it's generally operating well.
23 This is evident in the fact that accident data for the past
24 five years have shown that the intersection has a very low

1 incidents of accidents. Over a five-year period, it only
2 had 24 accidents. That's five per year, which is very low.
3 In addition, there is a number of characteristics at that
4 intersection which improves its operation. The first is
5 that the ramp carries a relatively low volume of traffic, so
6 when that truck is making that sweeping turn, the likelihood
7 of another vehicle coming up the ramp at the same time is
8 very low. It does happen, but it's very low. More
9 importantly, as the truck makes that turn, it does it at a
10 very low speed. It's a tight turn. So as it's coming
11 around the corner, it can see if someone is coming up the
12 ramp. And I've seen it out there, they will slow down or
13 stop to give the right-of-way to that vehicle to pass it.

14 The third characteristic is Illinois
15 Route 83 has separate right turn lanes on 83 serving both
16 sides of the ramp, so there's a southbound right-turn lane
17 and a northbound right-turn lane. That's very important as
18 these slower -- as these trucks are going to make their
19 right turn, they have their own lane to decelerate to reduce
20 their speed, and they're outside of the Illinois 83 thru
21 lane, so the thru traffic can keep on going. They have a
22 dedicated lane to slow down to make that turn.

23 So all of this adds to the efficiency of this intersection.
24 And, once again, the accident data would indicate it is

1 operated efficiently and well.

2 Nevertheless, we did indicate some
3 improvements to consider to enhance the operation of the
4 intersection. One would be to provide some additional
5 warning signs on the ramp to indicate that trucks could make
6 wider turns when they come around. The other is to maybe
7 trim some of the bushes and the trees at that intersection
8 to further enhance the site distance.

9 Regarding the roadway operation, once
10 again as we previously indicated, the facility is projected
11 to generate a limited volume of traffic in any one hour. On
12 an average day, we're talking about seven to eight round
13 trips in an hour. The intersections and the roadways
14 generally have sufficient reserve capacity to accommodate
15 this traffic.

16 Field observations have shown that the
17 Jeans Road ramps, the traffic exiting the ramps onto 83, it
18 can experience some additional delay when exiting the ramps,
19 particularly during the morning and evening peak periods.
20 The delay is typical of what you would find at a stop
21 sign-controlled approach along a major road like 83. Some
22 queuing does occur. You do get a number of cars stacked up;
23 however, that queue typically dissipates rather quickly.

24 The other point I'd like to make is

1 during the evening peak hour, the queue of traffic at the
2 Archer Avenue intersection downstream, that can back up past
3 the Jeans Road at times. It usually dissipates quickly.
4 Also, vehicles will allow -- vehicles on 83 allow courtesy
5 gaps to allow the traffic to get out.

6 Pretty much that is my presentation. So,
7 overall, the facility will generate some truck traffic.
8 It's not all new traffic. It will be displacing the
9 existing uses on the site. That traffic is distributed over
10 a 12-hour period, which limits the volume of traffic that's
11 generated at any one time. Based on the operation of the
12 intersection as we've gone through, we feel that will be
13 sufficient to accommodate this traffic and that there is
14 generally sufficient reserve capacity to accommodate this
15 traffic.

16 MR. MC CLUSKEY: Thank you.

17 CHAIRMAN KETTER: Just one thing, and I might have
18 cut him off too soon, counsel there. When they were talking
19 about the present site, and it probably is in here but we
20 just got it, I didn't have time to read it. Do you have in
21 your records showing what the number of in and outs
22 presently is for that site?

23 THE WITNESS: We did not count the access drive,
24 because that traffic varies from day-to-day. But I don't

1 want to speak for David, but as David said, he has some days
2 where he could have 40 trucks coming in and out, and other
3 days he may have zero. Some days it may be all new traffic,
4 but other days it may not. But it has been an active
5 construction storage yard since 2008.

6 CHAIRMAN KETTER: And your 7 to 8 round trips per
7 hour, is that based on the full 12 hours, or did you allow
8 for the plant to heat up and cool down?

9 THE WITNESS: I basically took -- you know, we're
10 generating about 80 trips in an hour, you divide that by 12,
11 you get to about 7 or 8. I will say in my traffic study I
12 looked at a worst case scenario. We doubled that on a peak
13 day of 1600, so we did look at a peak day.

14 CHAIRMAN KETTER: When you say 7 to 8, I come up with
15 84 to probably 96.

16 THE WITNESS: Yeah. So, on average, if you took 80
17 into 12, I think it's like 6 trips if you took the average.
18 That's why I say the 7 to 8. There will be some
19 fluctuation, and that's why we say 7 to 8.

20 CHAIRMAN KETTER: Okay.

21 BY MR. MC CLUSKEY:

22 Q. Mr. Werthmann, did you see any need to change
23 the traffic control signals on Route 83 or change any of the
24 structure of Route 83 as a result of this?

1 **A. No. As we look at it and the accident data**
2 **and our field observation, it's an atypical intersection, it**
3 **seems to be operating well, we don't see any need for any**
4 **major changes. We did indicate maybe some signage and**
5 **trimming some of the trees to improve the site distance and**
6 **the site lines.**

7 CHAIRMAN KETTER: That's on your property. Route 83
8 you would have to then recommend to IDOT.

9 THE WITNESS: Right. We would have to work with IDOT
10 to see if we can trim some -- I mean it's working fine now,
11 we're just looking at ways to further enhance that.

12 BY MR. MC CLUSKEY:

13 Q. In order to provide safety in the area for all
14 the neighborhood?

15 **A. For everybody.**

16 MR. MC CLUSKEY: Thank you. I don't have any further
17 questions. That's the end of our witnesses, unless we have
18 anybody else? I think we're fine.

19 Did you submit all these into --

20 CHAIRMAN KETTER: Yes.

21 MR. MC CLUSKEY: Okay. Do you want me to give a
22 close?

23 CHAIRMAN KETTER: No. You get the final say. Just
24 so we don't have to do this again, are you resting your case

1 in chief?

2 MR. MC CLUSKEY: Case in chief, but subject to
3 rebuttal depending on what Phil does, but I want to reserve
4 for rebuttal if I have to.

5 CHAIRMAN KETTER: All right. We're open for
6 cross-examination with the exception of the acoustics,
7 waiting for a decision by the State's Attorney.

8 If I may, Mr. Luetkehans, just a quick
9 thing. The public in general goes after the
10 cross-examination and the case in chief. We do have some
11 elected officials here. I do know they have other
12 commitments and schedules.

13 Is there any elected official here that
14 would like to speak at this time? If you speak now, you're
15 not going to get another chance. If you want, why don't you
16 come ahead and make your statement.

17 Are you just making a statement? You're
18 not going to put evidence in, are you?

19 MR. HABERCROSS: I'm going to put evidence in? I'm
20 not putting a document in, it's a statement. It's also to
21 clarify something you said earlier. I'm with the Tri-State
22 Fire Protection District. It said there was an objection.
23 We've never been notified.

24 CHAIRMAN KETTER: If you're going to give any type of

1 testimony -- just swear him in and we'll be safe.

2 THE COURT REPORTER: Would you raise your right hand,
3 please.

4 (Whereupon, the oath was duly
5 administered by the Notary.)

6 CHAIRMAN KETTER: For the record, you're an official
7 with the Tri-State Fire Protection?

8 MR. HABERCROSS: Yes.

9 CHAIRMAN KETTER: That's the fire protection district
10 that covers this area?

11 MR. HABERCROSS: Yes. We were never notified
12 officially that the plant was going in. I checked with the
13 chief today. I also have the chief of the fire prevention
14 bureau with me. Tri-State was never notified. In fact, we
15 believe that Lemont was notified given that they were the
16 agency that was -- fire protection district, and that's not
17 correct.

18 CHAIRMAN KETTER: Just a quick question for the
19 record then because I already read this in. When it says no
20 comment from you, that meant you didn't choose not to
21 comment, you didn't comment because you weren't notified?

22 MR. HABERCROSS: We were never notified.

23 CHAIRMAN KETTER: As you stand here today, do you
24 have a stance on it, or do you just want the record to show

1 that you weren't notified?

2 MR. HABERCROSS: No, I have a statement if I could
3 make that we object, obviously, and we weren't given an
4 opportunity or anything earlier.

5 CHAIRMAN KETTER: That's okay.

6 MR. HABERCROSS: I don't know the process. I checked
7 with the fire chief this afternoon if you've been notified
8 by anybody, and I actually have the fire prevention bureau
9 person, and he was never notified. So, if so, we would have
10 objected, and I have a statement if I could read it.

11 CHAIRMAN KETTER: It's not in written form to hand
12 in?

13 MR. HABERCROSS: No, this is my notes.

14 CHAIRMAN KETTER: We usually don't allow people to
15 read it, but if you want to make a statement, go ahead.

16 THE COURT REPORTER: Would you state your name,
17 please.

18 MR. HABERCROSS: My last name is Habercross,
19 H-a-b-e-r-c-r-o-s-s. My first name is Eric, E-r-i-c.

20 CHAIRMAN KETTER: And your position with the district?

21 MR. HABERCROSS: I'm the President of the Board of
22 Trustees for the Tri-State Fire Protection District, and
23 I've been so for approximately two years.

24 So first I'd like to state for the record

1 that we were never contacted in any way or form in regards
2 to this zoning application. I'm mostly here to discuss our
3 concerns in regards to fire service for a plant such as
4 this. The product -- according to just my credentials, I've
5 been a fire officer for 25 years. I also am certified as a
6 hazardous materials incident coordinator. I'm certified as
7 a technician, level A, level B operations, and also incident
8 commander.

9 In the fire service, this product is
10 considered to be hazardous material when it's transported
11 and when it's manufactured at its site. As is the case
12 here, we've had several fires already in the area regarding
13 mostly brush fires or grass fires. This is without any sort
14 of introduction of any sort of hazardous chemicals. There
15 have been (indecipherable) jurisdictional responses due to
16 the wildlife in the area and the spread of fire. It also is
17 concern for the district that there is no water supply on
18 this site at all. There aren't any water mains to hook up
19 to. There are two -- there is the I & M Canal on one side
20 and the DesPlaines River on other; however, these are not
21 suitable for drafting with the fire service. We won't be
22 able to get the lift that we would need for drafting. So,
23 essentially, if there was an emergency at this facility, we
24 would not able to provide any water unless it was brought

1 in. We couldn't draft on the hydrants.

2 Also the roads that are inside the plant
3 are not suited for any fire apparatus to come in and out.
4 They are all gravel. Another big concern that we have is
5 the entrance and exit. There is only one entrance and one
6 exit to come in and out. On one side there is no back way
7 to get in here. Essentially the property is an island. So
8 for us to get in or out, it has to go through the front.
9 With the amount of trucks that will be going in and out,
10 that will be difficult. Our apparatus are big, sometimes
11 bigger, certainly sometimes heavier than the apparatus
12 coming in and out, and it's a giant concern.

13 We also have concerns for the runoff,
14 things like that, for hazardous materials. If by some
15 chance we are producing, as you said, 800,000 tons of this
16 product, these chemicals have to be brought in and
17 processed. There are two waterways on both sides. From a
18 hazardous materials standpoint, if that does leak, we're not
19 sure how we could contain that, how we can get the materials
20 in, how we can get the manpower and the resources in there
21 to try to stop any sort of disaster we may have there. It's
22 just -- essentially to summarize from a layman's standpoint,
23 is there's two waterways, there's no exit this way, we're
24 introducing flammable materials a thousand feet from

1 residential areas, of course this is a great concern to our
2 department and probably other fire departments that have to
3 assist us if there was an emergency in this area.

4 We're also concerned about the traffic
5 that will be generated because we do serve Route 83, we
6 serve the Villages of Woodridge -- I'm sorry, Willowbrook,
7 Burr Ridge, parts of unincorporated Clarendon Hills, parts
8 of unincorporated Hinsdale, Darien, so we serve -- and also
9 Willow Springs. So we serve a large area. This will -- any
10 time you have a hazardous material going down the road,
11 there is potential for an accident, and we are generally
12 concerned about that also.

13 So I think those are our major concerns.
14 We do object to this. If we were notified, we would have
15 submitted something in writing. Is that something the board
16 would want from us?

17 CHAIRMAN KETTER: That's up to you. If you choose to
18 do that, that's fine.

19 Just for purposes of the record, the
20 policy of the Zoning Board is to send via email to
21 municipalities. Notice was sent to the fire district via
22 email. It didn't bounce back, and it didn't get -- we
23 didn't get notice that it wasn't received. I guess you have
24 a new chief and a new computer system, so something might

1 have fallen through the cracks. But for purposes of the
2 record, it was sent and not bounced back.

3 UNIDENTIFIED SPEAKER: I believe you sent notice to
4 Lemont, to the Lemont Fire Protection District because it
5 has a Lemont address, but it is within the boundaries of the
6 Tri-State Fire District. So, no, the Tri-State Fire
7 District did not receive any notification of this.

8 MR. HABERCROSS: We're pretty clear Lemont -- our
9 address is Lemont; however, that area is so sketchy, it goes
10 back and forth.

11 CHAIRMAN KETTER: We can check. Any notice problem
12 has been cleared up by allowing you to testify. Not having
13 further notice or prior notice, I won't expect you, unless
14 you choose to go ahead and cross-examine, you can bring
15 somebody in if you wanted to contradict it or cross them
16 later on, but at this point you're finished. And then
17 subject, if you do, we would notify you that you would have
18 to come back then.

19 COMMISSIONER LAZ: Mr. Chairman, before he leaves,
20 could I ask a question or two of him?

21 CHAIRMAN KETTER: If you're short, yeah.

22 COMMISSIONER LAZ: Well, I'm only 5'7", so I'm short.

23 CHAIRMAN KETTER: You're short in height, but long
24 winded.

1 COMMISSIONER LAZ: You make reference about ingress
2 and egress problems with the roads and your trucks?

3 MR. HABERCROSS: Yes.

4 COMMISSIONER LAZ: Now, that's unique and indigenous
5 to that property, not to the use as an asphalt plant. Would
6 that be a fair statement?

7 MR. HABERCROSS: I think they would be one in the
8 same, yes. An asphalt plant --

9 COMMISSIONER LAZ: Are there businesses east of 83 on
10 Jeans?

11 MR. HABERCROSS: That's as far as our district goes.
12 So, there are businesses past that, but I'm not sure if
13 there is any businesses that have flammable or hazardous
14 materials that I know of.

15 COMMISSIONER LAZ: But you would still have the same
16 problem of access to get into those businesses as you would
17 this one.

18 CHAIRMAN KETTER: Is that a question or
19 cross-examination?

20 COMMISSIONER LAZ: I'm just trying to find out.

21 UNIDENTIFIED SPEAKER: The access --

22 CHAIRMAN KETTER: Sir, we haven't sworn you in.

23 MR. HABERCROSS: On the other side of Kingery, there
24 is access from other roads. This is a unique land situation

1 that is essentially like an island. You have two canals on
2 both sides. The forest preserve pretty much abuts the other
3 side, which there is no access and just like -- you have to
4 turn off Kingery, and there is only one road that could
5 possibly go in and out. And, as you said, you can't even
6 turn past that. And the bridge is on one side, too, so we
7 couldn't even receive help from these other municipalities
8 if there was traffic due to the bridge.

9 COMMISSIONER LAZ: Thank you.

10 CHAIRMAN KETTER: Any other elected official here
11 that wishes to speak?

12 (No response.)

13 CHAIRMAN KETTER: Mr. Luetkehans, do you want to
14 proceed tonight?

15 MR. LUETKEHANS: We would proceed with
16 cross-examination of Mr. Lorig and ask maybe for time to
17 prepare for --

18 MR. MC CLUSKEY: Phil, I can't hear you.

19 MR. LUETKEHANS: We would proceed with the
20 cross-examination of Mr. Lorig tonight to the extent we can
21 finish it, and then we would ask for time to prepare for the
22 cross-examination of the expert witnesses of the petitioner.

23 CHAIRMAN KETTER: All right. In that event, we have
24 looked, and the calendar seemed to allow us to schedule it

1 for the next hearing July 20th. Does that meet the
2 schedules?

3 MR. LUETKEHANS: It meets ours, Mr. Chairman.

4 MR. MC CLUSKEY: I'll make myself available.

5 CHAIRMAN KETTER: What we will do tonight is to allow
6 cross-examination of Mr. Lorig, and then we will recess. We
7 could open it up for comments from the public, but here's
8 the situation: You haven't heard the entire case. You get
9 technically one bite at the apple. We allow usually three
10 to five minutes. If you're real close, we give you a little
11 bit additional time. But if you speak tonight, you won't
12 speak again. So if you speak and great things come out and
13 then you want to comment on it, it's going to be too late.

14 Having said that, we'll go with Mr.
15 Luetkehans and we'll see what the favor of the audience is,
16 and then we will at that point, if nothing else is
17 proceeding, we will then adjourn until July 20th at 6:00
18 unless it's the interest of people to do it at 5:30. Maybe
19 we narrow it down to three hours, I don't know.

20 MR. LUETKEHANS: I promise you it will not be three
21 hours.

22 CHAIRMAN KETTER: Then we will do it at 6:00.
23 Do you want him up there?

24 MR. LUETKEHANS: I think it's best if he's up there

1 and I'll try to speak loudly. Mr. Lorig, if you can't hear
2 me, please let me know and I'll scream a little louder.

3 THE WITNESS: Okay.

4

5 D A V I D L O R I G,
6 having been first duly sworn, was examined and testified as
7 follows:

8

9 EXAMINATION

10 By: Mr. Luetkehans

11 Q. You're actually an attorney as well; correct?

12 A. **Correct.**

13 Q. You have your juris doctorate?

14 A. **Correct.**

15 Q. I asked your attorney for the specs of this
16 plant earlier this week and haven't received them until, I
17 guess, tonight, so I have some questions that may be what's
18 in this document, but I haven't had a chance to review.

19 What's the height of the plant?

20 A. **I would say it's about 40 or 50 feet tall.**

21 Q. You don't know how high exactly?

22 A. **I don't know exactly.**

23 Q. Okay. This is not a batch plant, correct,
24 it's a drum plant?

1 **A. That's correct.**

2 Q. I know the ordinance talks about batch plants,
3 but no one builds batch plants anymore.

4 **A. The ordinance talks about batching plants, not**
5 **batch plants, but yes, around here it's all drum mix plants.**

6 CHAIRMAN KETTER: Not to interrupt, could we clarify
7 what the difference is?

8 MR. LUETKEHANS: There's really no -- let me ask you.

9 BY MR. LUETKEHANS:

10 Q. Mr. Lorig, has anybody built or bought an
11 asphalt batch plant in the last 20 years to your knowledge?

12 **A. No. Batch plant is kind of an older --**
13 **they're all asphalt plants. A batch plant is an older type**
14 **of plant. The drum mix plants are the more modern type of**
15 **plants, and those are the plants that are operating around**
16 **here, and that is the one we are proposing.**

17 Q. What's your drum plant -- excuse me, what's
18 your mixer size?

19 **A. I believe we were looking at about 400 tons.**

20 Q. And what's your type?

21 **A. What's my type?**

22 Q. The one that's in the exhibit.

23 **A. In the exhibit is a Gencor, and Gencor is one**
24 **of the two main manufacturers of asphalt plants that are**

1 being used around here. We obviously have not purchased one
2 yet, so it would be Gencor or Astec. Those are the two
3 manufacturers around here. We plan to use one of them and
4 do not plan to do anything unique or different.

5 Q. So it's one of those two, but we don't know
6 which one?

7 A. Correct.

8 Q. And so you don't know the height. Do you know
9 the rating of the dryer size?

10 A. I don't know.

11 Q. So we don't know how many tons per hour this
12 plant you're going to put out can do?

13 A. I'm saying it's probably generally in the 3 to
14 400 tons per hour.

15 Q. So it can do 3 or 400 tons per hour and you're
16 going to be open for 12 hours; is that correct?

17 A. Correct.

18 Q. If you're operating at 3 to 400 tons per hour
19 times 12, I am at 3600 tons per day; correct?

20 A. That's capacity.

21 Q. That's the capacity.

22 A. Right.

23 Q. And you're only going to operate at 800 tons
24 per day, even though you have a capacity of 3600?

1 **A. Correct.**

2 Q. Last year you said you were going to operate
3 1,000 tons per day. Do you remember that?

4 **A. No, I don't remember that.**

5 Q. Do you want me to read it to you?

6 **A. Sure.**

7 Q. Page --

8 CHAIRMAN KETTER: Is that from the prior hearing?

9 MR. LUETKEHANS: Yes, sworn testimony of Mr. Lorig.

10 CHAIRMAN KETTER: All right. You're doing it for,
11 what, impeachment then?

12 MR. LUETKEHANS: Right.

13 CHAIRMAN KETTER: We didn't adopt any of that record.

14 MR. LUETKEHANS: I understand that.

15 MR. MC CLUSKEY: We withdrew that and then refiled.

16 MR. LUETKEHANS: I understand that, but it's still
17 sworn testimony.

18 CHAIRMAN KETTER: Just clarifying the record.

19 BY MR. LUETKEHANS:

20 Q. We'll come back to that. So you're going to
21 operate -- you have a capacity of 3 to 400. In fact, one of
22 the Gencor in here has the capacity of 6 or 700 per hour;
23 correct?

24 **A. It could be. It's basically shown as the type**

1 of plant or an example of -- actually in there is a modern
2 plant. That's why it's in there. We have not narrowed down
3 the exact size.

4 Q. So we can't tell the specs by anything in here
5 and how many tons you're going to be able to produce?

6 A. You cannot tell the specs, you can only tell
7 that it's going to be a Gencor or Astec new plant.

8 Q. I asked your attorney for the specs, and
9 obviously you guys don't have them. Have you placed an
10 order? It's my understanding you placed an order for this
11 and just put it on hold?

12 A. That is incorrect.

13 Q. That is incorrect?

14 A. That is incorrect.

15 Q. Okay, so let's talk about how many tons.
16 Let's say you can produce 3600 tons per day. 3600, and the
17 average load asphalt truck going out -- let me ask this
18 question: You have two types of asphalt trucks; correct?
19 There's a 12 ton and a 20 ton?

20 A. Correct.

21 Q. That go out. So they average -- if you do --
22 have you ever done your averages of how many tons per truck
23 go out at Crystal Lake?

24 A. We're using almost all 20 tons.

1 Q. Okay, but you have people who are coming in to
2 buy from you; correct?

3 A. Correct.

4 Q. And some of those are using 12's?

5 A. **12, 15 tons, a little smaller. Mostly 15. I**
6 **haven't seen 12.**

7 Q. So let's do 3600 -- let's just do the math
8 here. 3600 tons divided by -- let's call it 18, nice even
9 number. That's an average of 15's and the 20's and the
10 12's. 200 trucks out per day at 3600 tons; is that correct?
11 Is the math correct?

12 A. **If you were putting out 3600 tons a day, your**
13 **math is correct.**

14 Q. That's how much this plant could put out; is
15 that correct?

16 A. **That's the capacity.**

17 Q. And if you had orders for 3600 tons per day,
18 you're not going to produce 3600?

19 A. **I haven't seen a plant around here produce**
20 **something like that. We have not.**

21 Q. Okay. So we got 200 trucks going in and out a
22 day is a possibility.

23 MR. MC CLUSKEY: Objection to what is a possibility.

24 THE WITNESS: No, I wouldn't say that.

1 MR. MC CLUSKEY: This is speculation. He's testified
2 that he's never seen a plant like that around here, so now
3 we're into hypotheticals that don't exist.

4 MR. LUETKEHANS: We're into a capacity of 3600 tons
5 in a 12-hour period.

6 MR. MC CLUSKEY: That's not relevant. He's
7 testifying to what he says he's going to do for this plant.

8 MR. LUETKEHANS: And I think I have the right to show
9 that he's not going to do it, and I think I just did, that
10 he's not going to not operate at capacity if he can.

11 CHAIRMAN KETTER: I have to admit, I forget what the
12 actual question and objection was. I'll allow you to go in
13 and show that -- what the capacity is and what it could be.

14 BY MR. LUETKEHANS:

15 Q. So if the capacity -- if I could send 200
16 trucks out in a day, that is 200 trucks out; right? That's
17 200 trips in for those same 200 trucks, so it's 200 truck
18 trips per day; correct?

19 A. **Using your example, correct.**

20 Q. Now, to get 200 -- to get 3600 tons of asphalt
21 out, you have to get 3600 tons of product in; correct. It's
22 a zero sum equation.

23 A. **Pretty much.**

24 Q. So no matter how many tons you get out, you

1 have to put that many tons of aggregate petroleum sand
2 on-site?

3 **A. That's correct.**

4 Q. So now, under my scenario, you now have 400
5 truck trips per day?

6 **A. Under your scenario, that is correct.**

7 Q. Okay. You said other plants in the area do
8 not do 3600 tons per day. You're aware that some plants in
9 the area do 1600 to 2,000 tons per day; correct, at least?

10 **A. Could be, yes.**

11 Q. You know your competition.

12 **A. I don't know the details --**

13 Q. How about Crystal Lake, how many do you do a
14 day there?

15 MR. MC CLUSKEY: Wait a second. He's not being
16 allowed to answer the question.

17 CHAIRMAN KETTER: Let him finish. If you don't like
18 it, you can move to strike.

19 MR. MC CLUSKEY: Move to strike.

20 BY MR. LUETKEHANS:

21 Q. How many tons per day are you doing average at
22 Crystal Lake on a day, like five days, those five days
23 you're averaging?

24 **A. Crystal Lake we're averaging about 800 tons a**

1 **day.**

2 Q. What's your capacity at -- strike that.

3 Question next. So, but you agree that
4 however many tons go out, you got to bring that many tons
5 in?

6 **A. I agree with that.**

7 Q. And they're 20-ton trucks coming in?

8 **A. I agree.**

9 Q. If I have -- let's just take 2,000 because we
10 agree some people can do up to 2,000 tons per day. At 2,000
11 tons per day, I got an additional hundred trucks of
12 aggregate coming in; correct?

13 **A. If you have the same amount coming in that day**
14 **as you do going out that day. I'm not sure it's all done on**
15 **the same day.**

16 Q. Yeah, some days you might have 120 coming in
17 and the next day you might have 80?

18 **A. Could be.**

19 Q. But the average is still that 100 trucks per
20 day just bringing aggregate in.

21 **A. Based on your quantities, not mine.**

22 Q. Based on 2,000.

23 **A. Based on your quantities.**

24 Q. Which you could easily do at this point.

1 **A. The capacity is there.**

2 Q. Thank you. In fact, the capacity is almost
3 double that.

4 We don't know the size of the bag house?

5 **A. No.**

6 Q. Do we even know the number of material bins
7 you're going to use?

8 **A. No.**

9 Q. Do we even know the number of feeder bins
10 you're going to use?

11 **A. No.**

12 Q. Do we know the size of the feeder bins?

13 **A. No.**

14 Q. How many silos?

15 **A. Three to five.**

16 Q. How big are the silos?

17 **A. I don't know the exact numbers.**

18 Q. And the silos are there to hold materials in
19 case you have to switch manufacturing specs in a day;
20 correct?

21 **A. That's correct, different mixes.**

22 Q. So you have a silo that sits there and it's
23 hot, it stays hot, so if a truck comes in that needs
24 something different than what you're manufacturing at the

1 time, it has the ability to utilize that different mix, you
2 can switch it over?

3 **A. That's correct.**

4 Q. You didn't talk about it today that I recall,
5 but at the last hearing you talked about deodorizing the
6 smell. Do you remember that?

7 **A. Yes.**

8 Q. Do you know what asphalt binder -- what
9 deodorizer you're going to use?

10 **A. I don't.**

11 Q. Do you know what asphalt binder is being used?

12 **A. It probably varies.**

13 Q. And to use that deodorizing, you'll actually
14 have to have that approved by the governmental entity that
15 inspects the project; correct?

16 **A. That's if you put an additive in, if an
17 additive is needed. There's also controls, odor controls
18 that can be done by the plant manufacturer.**

19 Q. One of the reasons you want to be -- you said
20 I-294 was, for lack of a better word, a target job you are
21 going to try and hit; right?

22 **A. I did mention that.**

23 Q. One of the reasons you want to be close is
24 because asphalt has a shelf life; correct?

1 **A. You have to be close.**

2 Q. And how close do you have to be?

3 **A. It varies, depends on the traffic, but for**
4 **example, I couldn't -- if there was something in DuPage**
5 **County where I'm at, I couldn't take it from Crystal Lake.**

6 Q. Why?

7 **A. Too far.**

8 Q. Because of the time issue?

9 **A. Time, competitiveness, everything.**

10 Q. But from competitive -- there's a difference
11 between competitiveness and time. We all understand
12 competitiveness, but this board is not here to talk about
13 competitiveness.

14 **A. I didn't ask them to.**

15 Q. So my question is this: How much longer does
16 it take to get from Crystal Lake to the I-294 project?

17 **A. Three hours, two and-a-half hours.**

18 Q. And how long does it take to get from Crystal
19 Lake to this proposed plant?

20 **A. Probably the same thing, a couple hours,**
21 **depends on the time of the day.**

22 Q. Okay.

23 MR. LUETKEHANS: I would submit as Objector's Exhibit
24 2 Google maps. I didn't label all these, I apologize.

1 (Whereupon, the documents were
2 marked Objector's Exhibit No. 2
3 for identification.)

4 BY MR. LUETKEHANS:

5 Q. This is a map from your current plant down to
6 Jeans Road; correct?

7 A. **Just looking at it, I'll take your word for**
8 **it.**

9 Q. Well, it is. So, under Google, it's an hour
10 and one --

11 CHAIRMAN KETTER: We'll take notice that you
12 qualified it.

13 MR. MC CLUSKEY: I'm going to object to this on
14 foundation. We don't know what the time, we don't know the
15 date, we don't know the year, we don't know the week when
16 this happened.

17 CHAIRMAN KETTER: You know, I think we can redact the
18 time on this because that's open for fluctuation. The miles
19 are never going to change.

20 MR. MC CLUSKEY: Right. I'll stipulate with respect
21 to miles, but not the time.

22 BY MR. LUETKEHANS:.

23 Q. Okay, so 53 miles between the two sites;
24 correct?

1 **A. Yes.**

2 Q. You're a member of NAPA; correct?

3 **A. We are not a member of NAPA, we are a member**
4 **of IAPA, which NAPA is the National Asphalt Association,**
5 **we're the Illinois Asphalt Association.**

6 Q. Okay. You're aware that asphalt has been
7 hauled distances for up to three hours; is that correct?

8 **A. I don't know.**

9 Q. Okay. But NAPA is an asphalt pavement
10 association, it's there to assist people in -- assist
11 asphalt plant manufacturers in zoning and other things and
12 just day-to-day usage, it's kind of like their national
13 organization.

14 CHAIRMAN KETTER: Are you asking, or are you
15 educating?

16 MR. LUETKEHANS: I'm asking.

17 THE WITNESS: It's the National Asphalt Pavement
18 Association. We are not members.

19 BY MR. LUETKEHANS:

20 Q. Okay, but it's an association of asphalt
21 manufacturers for the most part?

22 **A. It could be contractors, I don't know.**

23 Q. People in the asphalt business, it's not
24 people like me who are members.

1 **A. I wouldn't expect so.**

2 Q. Okay. Showing you what has been Objector's
3 Exhibit No. 4. This is from NAPA, the third edition.

4 (Whereupon, Objector's Exhibit
5 4 was identified for the
6 record.)

7 CHAIRMAN KETTER: Do you have a 3?

8 MR. LUETKEHANS: I'm kind of jumping around. I
9 didn't know what order I would do this, so we got a bunch of
10 them everywhere.

11 MR. MC CLUSKEY: I'm going to object to this. If
12 he's going to use him as the foundational expert to put this
13 document in, I'd object, because clearly the witness doesn't
14 even -- is not a member of it and isn't even aware of who
15 the members are.

16 MR. LUETKEHANS: I don't think I have to have a
17 witness on the stand. This is -- the hearsay rules are not
18 being followed. And this is a national organization, he
19 just said who they are, and so I think I have the right to
20 put it in.

21 MR. MC CLUSKEY: He's trying --

22 CHAIRMAN KETTER: Are you a member of this
23 organization?

24 MR. MC CLUSKEY: No. He's trying to make it an

1 authoritative text, and this isn't the foundation for
2 authoritative text.

3 CHAIRMAN KETTER: You can put this in for whatever
4 value it is, but I don't know how you're going to
5 cross-examine him on it. He's not a member of it and he
6 doesn't know the parameters of it; correct?

7 THE WITNESS: That's correct.

8 BY MR. LUETKEHANS:

9 Q. Have you ever looked at the NAPA publications?

10 **A. No, not this one.**

11 Q. Okay. Your lawyer's opening statement at the
12 last hearing, did you hear that?

13 **A. Yes.**

14 Q. That was directly out of the NAPA guide;
15 correct?

16 **A. Correct. I said not this one.**

17 Q. But we have NAPA guide -- (inaudible)

18 **A. I'm sorry, I couldn't hear you.**

19 Q. The opening statement at the last hearing was
20 directly out of the NAPA guide.

21 CHAIRMAN KETTER: Well, there's nothing in the record
22 to let it speak for itself. Do you know what your
23 attorney's opening statement was?

24 THE WITNESS: I don't remember.

1 MR. LUETKEHANS: He was here.

2 CHAIRMAN KETTER: So was I, and I don't remember.
3 I'm going to allow this in, but I have to tell you one
4 thing: We have to note for the record there are highlighted
5 areas that we didn't highlight.

6 MR. LUETKEHANS: We did.

7 CHAIRMAN KETTER: You know, is there any objection as
8 to the highlighted areas?

9 MR. MC CLUSKEY: Yes.

10 CHAIRMAN KETTER: Then you're going to have to have a
11 clean copy to introduce.

12 MR. LUETKEHANS: We highlighted specific areas for
13 attention and demonstrative purposes, but the actual
14 document is what it is.

15 MR. MC CLUSKEY: If it's not the real evidence and
16 he's only submitted it for demonstrative purposes, I have an
17 objection to that.

18 MR. LUETKEHANS: The highlighting we're submitting
19 for demonstrative purposes.

20 CHAIRMAN KETTER: Yeah, but I think that's improper.
21 I think we look at the document, we draw from what the
22 document we want. If you want to in a closing bring our
23 attention to it, but --

24 MR. LUETKEHANS: We'll submit it at the next hearing,

1 a clean copy.

2 CHAIRMAN KETTER: Okay.

3 BY MR. LUETKEHANS:

4 Q. Let's talk about your Exhibit 3 for a minute,
5 if I can. I'm sorry, it's Exhibit 5. Do you have that?

6 **A. I do.**

7 Q. Okay. Those two plants you're talking about,
8 they're both K-5 plants?

9 **A. Correct.**

10 Q. Okay. Let's talk about 1660 N. Aurora Road.
11 Is that zoned in the county or the City of Naperville?

12 **A. I would imagine it's City of Naperville, but**
13 **I'm not sure.**

14 Q. And it was also in place well before any of
15 these residences were built; correct?

16 **A. It's been there a long time.**

17 Q. The residents came to the site, not the other
18 way around?

19 **A. I believe that's correct.**

20 Q. Okay. Let's talk about the Elmhurst plant.
21 The Elmhurst plant, and we can cite it for the record
22 because there's, I believe, two appellate court decisions on
23 it, County of DuPage versus Elmhurst Chicago Stone where the
24 county tried to shut down this plant, actually was built in

1 1986 -- excuse me, 1860 or 1880. Do you know that?

2 MR. MC CLUSKEY: Is that a question or is that a
3 statement?

4 CHAIRMAN KETTER: Why don't you just question him.
5 You can submit a brief or do closing, but you're doing
6 testimony without asking questions.

7 MR. LUETKEHANS: I asked him if he knew when the
8 plant opened.

9 THE WITNESS: I don't know.

10 BY MR. LUETKEHANS:

11 Q. Do you know if the plant has been open 100
12 years?

13 A. I don't know.

14 Q. Okay. Is there a forest preserve district
15 adjacent to either of these two plants?

16 A. Does not appear to be.

17 Q. Do you know if either of these two plants were
18 approved for special use by the County of DuPage?

19 A. I don't know.

20 Q. Let's talk about the I-294 project. The I-294
21 project will most likely require operating at night;
22 correct?

23 A. No.

24 Q. Don't you have to do the rumble strips at

1 night?

2 **A. There might be some minor work at night, but**
3 **the majority of 294 would be done in stages where they move**
4 **traffic to one side of the road. The road is torn up, so**
5 **it's all daytime work.**

6 Q. But the rumble strips historically have always
7 been done at night; correct?

8 **A. That's correct.**

9 Q. Okay. Do you plan on operating at night?

10 **A. My plan would be not to operate at night, only**
11 **on an exception basis.**

12 Q. So are you willing to enter into a condition
13 that it will not operate past 6:00 p.m.?

14 **A. I would rather not do that.**

15 Q. If a night job is done, you cannot use asphalt
16 so -- let's say you're fixing rumble strips at 10:00 p.m.
17 or anywhere else, or any other laying asphalt. You cannot
18 produce asphalt at 6:00 p.m. and lay it at 10:00 p.m.;
19 correct?

20 **A. No, you could store it in a silo.**

21 Q. You'd store it where?

22 **A. In the silo.**

23 Q. In the silo on-site?

24 **A. Where the asphalt plant is.**

1 Q. I'm talking about on the Jeans Avenue site.

2 A. Yeah.

3 Q. At that point, you'd be having trucks come in
4 -- if you did it, you would have trucks come in at 10:00 or
5 11:00 to do that; correct?

6 A. You have to deliver at that point. You can
7 make it earlier.

8 Q. You could make it earlier, but you'd have to
9 have the incoming trucks coming in and going out at that
10 point; is that correct?

11 A. That's correct.

12 Q. How long is something good in the silo for?

13 A. Depends on the weather. Depends on the mix
14 and the weather. Up to a day maybe.

15 Q. To operate at night you're going to need
16 lights; correct?

17 A. Correct.

18 Q. Are you still -- so you have the site that has
19 a bunch of open storage on it; correct?

20 A. Correct.

21 Q. All that storage is going to go away?

22 A. Correct.

23 Q. All of it?

24 A. Yeah.

1 Q. Okay. So you're not going to have any more
2 aggregate stored on the site other than new aggregate?

3 A. **Other than the use for the asphalt plant.**

4 Q. I apologize. Right now you have stone
5 on-site?

6 A. **That's correct.**

7 Q. And you haul stone onsite?

8 A. **We have stone that we've hauled in there.**

9 Q. And you crush on the site?

10 A. **We have in the past, yes.**

11 Q. In fact, you've been crushing for the past
12 three or four years?

13 A. **We have not done it -- we've done it**
14 **sporadically, probably not since last year.**

15 Q. Do you remember testifying at the last hearing
16 saying you crushed on-site?

17 A. **Yes.**

18 Q. You crush on-site?

19 A. **Yes.**

20 Q. Okay. And you're going to need to crush
21 on-site for the asphalt plant; correct?

22 A. **Correct, recycle I call it.**

23 Q. You got to crush the --

24 CHAIRMAN KETTER: Let's just do it.

1 MR. LUETKEHANS: I apologize.

2 THE WITNESS: You crush, recycle I call it, but you
3 call it crushing.

4 BY MR. LUETKEHANS:

5 Q. Is anything on the site going to stay on the
6 site?

7 **A. I don't understand that question.**

8 Q. Is anything that you currently have on the
9 site going to stay on-site if you are allowed to operate an
10 asphalt plant?

11 MR. MC CLUSKEY: Objection, relevancy whether
12 something is going to stay on the site.

13 THE WITNESS: There could be something there.

14 CHAIRMAN KETTER: I think what he's going to is how
15 much is going to be on the site, how much is going to be
16 utilized and that. So with that in mind, unless I'm off
17 base, I'll let him proceed. And if I turn out to be wrong,
18 I'll correct it.

19 MR. MC CLUSKEY: Okay.

20 THE WITNESS: There could be some material there,
21 equipment there.

22 BY MR. LUETKEHANS:

23 Q. You've currently hauled gravel on the site?

24 **A. We've hauled some concrete in, some broken**

1 concrete and we've crushed it and then hauling the aggregate
2 out.

3 Q. Okay. You store -- what kind of equipment do
4 you store on the site?

5 A. We have construction materials. Again,
6 contractor storage yard. We have equipment, we have
7 materials that are used in road construction and equipment
8 that's used in road construction.

9 Q. Some of those materials are gravel, top soil?

10 A. No top soil.

11 Q. Other aggregates?

12 A. Yes.

13 Q. And you store equipment such as what?

14 A. I have loaders, trucks, backhoes, some paving
15 equipment, a crane.

16 Q. And those are all commercial vehicles;
17 correct?

18 A. That's correct.

19 Q. They're all commercially licensed?

20 A. Correct.

21 MR. LUETKEHANS: Showing you what has been marked as
22 Objector's Exhibit 5.

23 (Whereupon, Objector's
24 Exhibit 5 was identified for

1 the record.)

2 MR. MC CLUSKEY: Could I have copies?

3 MR. LUETKEHANS: Yeah, I'll get you one in a second.

4 BY MR. LUETKEHANS:

5 Q. That's a current view of the site; is that
6 correct?

7 A. That is correct, yes.

8 Q. So, can you point and show us what is actually
9 being stored on the site?

10 A. So, yeah, there's various equipment here,
11 trailers here, construction materials. There's some steel
12 beams, steel material. These are the concrete barrier
13 walls. Again, that's used in the road construction. I
14 believe there's some aggregate over here probably not shown
15 on the picture.

16 Q. And you don't have a special use currently on
17 the property for open storage or crushing, do you?

18 A. No.

19 Q. Do you know if that was necessary for those
20 types of uses?

21 A. I did not.

22 MR. LUETKEHANS: Showing you what has been marked as
23 Objector's Exhibit 6.

24

1 (Whereupon, Objector's Exhibit
2 6 was identified for the
3 record.)

4 BY MR. LUETKEHANS:

5 Q. That is view of the site from the west;
6 correct?

7 **A. That is correct.**

8 Q. And directly to the north of the property, or
9 on the other side of the forest preserve, is Emerald Ridge
10 Townhomes; correct?

11 **A. Correct.**

12 Q. And did you know that Emerald Ridge Townhomes
13 is only 400 feet from the end of your property line?

14 **A. I don't know the exact distance.**

15 Q. Is this plant going to be continuous mix?

16 **A. Meaning like a drum mix plant?**

17 Q. Yes.

18 **A. Yes.**

19 Q. Is it parallel flow?

20 **A. I don't know.**

21 Q. You don't know if it's parallel flow or
22 counter flow?

23 **A. I don't know.**

24 Q. And the roadways on this, let's go back to

1 Objector's Exhibit 5. Is this site paved, or is it unpaved?

2 **A. It is unpaved.**

3 Q. And what's the ground?

4 **A. It's like grindings and recycled material,**
5 **asphalt grindings.**

6 Q. Do you know -- going back to your -- I don't
7 know what exhibit this is, your site plan.

8 CHAIRMAN KETTER: I think that's 1.

9 MR. LUETKEHANS: Okay, thank you.

10 BY MR. LUETKEHANS:

11 Q. So, the plan, could you describe how the plan
12 is going to -- how, first of all, where the trucks are
13 coming in and going out. What's the flow, or do you not
14 know that yet?

15 **A. Generally trucks are coming in through here**
16 **and are going to flow through this road. But, again, we can**
17 **adjust it. This is kind of a schematic.**

18 Q. So, is the road going to be paved?

19 **A. Yes.**

20 Q. With what?

21 **A. Asphalt.**

22 Q. And so you said it's going to come through
23 here, so we'll describe it for the record to make it a
24 little easier. It's going to come from the east, there's a

1 gray area, a gray circle, it's going to go on the northern
2 part of that circle, circle around, and then come through
3 the southern part and go into the machine under the plant
4 and then go out kind of northeast?

5 **A. Correct.**

6 Q. Okay. Where are the bins going to be?

7 **A. I don't know exactly.**

8 Q. And we don't know how much capacity you're
9 going to have in those bins?

10 **A. That's correct.**

11 Q. Do you have a watering plan you've entered in,
12 or -- (inaudible)

13 **A. I couldn't hear the question.**

14 Q. I'm sorry, I was looking the wrong way.

15 Do you have a water plan as it relates to
16 keeping the emissions down?

17 **A. No, not yet.**

18 Q. So you did not give that to Mr. Zemba or
19 anybody as to how you were going to keep the aggregate from
20 emitting as well?

21 **A. I don't understand the question.**

22 Q. Okay. When you crush stone or crush recycled
23 asphalt, you get an emission; correct? You get smoke?

24 **A. I don't know.**

1 Q. You don't? Well, you run the Crystal Lake
2 facility.

3 A. **You get some smoke, you get some dust.**

4 Q. You get dust that goes into the air when you
5 crush?

6 A. **A small amount.**

7 Q. And you get dust that goes into the air when
8 you load the trucks?

9 A. **Could be.**

10 Q. And you get dust that goes into the air if
11 it's windy if you haven't watered down the plant; correct?

12 A. **Could be.**

13 Q. What type of fuel is going to be used to run
14 the plant?

15 A. **I don't know.**

16 Q. How many number of trucks -- what did we say
17 the number of trucks per day are going in and out today?

18 A. **I believe we said about 80.**

19 Q. A day? No, today. Today's current use.

20 A. **Today varies, could be zero, could be 40.**

21 Q. Okay. You advised the board that you need an
22 acre to acre and-a-half for the plant itself; correct?

23 A. **Correct.**

24 Q. That doesn't include all the areas needed for

1 the aggregate and the crushing operation; correct?

2 **A. That's correct.**

3 Q. That would take about another six or seven
4 acres; correct?

5 **A. It depends. You could do it on less. There's**
6 **people that operate on 4 or 5 acres, there's people that**
7 **spread out over 15 acres, so I would say somewhere between 3**
8 **and 7 acres is reasonable.**

9 Q. Who operates on 4 or 5 in this area that you
10 know of?

11 **A. Arrow has a plant near the airport. I believe**
12 **that's on -- I think it's on four and-a-half acres. I'm not**
13 **sure. I know it's very small. I think there's one or two**
14 **in the City of Chicago. There's one downtown that I believe**
15 **is on a very small footprint. Orange Crush has one in**
16 **Evanston that's on a very small footprint. There's probably**
17 **some others, but I can't recall.**

18 Q. Do you know if they crush on-site or if they
19 bring in the recycled asphalt after it's been crushed?

20 **A. No, they crush it on-site.**

21 Q. Do they store all their materials on-site, or
22 do they bring in stored materials from off-site?

23 **A. They store it on-site.**

24 Q. How big's the K-5 plant in Naperville?

1 **A. I don't know.**

2 Q. That's a pretty small plant comparatively?

3 **A. I don't know.**

4 Q. Well, you're the one that gave us the
5 pictures, so I'm trying to figure it out.

6 MR. MC CLUSKEY: Objection, argumentative. He
7 doesn't know.

8 CHAIRMAN KETTER: Do you want to -- if it reflects
9 the size, we'll take notice of what the size says, otherwise
10 I think he did it to show the layouts.

11 MR. LUETKEHANS: Yeah, but he's also now talking
12 about size of plants.

13 BY MR. LUETKEHANS:

14 Q. The K-5 plant on Naperville Road, they
15 actually have to bring in the materials on a regular basis
16 because they store them off-site somewhere else; correct?

17 **A. That's what I understand because the site is**
18 **small.**

19 Q. Thank you. Would you be willing to put a
20 condition on your approval that you would not store any
21 materials not necessary for the asphalt plant, not on-site?

22 **A. I don't want to -- I don't want to agree to**
23 **anything right now that's not -- I'm not sure.**

24 MR. MC CLUSKEY: I don't think this is something for

1 proper cross-examination. He's looking for stipulations in
2 cross-examination.

3 CHAIRMAN KETTER: Let's just for the record, you're
4 going for a conditional use, we can put whatever conditions
5 we want on it. If you -- prior to commenting on that, did
6 you wish to -- you would want to contact or talk to your
7 attorneys?

8 THE WITNESS: Absolutely.

9 CHAIRMAN KETTER: All right, so let's just limit
10 anything that would draw into question his response prior to
11 him conferring with his attorney.

12 I think you've laid the point that
13 conditions could be put on it, and the point you did elicit
14 so far is that the ones you mentioned he did not want to
15 adhere to the time or the limit.

16 And you are aware, your attorney will
17 advise you anyways, if we put the conditions on, at least at
18 this level they're binding. When it goes to the next level,
19 the County Board can cancel them, enlarge them, reduce them,
20 whatever. But it is a conditional use, and that's what
21 conditions are made to be done.

22 For the audience's knowledge, it's
23 different than some other conditions. Conditions can be put
24 on such as time; hours of operation, which would go into the

1 time; operation; the amounts; things of that nature, but
2 that would come once we decide if we're going to approve it
3 or not, and then what we would put on it.

4 BY MR. LUETKEHANS:

5 Q. Mr. Lorig, do you recall testifying at the May
6 11th, 2017 zoning hearing?

7 **A. Yes.**

8 Q. Do you recall being asked this question and
9 giving this answer:

10 "Q. How many tons of asphalt do you
11 anticipate producing on a daily basis?

12 **A. It's hard to estimate that sitting**
13 **right here now, but I would say**
14 **approximately a thousand tons."**

15 MR. MC CLUSKEY: He said 800 to a thousand, it's hard
16 to estimate. That's not a direct contradiction to what he
17 said.

18 MR. LUETKEHANS: He said 800.

19 MR. MC CLUSKEY: It's hard to estimate.

20 CHAIRMAN KETTER: You know what, you're impeaching
21 him on something that's not going to be in the record. Do
22 you want to introduce the transcript, because we didn't
23 adopt it, and then question him in regards to that, and then
24 we need the direct statement, the direct question and the

1 direct statement to see if it, in fact, impeaches him or
2 not.

3 MR. LUETKEHANS: Just so the record is clear, he's
4 got a statement in today's hearing that said 800 tons per
5 day. That's what he said. I asked him if he had ever
6 testified before that it was a thousand. He said he didn't,
7 if you recall. I just read verbatim the transcript.

8 CHAIRMAN KETTER: We'll take notice that at one time
9 he did say a thousand, today he said 800, and the capacity
10 could be -- the max capacity, we established that.

11 MR. MC CLUSKEY: Just for the record, he didn't say
12 just 800, he said I estimate, I estimate. So estimations,
13 okay, approximations, fine.

14 MR. LUETKEHANS: Are you going to testify for him
15 now?

16 MR. MC CLUSKEY: If you want me to.

17 CHAIRMAN KETTER: Guys, I'm going to control this.
18 I'm trying to allow a lot of latitude and let everything in,
19 but let's just keep it civil. It's not supposed to rise to
20 the level of a courtroom.

21 We'll take notice that he said 800 to
22 1,000 and you proved that the capacity of some of these
23 plants can go as high as 4800, and that the hours were
24 tentatively stated by counsel to be 6:00 a.m. to 7:00 p.m.,

1 and you've stated that you wouldn't want to be bound by that
2 if there was a construction job.

3 THE WITNESS: That's correct.

4 BY MR. LUETKEHANS:

5 Q. Can you look at Objector's Exhibit 5 again for
6 me, Mr. Lorig. I'm just trying to get a handle of what's on
7 here currently.

8 We have -- to the left of the exhibit we
9 have a bunch of trucks; correct?

10 A. **Those are trailers.**

11 Q. And to the south of that, or to the bottom of
12 that, actually to the north of that is our construction
13 equipment?

14 A. **Correct.**

15 Q. Those are all being stored there, both the
16 trailers and the equipment?

17 A. **Correct.**

18 Q. And the brown things to the north of there?

19 A. **That looks like some steel beams.**

20 Q. I said the north, I meant the south.

21 THE COURT REPORTER: Excuse me, I can't hear you with
22 your back to me.

23 CHAIRMAN KETTER: Can I interrupt you for a minute?

24 We don't have these so --

1 MR. LUETKEHANS: I have them for everybody.

2 CHAIRMAN KETTER: And we're having a hard time, at
3 least I am, seeing it there.

4 MR. LUETKEHANS: I did not hand those out, I
5 apologize. They were kind of mislabeled so I'm trying to
6 figure that out.

7 MR. LUETKEHANS: I have three for the board.

8 CHAIRMAN KETTER: That's fine.

9 BY MR. LUETKEHANS:

10 Q. And I said north. I think we both understood
11 I was talking to the top part. This picture is actually
12 going from north to south; correct?

13 A. **Correct.**

14 Q. The white line, I don't know what those are.
15 Can tell me in the middle.

16 A. **Those are concrete barriers that would be used
17 to divide a construction zone from the motoring public,
18 often seen on expressways.**

19 Q. Who makes those?

20 A. **There's various companies around.**

21 Q. You don't make them yourself?

22 A. **No.**

23 Q. And to the far right of this picture, what's
24 going on there?

1 **A.** **Again that looks some more concrete barriers,**
2 **and I believe there's some more steel, and then I think**
3 **there's some aggregate, but it's not even in the picture.**

4 **Q.** Not in the picture, but I could show them the
5 picture, but I think we all can agree, to the far right of
6 the picture is stored aggregate, or piles of aggregate?

7 **A.** **Correct.**

8 MR. LUETKEHANS: No further questions of Mr. Lorig at
9 this time.

10 MR. MC CLUSKEY: We will reserve redirect. It's 20
11 after 8:00, and I would like to reserve redirect for July
12 20th, if that's okay.

13 MR. LUETKEHANS: I have to object to that.

14 MR. MC CLUSKEY: I have to object. He's going to
15 have recross, and if he does recross alone, I want to have
16 redirect at the same time.

17 CHAIRMAN KETTER: If we want to finish it all today,
18 that's fine.

19 MR. LUETKEHANS: I'm completely done with Mr. Lorig,
20 if that's the question. I'm not holding anything back from
21 Mr. Lorig for the 20th, I am done cross-examining Mr. Lorig.

22 MR. MC CLUSKEY: If he stipulates he's done with Mr.
23 Lorig, you can ask questions then. Thank you. That's fine.

24

1 RE-EXAMINATION

2 By: Mr. Doran

3 Q. Mr. Lorig, there's been testimony about the
4 estimate of the tonnage that would be coming up on a daily
5 basis. There's been some talk about 800 tons or a thousand
6 tons. Was that just an estimate?

7 A. **Yes, it's very difficult to come up with an
8 exact estimate, so yes, it's just an estimate.**

9 Q. And, Mr. Lorig, there was testimony about how
10 you would max -- the maximum amount that could come out of
11 the facility was 3600 tons. You testified to the fact that
12 your Crystal Lake facility is doing about 800?

13 A. **800 tons a day.**

14 Q. Do you anticipate at any point that at this
15 time that this facility would be doing anything close to
16 3600 tons?

17 A. **No.**

18 Q. Why not?

19 A. **It's just capacity is not there in this area,
20 and you have to have multiple crews putting that material
21 down. Even if the plant can handle it, I don't see anything
22 like that.**

23 Q. So your estimate is 800 to 1,000 at this
24 point?

1 **A. That's correct.**

2 Q. Looking to Objector's Exhibit 6, is it true
3 that this piece of property here between your facility and
4 these homes is elevated?

5 **A. Yes, the homes are elevated.**

6 Q. The homes are elevated?

7 **A. Yeah. There's a railroad going through this,**
8 **and then ComEd has a big right-of-way, and then the homes.**

9 Q. Although this looks flat, it's, in fact,
10 elevated up?

11 **A. Correct.**

12 Q. And your facility, you're proposing to put
13 your plant, as we can see, in the site exhibit on south end
14 of your property; correct?

15 **A. Correct.**

16 Q. That would increase the distance, noise,
17 odors, things of that nature from the homes?

18 **A. Correct.**

19 Q. It would not go directly on that property,
20 line; is that correct?

21 **A. Correct.**

22 Q. How many acres is your facility?

23 **A. The entire property is about 21 acres.**

24 Q. I'm sorry?

1 **A. 21 acres.**

2 Q. And it's at the southern end; correct, the
3 facility?

4 **A. Correct.**

5 MR. DORAN: I have nothing further.

6 MR. LUETKEHANS: Couple follow-ups real quick.

7

8 RE-EXAMINATION

9 By: Mr. Luetkehans

10 Q. A thousand tons you said just now per day?

11 **A. I said 800 to 1,000 tons is what I estimate.**

12 Q. Let's use 1,000 because it's a round number.

13 **A. Okay.**

14 Q. That would be 50 trucks of aggregate on an
15 average day?

16 **A. Correct.**

17 Q. And then if you only use 20 tons out, 20-ton
18 trucks, which isn't the only thing you use; correct, you
19 would then have another 50 trucks going out every day?

20 **A. If you did a thousand tons and they were all
21 20-ton trucks, you would have 50 trucks going out.**

22 Q. So if you did a thousand tons, that's the
23 least amount of trucks that would go out in a day, in and
24 out on a day?

1 **A. Correct.**

2 Q. The least, because we know there's some 12's,
3 there's some 15's?

4 **A. Yeah. As I said, I don't see 12, but I've**
5 **seen some 15's.**

6 MR. LUETKEHANS: Nothing further.

7 MR. DORAN: I got another question.

8

9 RE-EXAMINATION

10 By: Mr. Doran

11 Q. With a thousand tons, how many trucks would
12 that increase from the current use?

13 **A. As I say, some days we are up to 40 trucks,**
14 **some days we're at zero, but it's sporadically. We've been**
15 **up to 40 trucks in a day, or whatever that difference is.**

16 Q. If it's 50 trucks, that would be five
17 additional trucks?

18 **A. Ten.**

19 MR. DORAN: Thank you. No further questions.

20 MR. LUETKEHANS: Just so we're clear, that's not 10
21 additional trucks, that's 60 additional trucks because it's
22 50 hauling aggregate in and 50 hauling asphalt out?

23 THE WITNESS: If you were hauling out a thousand
24 tons, that would be 50 trucks going out. If you were

1 hauling in a thousand tons, that would be 50 trucks hauling
2 in.

3 CHAIRMAN KETTER: Let me just make this easy. We
4 know for asphalt if you did a thousand, it's 100 trucks.
5 What do you have in and out of your property today?

6 THE WITNESS: At a maximum on a day I would say 40.

7 CHAIRMAN KETTER: And was your testimony zero to 40
8 on any given day?

9 THE WITNESS: Correct, it's very sporadic.

10 MR. LUETKEHANS: That answers my question.

11 CHAIRMAN KETTER: So it could be 60 more or 100 more.

12 THE WITNESS: That's if the thousand tons. I'm still
13 at 800 to 1,000, so it's difficult to tell.

14 CHAIRMAN KETTER: Are we done with redirect, cross,
15 everything else?

16 So at this point you'd like to prepare
17 and then come back; correct?

18 MR. LUETKEHANS: Yes, all right.

19 MR. MC CLUSKEY: I reserve rebuttal, depending on
20 what he does.

21 CHAIRMAN KETTER: Correct. You get that no matter
22 what, and you get to close.

23 I know that people are here from the
24 audience. You've been very good, I appreciate it. We're

1 going to have at least one more hearing on July 20th when
2 the opposition will continue their case. Does anybody feel
3 the undying need to comment tonight?

4 UNIDENTIFIED SPEAKER: I just have a question. I'm a
5 homeowner. You stated homeowners are allowed to make
6 statements. Is that at the end of the hearing next time?

7 CHAIRMAN KETTER: We usually ask you to wait until
8 the hearing is finished so you know what you want to ask.
9 You could comment tonight and something could be brought up
10 at the next hearing, which renders your comments or your
11 questions void. And you really get one bite at the apple.
12 So, I don't know how to be clearer than that.

13 UNIDENTIFIED SPEAKER: I'm going to prepare for a
14 statement. I'm going to wait until the end of the hearing.
15 I want to know how our statements can be entered into
16 evidence.

17 CHAIRMAN KETTER: I'll make this real easy for
18 everybody. Up until the final -- probably a week after the
19 final hearing you can submit statements for or against and
20 send the to the office and they'll be entered in and they
21 will be put into the record. Anybody that feels the need
22 that they don't feel comfortable speaking in public can do a
23 written statement and submit it. If you do a written
24 statement, we're not going to let you stand up and here and

1 read three or four pages, it will speak for itself.

2 UNIDENTIFIED SPEAKER: You will take that statement
3 and gather it with all the evidence and take it into
4 consideration before making your final decision?

5 CHAIRMAN KETTER: That's why we're asking for it
6 ahead of time.

7 UNIDENTIFIED SPEAKER: How long can the statement be
8 from the homeowner?

9 CHAIRMAN KETTER: We've never put a limit on it.
10 It's up to you. If you feel the need to write 100 pages,
11 when somebody is reading 100 pages, their mind isn't with it
12 all the way. You know what your points are, you make your
13 points and that would be it.

14 UNIDENTIFIED SPEAKER: Can you give us the
15 information on how to mail it or email it to you?

16 CHAIRMAN KETTER: You can talk to staff at the end of
17 the meeting, he can tell you.

18 UNIDENTIFIED SPEAKER: And may we have a copy of the
19 application or petition for the variance that they're
20 seeking?

21 CHAIRMAN KETTER: It's right here. It's pretty
22 straight forward, conditional use to put an asphalt plant
23 in. But if you want it, it's open for the public, you can
24 get a copy.

1 UNIDENTIFIED SPEAKER: How can we obtain a copy?

2 CHAIRMAN KETTER: Just at the end talk to staff and
3 we'll make available the documents for you.

4 UNIDENTIFIED SPEAKER: Okay, thank you.

5 UNIDENTIFIED SPEAKER: You had mentioned there will
6 be another hearing July 20th; correct?

7 CHAIRMAN KETTER: Correct.

8 UNIDENTIFIED SPEAKER: Are you projecting that's
9 going to be your final decision, or are you going to make a
10 decision a week after?

11 CHAIRMAN KETTER: We got through one witness
12 cross-examination. I don't think --

13 UNIDENTIFIED SPEAKER: I'm just trying to understand
14 the process.

15 CHAIRMAN KETTER: The process is they put on their
16 case. The opposition, which includes anybody in the
17 audience, has a chance to put on their case. They have the
18 closing argument, and then we close the hearing. We don't
19 -- I can't tell the counsel for the objectors you're limited
20 to one hearing or something. I tried to narrow it down and
21 keep it moving pretty fast.

22 UNIDENTIFIED SPEAKER: Sure. If I could, a follow-up
23 question, sir. There was a commentary about the community.
24 You had mentioned something at the top of the hearing about

1 reading, you don't let people read.

2 CHAIRMAN KETTER: We've had people in the past come
3 with three to eight, ten pages and they just want to stand
4 there and read it. We're going to end up reading it again,
5 so what we say is you want to do written statements, submit
6 it, they'll go in as objector's exhibits.

7 UNIDENTIFIED SPEAKER: We are allowed to read less
8 than three if we have our notes to refer to it?

9 CHAIRMAN KETTER: Right. I'm just saying a lot of
10 people if they're uncomfortable speaking in public, can
11 submit a written one and go from there.

12 Before you get -- the gentleman back here
13 has been very nice raising his hand.

14 UNIDENTIFIED SPEAKER: I have a procedural question.
15 You keep referring to you get one time, you get one bite at
16 the apple; correct?

17 CHAIRMAN KETTER: Yes.

18 UNIDENTIFIED SPEAKER: Is that a rule, or is that the
19 way the board operates?

20 CHAIRMAN KETTER: That's pretty much the way we've
21 done it.

22 UNIDENTIFIED SPEAKER: Is there a rule that someone
23 who lives -- we thought a thousand feet, but one of the
24 experts said it was a thousand feet away, now we realize

1 it's 400, which is not even half, so does someone who this
2 would impact their property value, there day-to-day life,
3 can they get one bite at the apple because that's the way
4 it's always been done or --

5 CHAIRMAN KETTER: You know why you get one bite at
6 the apple?

7 UNIDENTIFIED SPEAKER: Or is it because it's a rule?

8 CHAIRMAN KETTER: It's a pretty well-accepted rule.
9 If we let everybody speak for as many times as they wanted,
10 the hearing would never end.

11 UNIDENTIFIED SPEAKER: Well, it would end eventually
12 because -- well, it would end eventually --

13 CHAIRMAN KETTER: I can --

14 UNIDENTIFIED SPEAKER: And wait. Pardon me, sir, I'm
15 not trying to be disrespectful. Look at the people here.
16 This is their back yards. And I respect Mr. Lorig.

17 CHAIRMAN KETTER: Didn't I say everybody if they
18 chose to speak could speak. If they want to do a written
19 statement, they could do it. If they have other evidence --

20 UNIDENTIFIED SPEAKER: Sir, I understand. I would
21 expect that you would give them a month. You're going to
22 put a plant there that will be there for 20 years, 40 years?

23 CHAIRMAN KETTER: What is your point?

24 UNIDENTIFIED SPEAKER: All I'm saying is it's very

1 important to these people. As you can see, they sat here
2 for two and-a-half hours, and then you say if you want to
3 say something, you better take one bite at the apple.

4 CHAIRMAN KETTER: Let me ask one thing: Do you wish
5 to speak?

6 UNIDENTIFIED SPEAKER: I will wish to speak. My
7 second question is can I submit -- if I submit the question
8 in writing, does that prohibit me from speaking at the
9 microphone? Do I get one bite at the apple?

10 CHAIRMAN KETTER: You know, we can do this nicely, we
11 can get sarcastic.

12 UNIDENTIFIED SPEAKER: I'm trying to understand.

13 CHAIRMAN KETTER: Is speaking a written question?
14 No. If you're going to submit a written question, as part
15 of your thing you could ask the question. That's not two
16 bites.

17 UNIDENTIFIED SPEAKER: Could you submit a statement
18 on certain issues then speak to a different issues, or is
19 that prohibited?

20 CHAIRMAN KETTER: You can submit whatever you want
21 and then get up and speak.

22 UNIDENTIFIED SPEAKER: Okay, thank you very much. I
23 wanted to understand the procedure. I appreciate your time.

24 UNIDENTIFIED SPEAKER: Mr. Ketter, I understand the

1 gentleman's concern. I have a ten 10-year-old and a
2 7-year-old. Honest to God, I will wake up and have this --

3 CHAIRMAN KETTER: Here's the thing: I don't mind
4 questions, but you're starting to get into testimony, and if
5 you're going to do testimony, then you're doing it. What we
6 do is, we want to complete the hearing for the benefit of
7 all parties. And if we allow unlimited talk or unlimited
8 questions or unlimited times up, it doesn't go anywhere.
9 What we will also tell you is when you start, if someone
10 gets up and speaks and you agree with their comments,
11 there's no need to repeat each and every comment. While you
12 might like to hear it or see your name in the record, you
13 can easily say I agree with the comments of the person ahead
14 of me, and I have a couple of additional points. But we
15 don't need --

16 A lot of times, just for purposes of a an
17 example tonight -- I'm not putting anything out -- if
18 someone says we have traffic safety issues, we don't need
19 ten people to tell us that they're worried about traffic
20 safety issues. If you just say I agree with that comment,
21 we know then that we have ten people that have that concern.
22 Flooding, whatever you have. The ones that are for it, you
23 tell us why you're for it. If you have somebody else that
24 feels the same way, you can agree with them.

1 MS. RINGO: Can I have another --

2 CHAIRMAN KETTER: Can I get to everybody else.

3 MS. RINGO: I think a lot of homeowners are going to
4 want to submit their statements.

5 CHAIRMAN KETTER: If you're going to do a homeowner's
6 group, we'll make it very easy. The homeowners group has to
7 meet, has to decide it, and has to take a vote. We don't
8 allow somebody to get up and say I'm president of the
9 homeowners and my opinion is this. You're either a
10 homeowner, or if you're the president of the association,
11 the association has to vote and give you a declaration or
12 some finding that then you can put in the record as to their
13 stance.

14 MS. RINGO: You said a homeowner can submit a
15 statement, though, as an individual.

16 CHAIRMAN KETTER: Yeah, but you just asked if you
17 were a homeowners association

18 MS. RINGO: No, no, no, I didn't say that. Maybe you
19 misunderstood my question. I have a question about my
20 statement. What can we attach? Can we attach photographs?
21 Can we attach reports, newspaper articles, anything that
22 will help with the statement?

23 CHAIRMAN KETTER: You can attach whatever you want,
24 and if the other side looks at it and has a relevance

1 objection or something, that it's all opened up. That's an
2 open-ended question and I can't give you an answer.

3 If you attach a newspaper article about
4 bombing in Syria, I don't think it's going to be any weight.

5 MS. RINGO: No, it's going to be relevant.

6 CHAIRMAN KETTER: Well, relevant to one may be
7 irrelevant to somebody else.

8 MS. RINGO: Well, photographs of what we see in front
9 of us is going to be relevant.

10 CHAIRMAN KETTER: Well, if you're going to do --

11 MS. RINGO: The other side can look at our
12 statements, does that mean they get copies of it?

13 CHAIRMAN KETTER: Of course. They're putting their
14 case on. If you're going to put this in, they have a chance
15 to at least counter it.

16 If you put pictures in, I'll make it real
17 simple and it will speed the process up. If you take a
18 picture, put on the back who you are, the time you took it,
19 and lay a foundation. Don't tell us what it shows because
20 then you're putting your own personal opinion, but you can
21 say this is the area facing from this direction or whatever
22 else.

23 And, you know, Mr. Hoss is willing to
24 stay here and tell you procedural issues after we close. If

1 there's something that's beyond that -- did you ask anything
2 yet?

3 MS. RINGO: No.

4 CHAIRMAN KETTER: Okay, good. And then I'll go to
5 you. I'm trying to get everybody one time first before
6 everybody gets a second bite, and we're being real nice,
7 because we normally don't do this, but I want to make sure
8 everything is clear because this is a very, very important
9 issue to all of you. You've taken the time to be here.
10 You've been very, very well-behaved, so let's get everything
11 put in order and then you'll know where we're going.

12 MS. RINGO: May I ask Mr. Lorig to address the issue
13 of the aroma, the smell.

14 CHAIRMAN KETTER: Hold it.

15 MS. RINGO: You stated just briefly that --

16 CHAIRMAN KETTER: Just wait. Let's do one thing.
17 You want to ask some questions now?

18 MS. RINGO: I'm asking him to address the issue of
19 aroma, of the smell produced by the asphalt batching plant.

20 COMMISSIONER MURPHY: She'll have to be sworn in to
21 ask the questions.

22 CHAIRMAN KETTER: All right, why don't you state your
23 name for the record, spell the last name, give us your
24 address, then we'll allow you to ask the question.

1 MS. RINGO: Susan Ringo, R-i-n-g-o, and I live in an
2 area I expect to be affected by the plant, and I'm concerned
3 with the aroma.

4 CHAIRMAN KETTER: For purposes of the record, the
5 area of concern or to be affected could be very wide or very
6 small. What is your actual address for the record?

7 MS. RINGO: 16W220 97th Street.

8 CHAIRMAN KETTER: And relative to the proposed site,
9 where are you?

10 MS. RINGO: I'm about a quarter mile as the crow
11 flies northwest.

12 CHAIRMAN KETTER: Okay. What is your question?

13 MS. RINGO: East.

14 My question is, Mr. Lorig, what amount
15 aroma do you expect? What controls do you expect to
16 institute, and is there someplace that we can go to
17 experience these controls in a modern plant?

18 CHAIRMAN KETTER: Let's break these down. First of
19 all, is your question is there aroma? Is that the first
20 question?

21 MS. RINGO: I think we know that there is. The
22 question is how great it is, how repellent. And is there --
23 also is there a plant somewhere that we can go and
24 experience?

1 CHAIRMAN KETTER: I can tell you Crystal Lake for
2 sure. And He'll grant you permission to go on with
3 probably, for safety purposes, someone takes them. The
4 other ones you're going to have to contact the owners.

5 MS. RINGO: No, I don't need to go on the plant. As
6 a matter of fact, I would go a distance from the plant to
7 experience how well aromas are controlled.

8 MR. LORIG: I do have a set of pictures I can give
9 you of two other plants in DuPage County so you could take
10 those and use those as a guide.

11 MS. RINGO: I don't need pictures, I need to smell.

12 MR. LORIG: They have the address, so you could go
13 there and probably not go on the property, but be near
14 there. I'm happy to give you and/or anyone else who wants a
15 set of those pictures of a couple of other plants in the
16 county.

17 The answer to your first question, I
18 think -- well, the answer really is I'm not necessarily
19 agreeing that they all have odors. Maybe 30 years ago there
20 was an issue with odors. The plants now, there's a couple
21 things that can be done if there is an odor problem. The
22 plants can put in some controls, and I believe we talked
23 about that earlier in this hearing, that we would look at
24 this plant having some type of controls to control odors, if

1 necessary. The other thing that can be done is there is an
2 additive that could possibly be put into the mix, and -- I'm
3 sorry, I forgot Mr. Luetkehans' name, but he asked that
4 question, and you do have to get permission from the State,
5 to put something like that in. So there's a couple
6 different ways if it does become necessary, although I
7 wouldn't necessarily agree that it is necessary. And,
8 again, back -- you can take some of these pictures to go out
9 to a couple. There's one in Naperville I would suggest,
10 probably the best.

11 MS. RINGO: So, you're saying these plants have the
12 amount of aroma that you would expect your plant to have?

13 MR. LORIG: Correct.

14 MS. RINGO: Okay, very good. That's good to know
15 because we have already experienced that.

16 CHAIRMAN KETTER: Somebody back their hand up.

17 UNIDENTIFIED SPEAKER: I'm also a homeowner. I've
18 been there 28 years. I'm trying to understand the process
19 here. I do appreciate you explaining it; however, I feel
20 like the board is a little bit impatient, and all I ask is
21 for your patience, at least from my perspective.

22 CHAIRMAN KETTER: For your benefit then --

23 UNIDENTIFIED SPEAKER: My question is --

24 CHAIRMAN KETTER: I haven't heard -- I know you were

1 asking us to do something. Why don't you state your name
2 for the record, spell --

3 UNIDENTIFIED SPEAKER: No, I don't want to give it
4 because I want to learn the procedure.

5 CHAIRMAN KETTER: Is this a question then?

6 UNIDENTIFIED SPEAKER: Yes, it is. You said to
7 follow, to hear everything first, and I'm going to take your
8 advice and hear everything first.

9 My question is: Are we going to have
10 access to the reports that were given by these experts so
11 that we can see and read it rather than just hear it. There
12 is so much information given here that I try to take notes,
13 but can we have access to those reports?

14 CHAIRMAN KETTER: I'll make this real easy: Since
15 there are a number of people here, rather than mass produce
16 it, it will be online, all the exhibits, everything through
17 tonight. And as we go along, it will be updated after the
18 next hearing. Mr. Hoss can give you the site, you could go
19 on and review it at your leisure.

20 UNIDENTIFIED SPEAKER: Okay, thank you.

21 CHAIRMAN KETTER: I think that concludes that part,
22 so what we will do is we will continue the hearing to July
23 20th without notice back in this room, because I'm assuming
24 there will be interest and people will want to come, and the

1 room upstairs will be too small. We'll be here at 6:00.

2 Mr. Luetkehans will continue his case, and until he's done,
3 then we won't move to the audience.

4 You Know, strike that. If you feel the
5 need as a witness finishes, you can cross-examine, because I
6 don't expect people to be prepared to go down the road as an
7 attorney. So if you want to cross-examine somebody as we
8 move along, we will give limited area on that.

9 UNIDENTIFIED SPEAKER: Okay, thank you
10 (Whereupon, the hearing was
11 continued to July 20, 2017 at
12 6:00 p.m.)
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1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF DU PAGE)
3

4 I, LINDA M. CIOSEK, C.S.R. No. 084-2892 Notary Public
5 duly qualified and commissioned for the State of Illinois,
6 County of DuPage, do hereby certify that at the request of
7 the DU PAGE COUNTY ZONING BOARD OF APPEALS, subject to the
8 usual terms and conditions of County Court Reporters, Inc,
9 reported in shorthand the proceedings had and testimony
10 taken at the public hearing of the above-entitled cause, and
11 that the foregoing transcript is a true, correct and
12 complete report of the testimony so taken at the time and
13 place hereinabove set forth.

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