

DuPage County Zoning Board of Appeals

Petition No. Z17-028

July 20, 2017

*COUNTY COURT REPORTERS, INC.
600 S. COUNTY FARM ROAD
SUITE 200-B
WHEATON, IL 60187
Phone: 630.653.1622
Fax: 630.653.4119
courtreporters@ccrreporters.com*

Petition No. Z17-028
July 20, 2017

1

BEFORE THE DU PAGE COUNTY
ZONING BOARD OF APPEALS

A conditional use to allow an) Z17-028
asphalt batching plant.) Lorig Construction

July 20, 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.

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1 CHAIRMAN KETTER: We'll start the record. It's a
2 continuation of the last hearing. At this point I think the
3 applicant had rested; correct?
4 MR. MC CLUSKEY: Yes.
5 CHAIRMAN KETTER: And, Phil, you were on
6 cross-examination or putting witnesses on, I'm not quite
7 sure where you're at.
8 MR. LUETKEHANS: We're going to start -- I think
9 we're going to start with cross-examination of Mr. Werthmann
10 first, if that's acceptable.
11 CHAIRMAN KETTER: Okay, let's get to it.
12
13 MICHAEL WERTHMANN,
14 Having been previously duly sworn, was examined and
15 testified as follows:
16
17 CROSS EXAMINATION
18 By: Mr. Luetkehans
19 Q. Mr. Werthmann, you and/or at least your staff
20 was at the Lorig plant in Crystal Lake; correct?
21 A. I was not.
22 Q. So you've never seen the Lorig plant in
23 Crystal Lake?
24 A. I have not.

4

1 Q. Your staff did some counts up there?
2 A. We did not.
3 Q. Okay. Let's start with your recommendations,
4 if that's acceptable. One of your recommendations was to
5 trim trees from a pre-site distance; is that correct?
6 A. Yes. The site distance is pretty good out
7 there now, but there is some brush that's overgrown.
8 Q. You're going to have to get a little closer,
9 I'm sorry.
10 So, one of the suggestions is to work
11 with the State, see if we can go out there and trim some of
12 the brush.
13 Q. And can you tell me what auto turn diagrams
14 are? They're something used in your profession; correct?
15 A. Yeah, they show the movement of a vehicle or
16 truck graphically.
17 Q. One of the things you also recommend is
18 placing warning signs or wide turns from -- for wide turns
19 from inbound vehicles to vehicles traveling up the Jeans
20 Roads ramps as well?
21 A. One of the suggestions was maybe to give some
22 warning on the ramp, correct.
23 Q. And that's at least partially because the
24 southbound Route 83 trucks cannot make the right-hand turn

5

1 into the ramp without intruding into the lanes coming up the
2 ramp; correct?
3 **A. As I testified before, they do need to**
4 **encroach on the opposite lane.**
5 Q. Is it also true that southbound trains making
6 a U-turn entering the ramps must also intrude into the
7 southbound thru-lane?
8 **A. One more time. You said trains.**
9 Q. I apologize. Is it true that the southbound
10 trucks making a U-turn entering the ramp must also intrude
11 into the southbound thru-lanes?
12 **A. On 83?**
13 Q. Yes.
14 **A. No, not the size truck that will be going to**
15 **the facility.**
16 Q. How about an asphalt cement tanker?
17 **A. They're typically a WB-40, and they can make**
18 **the turn.**
19 Q. Without having to intrude at all into the
20 southbound thru-lane?
21 **A. It's my understanding, no, they don't have an**
22 **intruder.**
23 Q. How long is an asphalt cement truck?
24 **A. A WB-40 is 45 feet, I believe. Don't hold me**

6

1 **to that.**
2 Q. Okay. And you said that -- your report says
3 that, "The operator has indicated that the trucks can
4 complete the southbound Illinois 83 to Janes [sic] Road west
5 ramp U-turn maneuver from the Illinois 83 right-turn lane,
6 and do not have to encroach on the Illinois 83 lane."
7 Correct?
8 **A. Correct.**
9 Q. The report doesn't mention that you did any
10 auto turn diagrams to confirm this indication from the
11 operator, does it?
12 **A. I've been out there to observe it.**
13 Q. Did you do any auto turn diagrams?
14 **A. Not in my report, no, I have not.**
15 Q. You've been told that the peak operations will
16 be 1600 tons per day?
17 **A. Yeah. The average is 800. They said they**
18 **could peak maybe at 1600.**
19 Q. And when you say average is 800, what does
20 that mean?
21 **A. On an average day, that they're going to**
22 **typically do 800 tons. There will be some days less, some**
23 **days more, but on an average 800 is my understanding.**
24 Q. And does that include the days that they're

7

1 not in operation, or just the days that they're in
2 operation?
3 **A. It's my understanding is the days they are in**
4 **operation.**
5 Q. Would you expect the operator to try and
6 operate as close to peak as possible from a business
7 standpoint?
8 **A. I don't understand his business. It's not my**
9 **specialty.**
10 Q. Do you have any idea what other operators in
11 the area operate at as far as tonnage per day?
12 **A. I do not.**
13 Q. Did you reach out to any of them to try to
14 confirm any of these operation's numbers, or did you just
15 talk to your client?
16 **A. I based it on what his proposed operational**
17 **plan is.**
18 Q. Did you reach out to anyone to see what the
19 actual amount of trucks per day at these other plants in the
20 area was?
21 **A. No. I have worked on other asphalt plants,**
22 **and the assumptions were similar to other plants I've worked**
23 **on.**
24 Q. At 800 tons per day, was that an assumption

8

1 used at some other plant you worked on?
2 **A. I'm not sure of the tonnage, but the amount of**
3 **each truck and those sort of things.**
4 Q. What other plants did you work at?
5 **A. There was one in Rockford, I believe two in**
6 **Rockford, and another one -- I've worked on many transfer**
7 **stations, waste transfer station landfills, concrete batch**
8 **plants, similar-type operations.**
9 Q. What other asphalt plants have you worked on
10 in the Chicago area?
11 **A. I can't recollect right now.**
12 Q. Okay. Were you aware that much of the traffic
13 to and from the plant may be slightly after the peak hours,
14 but while Route 83 is still busy?
15 **A. One more time, I'm sorry.**
16 Q. Sure, sorry.
17 Are you aware that much of the traffic to
18 and from the plant may be slightly after the peak hours, but
19 while Route 83 is still busy?
20 **A. Well, it's going to occur from 6:00 to 6:00,**
21 **which the peak hours occur within those periods, so yes.**
22 Q. However, you have not provided us with an
23 hourly breakdown of expected traffic ins and outs from the
24 plant, say, from 9:00 a.m. and also at 3:00 p.m. and hours

<p style="text-align: right;">9</p> <p>1 in between, have you? 2 A. No. But as we said in the report, it's 3 distributed rather evenly throughout the day, so what we 4 assume for the peak hour would be pretty much what you're 5 going to find hourly out there. 6 Q. And you learned it was distributed evenly 7 throughout the day from talking to Mr. Lorig? 8 A. Talking to Mr. Lorig and the previous sites 9 I've worked on. 10 Q. But, again, you didn't talk to anybody who 11 operates an asphalt plant in this area to answer that 12 question? 13 A. I did not. 14 Q. Would agree there's more road construction in 15 the area of this plant than in Crystal Lake? 16 A. I do not know. 17 Q. You know the Chicagoland area, right? You're 18 a traffic consultant in this area. 19 A. I can't tell you if there's more or less. 20 There's different types of construction. I'm not sure. I 21 don't know his business. 22 Q. Okay, let's go through your report a little 23 bit. Page 6 you discuss two different traffic counts; 24 correct?</p>	<p style="text-align: right;">11</p> <p>1 Q. We'll talk about the peak hours, I promise. 2 You also looked at previous traffic 3 counts from December 15th, 2016 at the intersection of 4 Illinois 83, Archer Avenue, 107th Street, Grant Road. Is 5 that one intersection? 6 A. Yes. 7 Q. It's just got a bunch of different names, 8 depending on where -- 9 A. It's one large intersection, and we conducted 10 those counts. It was for another study. 11 Q. Mr. Werthmann, I know I fail at this 12 miserably, so I'm going to apologize ahead of time. If you 13 can, try and wait until I finish my question so she can take 14 it. 15 A. Okay. 16 Q. And I'm going to apologize to her right now 17 because I'm the worst, but I'm just trying to remind 18 someone, maybe someone other than me, because I stink. 19 Where did you get these counts, the ones 20 at 83? I'm going to call it Archer for short. 21 A. Those were counts that we had done for a 22 previous study. 23 Q. Okay. And there are no points to get off 24 Route 83 between Route 83 and Janes and the Archer Avenue</p>
<p style="text-align: right;">10</p> <p>1 A. I'm sorry, what was the question? 2 Q. Page 6 of your report. 3 A. Yes. 4 Q. You discuss two different traffic counts, two 5 different counts; correct? 6 A. Yeah, 6:00 to 9:00 a.m. and 4:00 to 6:00 p.m. 7 Q. Yeah, but at different locations I'm trying to 8 get to, I'm sorry. 9 A. Yeah. 10 Q. The first one is your company actually 11 performed itself, the peak periods between at 83 and Bluff, 12 and again at Janes Road; correct? 13 A. Correct. 14 Q. And the report said you performed those counts 15 on June 16th, 2016, but I assume it was actually 2017? 16 A. Yes, thank you for the correction. 17 Q. That's okay. And, again, as we talked about, 18 you just did peak hours at that intersection? 19 A. Correct. 20 Q. No other non-peak hours? 21 A. No. Typically in the business you look at the 22 peak hours of traffic. If you can accommodate the peak 23 hours of traffic, which is the highest, you'll be able to 24 accommodate at any other time.</p>	<p style="text-align: right;">12</p> <p>1 intersection; correct? 2 A. I think there's one other location you can get 3 off. 4 Q. But it's really small, there's not much at 5 that side? 6 A. Small, yeah. 7 Q. Okay. Can you tell me what the p.m. peak hour 8 heading northbound on Route 83 at Janes Avenue was in your 9 count? 10 A. Janes? 11 Q. Yeah. 12 A. Northbound on my count, the thru-movement? 13 Q. P.m. peak hour. 14 A. P.m. peak hour. The northbound thru movement 15 at Janes [sic] was 1,015 vehicles. 16 Q. How about Archer and Route 83, same northbound 17 peak. 18 A. 796. 19 Q. So we have a 220-count, approximately 220-car 20 approximate difference on those two days? 21 A. No. What you need to do is at the 22 intersection, you also got to count the turning movement 23 coming off of Archer, coming off at 107th, and coming off of 24 Grant that are all going north. If you add those all up,</p>

13

1 **they should come and be balanced.**
2 Q. Isn't it true that there's actually a 90-car
3 difference between when you add all those up?
4 **A. I don't believe so.**
5 Q. Why don't you do it right now?
6 **A. I don't have a calculator right now.**
7 Q. Okay. Go to page 12 of your report, please.
8 **A. Okay.**
9 Q. If you look at the diagram on page 12, at the
10 far north end you see Bluff Road; correct?
11 **A. Correct.**
12 Q. Your report does not do any analysis of the
13 amount of additional trucks that may traverse Bluff Road,
14 does it?
15 **A. It did not. Talking to the operator, we**
16 **assumed the majority of it would go up 83. I have since**
17 **learned that some may use Bluff Road.**
18 Q. Okay, but we still don't have any analysis of
19 that; correct?
20 **A. We analyzed the intersection, so we do have**
21 **it.**
22 Q. But we don't have any analysis of the traffic
23 on Bluff Road itself?
24 **A. At peak, if it all went on there, it would be**

14

1 **16 vehicles, and that would make up 3 percent of the traffic**
2 **on Bluff Road.**
3 Q. Do you have the traffic count on Bluff Road?
4 **A. If you look on page 4, the average traffic**
5 **count -- sorry, the average the traffic count of the**
6 **vehicles going up and down Bluff Road.**
7 Q. Where is that? Can you point me to it?
8 **A. Top of the page, the turning movement coming**
9 **in and out of Bluff Road.**
10 Q. Page 4?
11 **A. Page 7, I'm sorry.**
12 Q. On page 13 of your report, it appears you were
13 advised the plant may operate at night; correct?
14 **A. Yeah, on certain occasions it could.**
15 Q. Okay. Let's talk about the ability of an
16 intersection to accommodate traffic flow. That's expressed
17 in the terms of level of service; correct? Each
18 intersection is assigned a letter from A to F?
19 **A. Correct.**
20 Q. A is the best, F is the worst?
21 **A. Correct.**
22 Q. Let's go to table 6 on your report. And
23 that's on page 18; correct?
24 **A. Correct.**

15

1 Q. And in that report on table 6 we see that the
2 weekday evening peak hour service at 83 and Bluff goes from
3 a C level of service to a D level of service on your
4 projection; correct?
5 **A. Bluff Road --**
6 Q. 83 and Bluff.
7 **A. Okay. Which one are you looking at?**
8 Q. 83 and Bluff, weekday peak hour goes from a C
9 to a D; correct?
10 **A. It goes up four seconds, where the threshold**
11 **between a C and a D is 35 seconds. So right now it's right**
12 **at a C. With the additional traffic, primarily the growth**
13 **on 83 will operate at a D based on our projections.**
14 Q. So the answer is yes, it goes from a C to a D;
15 correct?
16 **A. It does go from a C to D.**
17 Q. Okay. You say on page 21 of your report that
18 the ramp approaches at 83 and Janes are to continue to
19 operate at the same level of service. Do you see that?
20 **A. Yes.**
21 Q. However, in this case, the eastbound approach
22 at Route 83 and Janes will go from an E level of service to
23 an F level of service on your 2023 projections; correct?
24 **A. Correct.**

16

1 Q. As we said, that's reflected on Table 5 of
2 page 18 of your report. And as we said, F is the worst
3 level of service; correct?
4 **A. It is the worst level of service.**
5 Q. Okay. Let's talk Table 7, page 19 of your
6 report. In particular, the Illinois 83 part of the table.
7 That analyzed the intersection of 83 and Archer; correct?
8 **A. Table 7, yep, 83, Archer.**
9 Q. And that intersection is south of the Janes
10 Avenue intersection; correct?
11 **A. The Janes Avenue, yes.**
12 Q. I've heard Janes, I've heard James, I'm just
13 doing the best I can.
14 **A. No problem.**
15 Q. And that table, the weekday evening peak hour
16 is already an F as far as southbound; correct?
17 **A. Correct.**
18 Q. And already has over 100-second delay average
19 at that intersection; is that correct?
20 **A. Correct.**
21 Q. And your report never provides us what the
22 additional delay is that will occur due to this additional
23 traffic.
24 **A. Once we get above 99, we usually leave it at**

17

1 **99.**
2 Q. Say that again.
3 **A. Once the delay usually gets over 100, we**
4 **typically just put 99 plus.**
5 Q. So it could be 101, it could be 130, we just
6 don't know?
7 **A. Correct. The intersection is currently**
8 **working at a poor level of service, as we all know, and will**
9 **continue to. The impact of the asphalt plant will be**
10 **minimal, given the low volume of traffic that it generates.**
11 Q. But we don't know from your report how minimal
12 that projection will be?
13 **A. You got to understand these tables include the**
14 **traffic that is to be generated by the asphalt plant at 1600**
15 **tons, not 800, on a peak day, and also includes -- I want to**
16 **make sure I get this right, another 4 percent growth in the**
17 **background traffic. So, all of the traffic on 83 was**
18 **increased by 4 or 5 percent to represent other growth in the**
19 **area.**
20 Q. And what's the speed of Route 83 going
21 southbound at Janes Avenue?
22 **A. That is -- I just want to confirm -- 45 miles**
23 **an hour.**
24 Q. And trucks are going downhill to enter;

18

1 correct?
2 **A. Correct.**
3 Q. Pretty steep?
4 **A. I don't know how steep it is.**
5 Q. Okay. What would happen if three trucks were
6 coming in on Janes Avenue going -- coming down 83 on Janes
7 Avenue going southbound and going into -- let me restart
8 that. That was awful.
9 What would happen if three trucks were
10 coming down Route 83 turning onto Janes, they were going
11 southbound and turning onto Janes and one was coming out,
12 what would happen.
13 MR. MC CLUSKEY: Objection, calls for speculation.
14 Incomplete hypothetical.
15 CHAIRMAN KETTER: He's the expert. Whether he can
16 answer or not, I don't know.
17 MR. MC CLUSKEY: Okay.
18 THE WITNESS: They would come down, they would end
19 near the deceleration lane, you got a 225-foot taper and a
20 180-foot deceleration lane, and they would pull in. If they
21 had to wait a second to get out, they would, but you have a
22 deceleration lane there that pulls the slower moving traffic
23 out of the Illinois 83 thru-lane.
24 We've done a lot of counts. I do not see

19

1 three trucks coming at the same time; however, I wouldn't
2 say it would never happen. But just given the counts and
3 the operation, I don't see that happening too often.
4 Q. Let's talk about the number of trucks. Let's
5 assume 1600 tons per day peak hour. You were here when Mr.
6 Lorig testified; correct?
7 **A. Correct.**
8 Q. 1600 tons per day, not peak hour. So, in
9 order to get 1600 tons out, you would need at least 80
10 trucks. That's if every one of them was at full capacity;
11 correct?
12 **A. Correct.**
13 Q. So most likely it would be slightly more than
14 80?
15 **A. Could be 80, could be a little more, could be**
16 **a little less. I understand these trucks can hold 21 or 22**
17 **tons, too.**
18 Q. Then you have to also bring in 1600 tons of
19 aggregate or materials every day; correct?
20 **A. Correct.**
21 Q. Plus at least three to four or five trucks of
22 the asphalt cement which are actually, I think, 60 feet
23 long; correct?
24 **A. I'm not sure about that.**

20

1 Q. You don't know how many asphalt cement trucks
2 come in, or you don't know how long they are?
3 **A. I don't know how many come in. I understand**
4 **there may be a few a week. I don't understand a few a day.**
5 Q. Okay. Do you know how much -- what percentage
6 of asphalt is asphalt cement?
7 **A. I do not know. It's not my business.**
8 Q. If I told you it was 5 percent, okay, if I
9 told you it was 5 percent, how many tons of asphalt cement
10 would you have to bring in?
11 MR. MC CLUSKEY: I'm going to object because it's
12 asking a witness, who doesn't have the proper foundation, to
13 answer that question. It's an incomplete hypothetical, and
14 I move to strike.
15 MR. LUETKEHANS: The only qualification he needs to
16 do is be able to do simple math.
17 CHAIRMAN KETTER: Well, whether it's coming in or
18 not, if ask you him number of trucks, give him the number of
19 trucks in your hypothetical and he can answer it. But
20 you're asking him how many cement -- whatever they are --
21 trucks needed for this. I don't know. He doesn't know, and
22 that's not what he's doing. He's just testifying as to
23 traffic, traffic in, traffic out. He doesn't know what type
24 of traffic it sounds like with the cement, so if you want to

<p style="text-align: right;">21</p> <p>1 ask him three trucks, five trucks, do you know what it 2 takes? Give him an amount. 3 MR. LUETKEHANS: I do know what it takes, but I'm not 4 really testifying. Once I testify, we're going to hear 5 about that. 6 CHAIRMAN KETTER: All right, then you can't ask him. 7 It's outside his expertise. 8 MR. LUETKEHANS: Okay. No further questions. 9 10 REDIRECT EXAMINATION 11 By: Mr. McCluskey 12 Q. Sir, let's go back to your conclusions. 13 Before you do that, you just heard Mr. Luetkehans talking 14 about the 1600 tons per day. Did you also hear Mr. Lorig 15 say the average would be 800 tons per day? 16 A. Yeah. My understanding is that it's 800 tons. 17 Whenever we do these studies, like I said, we've done a lot 18 of these, we always look at a peak day to be conservative. 19 We talked to him about a peak day. He said a peak day could 20 be 1600 tons, and our study on page 13, we show what it 21 would generate on 800 tons, and we also show what it would 22 generate at 1600 tons. But all of our analyses were based 23 on the higher 1600 tons. 24 Q. And all your tables out there are based upon</p>	<p style="text-align: right;">23</p> <p>1 Q. Okay, thank you. 2 MR. MC CLUSKEY: No further questions. 3 MR. LUETKEHANS: Couple follow-up real quick. 4 5 RE CROSS EXAMINATION 6 By: Mr. Luetkehans 7 Q. One percent at Janes, that includes everything 8 going through on Route 83? 9 A. The whole volume of the intersection. 10 Q. Do you know what the additional count will be 11 of just that intersection? What's the percentage of trucks 12 coming in and out of Janes now versus after? 13 A. Trucks or total traffic? 14 Q. Total traffic. Let's start with trucks first. 15 A. Let's start with total traffic first. 16 Q. I'm going to ask trucks first. I'll ask you 17 total traffic afterwards. I mean if it's easier for you to 18 do the math the other way, I'm okay. Do what you need to 19 do. 20 A. Let's do it this way: In a peak hour, you 21 have maybe 250 vehicles coming in and out of Janes -- on 22 both sides? 23 Q. Yeah. 24 A. About 120 on each leg. That's two-way</p>
<p style="text-align: right;">22</p> <p>1 the existing conditions; correct? 2 A. Capacity analysis? 3 Q. Right. 4 A. Yeah, they're based on existing conditions, 5 and then we look at future conditions. 6 Q. Okay. And with the future conditions 7 considering the asphalt plant, is there a perceptible 8 difference with respect to traffic with respect to creating 9 any unsafe conditions? 10 A. As I said, we look at the volume of traffic 11 we're going to generate on an average day. We're looking at 12 16 round trips in a peak hour, 8 in, 8 out. That represents 13 about less than 1 percent at the Jeans-83 intersection, and 14 would represent less than 1 percent at the Bluff 15 intersection and 83, and it would represent less than 1 16 percent at the other intersections. So we're less than 1 17 percent; however, to provide a conservative analysis, we 18 increased all of the traffic by 4 percent just to 19 accommodate for growth. So, the change in level of service 20 is more contributed to that growth than it is from the 21 traffic to be generated by the asphalt plant. 22 Q. But the asphalt plant would only be a 1 23 percent increase in the traffic area? 24 A. Basically, yeah.</p>	<p style="text-align: right;">24</p> <p>1 traffic. 2 Q. So, what percentage increase is that going to 3 be? 4 A. Well, 16 percent quickly, maybe 10 percent on 5 Jeans. 6 Q. Okay. And how much -- if I took out the car 7 traffic, because we would all admit the car traffic is a 8 heck of a lot safer in this area than truck traffic. 9 MR. MC CLUSKEY: Objection. 10 MR. LUETKEHANS: I'm asking the question. He can 11 deny it if he wants to. 12 THE WITNESS: I don't know what your definition of 13 safe is. 14 BY MR. LUETKEHANS: 15 Q. Is there a greater chance of an accident for a 16 truck coming in and out of Janes than there is a car? 17 MR. MC CLUSKEY: Beyond the scope of my redirect. 18 CHAIRMAN KETTER: It's beyond the scope, but then he 19 can just call him as his own witness. 20 If you know it, answer it. If you don't, 21 say you don't know. 22 THE WITNESS: I think they would both operate 23 efficiently, so I don't see an issue with either of them. 24</p>

25

1 BY MR. LUETKEHANS:
2 Q. Do you see any increase in risk of a truck
3 versus a car at that intersection?
4 **A. Not really, no.**
5 MR. LUETKEHANS: Okay, nothing further.
6 MR. MC CLUSKEY: No further questions. Thank you.
7 MR. LUETKEHANS: I'm going to ask Dr. Zemba to come
8 up next.
9
10 STEPHEN GEORGE ZEMBA,
11 Having been previously duly sworn, was examined and
12 testified as follows:
13
14 CROSS EXAMINATION
15 By: Mr. Luetkehans
16 Q. Dr. Zemba, has your company and you personally
17 done a lot of air quality permitted work for asphalt plants?
18 **A. I tend not to do much in the way of permitting**
19 **for asphalt plants, but I know the procedures because I've**
20 **looked at them, and I often work with permitters on those**
21 **plants.**
22 Q. So does that mean you haven't done any?
23 **A. I don't think I've gotten an air quality**
24 **permit for an asphalt plant, no.**

26

1 Q. And what are the National -- what's National
2 Ambient Air Quality Standards?
3 **A. National Ambient Air Quality standards are the**
4 **allowable levels in air, the safe levels in air published by**
5 **the U.S. EPA, promulgated by the U.S. EPA.**
6 Q. What are the main pollutants there?
7 **A. The main pollutants in the atmosphere would be**
8 **particulate matter, and right now that's regulated as PM2.5**
9 **and PM10, between 2 and-a-half micron particles and 10**
10 **micron particles, carbon monoxide, sulfur dioxide, lead,**
11 **nitrogen oxide. And even though there are no National**
12 **Ambient Air Quality Standards -- sorry, I missed one:**
13 **Ozone. And even though there are no National Ambient Air**
14 **Quality Standards for it, VOC, volatile organic compounds,**
15 **were also -- usually call it a criteria pollutant because it**
16 **helps produce those.**
17 Q. Let's talk about VOCs.
18 **A. Let's call it VOCs.**
19 Q. In Illinois those are called VOMs; correct,
20 volatile organic materials under Illinois EPA law?
21 **A. That's possible. I haven't done permitting**
22 **here, so I don't know that.**
23 Q. What is the attainment status for the project
24 site?

27

1 **A. For VOCs?**
2 Q. For all of these. Are any of these
3 nonattainment status, do you know?
4 **A. I don't know the answer to that. I think**
5 **Illinois has attainment for everything at this point, but I**
6 **don't know for sure.**
7 Q. Would you disagree if I told you the area is
8 nonattainment for ozone?
9 **A. No, I would not disagree. I don't know that.**
10 Q. Let's assume that I'm correct for the next
11 question. In an area that is this nonattainment for ozone,
12 what air pollution emissions are of greatest concern during
13 permitting?
14 **A. Those are going to be nitrogen oxide and VOCs.**
15 Q. Okay. Given that the site is nonattainment of
16 ozone, one must be very concerned about increases in VOMs
17 and nitrogen oxide emissions; correct?
18 **A. Correct.**
19 Q. What are the VOM and nitrogen oxide emissions
20 that you evaluated for this modeling study?
21 **A. I did not evaluate VOM, as you call it, and**
22 **NOx specifically.**
23 Q. To set up a modeling study, what are some of
24 the parameters that are needed?

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1 **A. Well, you need to know the main source of**
2 **pollution from the hot mix asphalt plant, you need to know**
3 **the stack height, you need to know the diameter of the**
4 **upfluent of that stack, the exit velocity, and the exhaust**
5 **temperature, among other things. You need to know if there**
6 **are any buildings near that stack because that can affect**
7 **the dispersion of the plume in the air field. I think those**
8 **are -- you also need meteorologic data.**
9 Q. Okay. We don't know what the site arrangement
10 is going to be, however, correct?
11 **A. No, and I will tell you a typical hot mix**
12 **asphalt plant.**
13 Q. Okay. And we don't know what the building
14 size is going to be.
15 **A. No, but there are pretty -- some pretty**
16 **standard designs, and I doubt you could deviate much from**
17 **that standard design.**
18 Q. Well, I mean you're familiar with silos at
19 asphalt plants; correct?
20 **A. Correct.**
21 Q. Those range anywhere from 100 tons to 300
22 tons; correct?
23 **A. Correct.**
24 Q. And 100 ton is how tall?

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1 **A. I don't know the exact height. I can tell you**
2 **that i assume 40-foot high silos.**
3 Q. And 300-ton silos, to your knowledge, could be
4 larger than 40 feet; correct?
5 **A. They could be.**
6 Q. What coordinates did you use? Did you use
7 coordinates when you did your modeling?
8 **A. Yeah, you have to specify the locations of**
9 **both the emissions sources and the receptors if you're**
10 **predicting air quality concentration.**
11 Q. Please continue.
12 **A. Those coordinates would have been derived from**
13 **the information provided to me.**
14 Q. And do you know what that information was?
15 **A. It was -- we talked about a site plan last**
16 **time that had a sort of representative layout of the**
17 **facility on it. It would have been that site plan.**
18 Q. What about receptors?
19 **A. Receptors were probably taken from -- well,**
20 **they were taken from Google Earth, and those were the**
21 **locations of the residences.**
22 Q. And what was the height difference, or was
23 that included, the height difference?
24 **A. Yes. You would look at the base elevation of**

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1 **both of those, and I think that -- I mean it varies, of**
2 **course, but the receptors or the locations of homes are 60**
3 **feet higher, if I remember correctly.**
4 Q. Okay. What type receptor grid for the
5 modeling study was set up around the plant?
6 **A. We didn't use a receptor grid.**
7 Q. Why not?
8 **A. Didn't need to.**
9 Q. Can you explain?
10 **A. Because I was mostly interested in predicting**
11 **air quality concentrations at those individual residences as**
12 **representative receptor locations.**
13 Q. How far was the nearest residential location
14 from your emission sources?
15 **A. I haven't measured it, but I believe it's**
16 **about 900 to 1,000 feet.**
17 Q. What were your emission sources?
18 **A. My emission sources would have been the dryer**
19 **stack where you dry out the aggregate material. We also**
20 **considered emissions from silos, silo vents, the asphalt**
21 **cement storage tank and its hot oil heater, loadout area**
22 **where the asphalt is dropped onto the trucks, and something**
23 **called -- EPA calls yard emissions, which would be mainly**
24 **the emissions from the trucks after they pull out a little**

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1 **bit.**
2 Q. How about the crusher, did you include that?
3 **A. We did not look at the crusher.**
4 Q. So you didn't include any emissions for
5 recycled asphalt crusher on the site?
6 **A. No.**
7 Q. If the wind is blowing from the north to the
8 south, would the asphalt plant emissions impact the
9 residential area?
10 **A. Generally that would be the case because most**
11 **receptors that we looked at were to the north. If the winds**
12 **are coming from the south, yes.**
13 Q. Would the fact that the residential area is 60
14 to 120 feet above the valley where the plant is located
15 cause the numbers to be elevated?
16 **A. It would be possible under some circumstances**
17 **if, for instance, those receptors were, if you will, more in**
18 **the middle of an elevated hill.**
19 Q. I missed that last part.
20 **A. It would depend on our meteorology, but there**
21 **are some cases when that height difference means the**
22 **receptors are mostly in the more concentrated part of the**
23 **plume, which is still fairly low concentrations.**
24 Q. The plume from the emission points can impact

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1 the hill to the north; correct?
2 **A. There would be some cases, yes, where -- and**
3 **that is a -- there are some cases where you would expect**
4 **different types of impacts at elevated receptors. Sometimes**
5 **they'll be low, but that would be accounted for in the**
6 **modeling.**
7 Q. But you can't see that in your report;
8 correct? That's not -- you just gave the conclusion.
9 **A. No, your report is an average over all hours**
10 **of the year.**
11 Q. So, I can't tell by the report; correct?
12 **A. We did not break it down hour-by-hour, no.**
13 Q. Your report used meteorological data from
14 Midway Airport for this area; correct?
15 **A. That's correct.**
16 Q. Did you know the Illinois EPA insists on using
17 meteorological data from O'Hare Airport instead?
18 **A. No, I wasn't aware of that.**
19 Q. Okay. Your study evaluated emissions from a
20 200,000-ton per year facility. Why would your study
21 evaluate emissions from a significantly smaller size plant?
22 **A. 200,000 tons is the typical hot mix asphalt**
23 **facility that EPA characterizes in its Emissions Assessment**
24 **Report for a drum mix plant. I asked Mr. Lorig if that was**

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1 **about the volume that he anticipated, and he said yes,**
2 **200,000 tons would be a good estimate of their anticipated**
3 **reduction.**
4 Q. So you relied on Mr. Lorig's statement that it
5 was going to be a smaller plant?
6 MR. MC CLUSKEY: Objection to the characterization of
7 the smaller plant. It's 200,000 tons.
8 THE WITNESS: The plant is going to produce what it's
9 going to produce.
10 CHAIRMAN KETTER: If you're going to do it in
11 comparison, just say what you're comparing it to then.
12 BY MR. LUETKEHANS:
13 Q. Would you expect the emissions from a 600,000
14 or 800,000-ton-per-year facility to be higher than what you
15 evaluated?
16 **A. With the way the study was done, if it was a**
17 **600,000-tons-a-year plant, the emissions would be three**
18 **times higher. An 800,000-ton plant would be four times**
19 **higher.**
20 Q. Is it common for someone to obtain an air
21 quality construction permit for a facility -- strike that.
22 How did you evaluate emissions from
23 industrial truck traffic at the source, or did you?
24 **A. I looked at the emissions that would have been**

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1 **included in the yard emissions from the EPA Assessment**
2 **Report.**
3 Q. What were the air quality emission impacts of
4 nitrogen oxides on the residential area for comparison to
5 the one-hour air quality standard, given that we're in a
6 nonattainment area for ozone and nitrogen oxide emissions?
7 **A. I did not evaluate nitrogen oxide emission, I**
8 **was focusing more of my report on the air toxins.**
9 Q. Okay. You looked at the emissions from the
10 asphalt -- strike that.
11 Did you look at the emissions with
12 loading and unloading?
13 **A. Yes, loadout is a source that is included in**
14 **the modeling. And if you're talking about the loading of**
15 **the asphalt cement, yes, that would have been included also**
16 **in the AC tank.**
17 Q. How about the loading and unloading of
18 aggregate materials?
19 **A. Did not look specifically at the loading and**
20 **unloading of aggregate.**
21 Q. Because you got to bring aggregate to the
22 site, you're aware of that; correct?
23 **A. Yes.**
24 Q. It has to be loaded and unloaded by trucks?

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1 **A. Yes.**
2 Q. And there's a possibility of emission
3 occurring during that loading and unloading; correct?
4 **A. That's true. Some of that is accounted for in**
5 **the EPA estimates of their yard emissions when they**
6 **considered some of that, but I didn't specifically look at**
7 **those sources.**
8 Q. Okay. Your report says the plant will be
9 equipped with air pollution controls that limit dust and
10 vapor emissions to levels lower than regulatory thresholds.
11 Do you recall that?
12 **A. Yes.**
13 Q. If so -- strike that.
14 What are the specific air pollution
15 control devices that will be there for the aggregate or RAP
16 pile?
17 **A. There's an assumption built into this that**
18 **this is a new modern plant. For a new modern plant -- every**
19 **hot mix asphalt plant is going to have a bag house on its**
20 **main emission source.**
21 Q. Can I interrupt you for a second, because
22 that's not what I was asking about. I was probably asking
23 the wrong question.
24 My question is what are the specific air

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1 pollution control devices that will be for the aggregate
2 and/or recycled asphalt piles?
3 **A. Again, there would be an assumption that those**
4 **would be controlled by best management practices. That**
5 **usually involves just water, wetting materials.**
6 Q. We haven't heard any testimony about those
7 practices, have you?
8 **A. No, but it's a standard thing to put in the**
9 **air quality permits, which would be a subsequent step in**
10 **this.**
11 Q. What are the specific air control devices that
12 will be there for the conveyor system? Do we know what the
13 specific devices are?
14 **A. We don't have those details on the plan at**
15 **this point.**
16 Q. It's kind of hard to evaluate if we don't have
17 those details; correct?
18 MR. MC CLUSKEY: I'm going to object to this process,
19 and counsel knows that this is not the permitting process,
20 and that's what the witness is referring to.
21 CHAIRMAN KETTER: Well, I think he's gone beyond the
22 permitting. Maybe I just lost it after this long. I
23 thought he was just trying to draw what he used to write his
24 report and come up with the conclusions, and if those

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1 conclusions that he used are valid, and what's the basis of
2 the conclusion.
3 Is that where you're going?
4 MR. LUETKEHANS: Yes, sir.
5 CHAIRMAN KETTER: So if you know, within that
6 parameters, the answer, then go ahead.
7 THE WITNESS: Well, I think the answer would be the
8 same as the previous question that the assumption that I'm
9 making is that those emissions will be controlled when --
10 provisions in the air quality permit has to be obtained
11 later, which is a standard thing in asphalt plant permits
12 that I've read that there will be fugitive dust controls,
13 which is what you're talking about.
14 BY MR. LUETKEHANS:
15 Q. This is based on what you've read; correct?
16 A. **Yes. I've seen many, many permits. I haven't**
17 **gotten any of those permits, as we determined before, but**
18 **I've read a lot of them.**
19 Q. We don't know as we sit here, and I could go
20 through every different compound and every different place
21 of the plant, you don't know what the specific devices are
22 going to be; correct?
23 A. **No, I do have a good sense of what some of**
24 **those devices will be for the sources that I looked at.**

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1 Q. Okay, why don't you tell us what those are.
2 A. **Well, going down the road I started before,**
3 **the main emission control on this asphalt mix plant would be**
4 **the bag house. The dryer stack is the main source. A bag**
5 **house is to collect dust essentially. And modern plants,**
6 **which I'm assuming, again, this plant will be, usually have**
7 **vapor controls on some of the sources, and those would**
8 **include the silo vents. Those are usually directed back**
9 **into the burner, as opposed to just being allowed to go out**
10 **to the atmosphere. And, also, emissions from the asphalt**
11 **cement storage tank are usually controlled on modern plants**
12 **these days.**
13 Q. Are there more than one kind of emission
14 control devices for bag houses?
15 A. **There are different bag house designs, yes.**
16 Q. And there are different vapor controls on
17 silos; correct?
18 A. **I would assume so, but I think they have**
19 **pretty much the same goal of just rerouting those vapors**
20 **back to the berm.**
21 Q. Well, they all have the same goal, the
22 question is how successful they are; correct?
23 A. **Well, from what I've heard, and I don't have**
24 **direct experience with it, but those controls seem to work**

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1 **fairly well.**
2 Q. You haven't tested those anyway?
3 A. **No.**
4 Q. Your chart on page 1 of your report, what
5 chemicals are you referencing?
6 A. **If I could just get the report.**
7 Q. Yeah, please. I'm not trying to make this a
8 memory test, I'm trying to understand.
9 A. **Sorry. My memory is pretty bad. So page 1.**
10 **Could you repeat the question?**
11 Q. Yeah, sure. What chemicals are you
12 referencing there in the chart?
13 A. **Which chemicals? Those are a representation**
14 **of what would be emitted from the bag house stack, and the**
15 **source of those emissions would be burning of fuel.**
16 Q. Okay. These are not the only chemicals in the
17 asphalt production that are part of the EPA Emission
18 Factors; correct?
19 A. **Correct, these are the just main pollutants.**
20 Q. What are the other ones?
21 A. **Well, there are a whole series of air toxins**
22 **and compounds. It would be VOCs by themselves, a whole**
23 **group of compounds, volatile organic compounds. There would**
24 **be components of particulate matter that will be individual**

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1 **pollutants; some metals, so semi-volatile compounds.**
2 Q. And none of those are analyzed in your report,
3 though; correct?
4 A. **No, that's actually incorrect. There was --**
5 **the purpose of risk assessment was to look specifically at**
6 **those chemicals.**
7 Q. So your risk assessment looked specifically at
8 those chemicals, the ones that are not listed in the chart
9 1?
10 A. **Well, there are parts of what's listed in**
11 **chart 1. Remember, volatile organic chemicals includes a**
12 **series of air toxins, as does particulate matter and metals**
13 **and semi-volatiles. So that chart just doesn't break that**
14 **out into individual compounds.**
15 Q. Let's go to page 3 of your report and the
16 table discussing PM2.5.
17 A. **Yep, I'm there.**
18 Q. You're aware, aren't you, that the data you
19 analyzed has not been quality assured?
20 A. **The 2015 data that represents the background**
21 **concentration, is that what you're referring to?**
22 Q. I'm talking about the PM2.5.
23 A. **I think the 9 micrograms per cubic meter has**
24 **been quality assured, or else IEPA would not publish that in**

<p style="text-align: right;">41</p> <p>1 their Air Quality Report.</p> <p>2 Q. Isn't it true that it's not allowed for use by</p> <p>3 the U.S. EPA?</p> <p>4 A. The particulate matter at that station is</p> <p>5 collected with the Federal Reference Method. I don't know</p> <p>6 if it's not allowed to be used for some reason. I wouldn't</p> <p>7 understand why.</p> <p>8 Q. Let's go to the second table on this chart</p> <p>9 discussing formaldehyde. You say the background model is</p> <p>10 the annual average concentration modeled by the U.S. EPA for</p> <p>11 the census tract. What's included in that census tract, do</p> <p>12 you know?</p> <p>13 A. Well, actually the main component of that 1.2</p> <p>14 micrograms per cubic meter actually comes from natural</p> <p>15 sources. There are a lot of different sources of</p> <p>16 formaldehyde in the atmosphere, natural or biogenic sources</p> <p>17 is the largest one.</p> <p>18 Q. It was an awful question. And you answered</p> <p>19 the one you thought I asked, and it wasn't the one I meant</p> <p>20 to ask. I'm talking about what locations or what other uses</p> <p>21 are in that particular census tract, do you know?</p> <p>22 A. I didn't look at the sources specifically, but</p> <p>23 usually formaldehyde from ampergenic manmade sources would</p> <p>24 be associated with the fuel combustion, so a lot of the</p>	<p style="text-align: right;">43</p> <p>1 got an oil refinery and I have an area of forest preserve,</p> <p>2 let's say, none of which is producing more formaldehyde than</p> <p>3 the other; correct?</p> <p>4 A. I wouldn't be certain on that.</p> <p>5 Q. Okay, let's say I'm using -- would you say an</p> <p>6 oil refinery produces more formaldehyde than the average</p> <p>7 use?</p> <p>8 MR. MC CLUSKEY: I'm going to object to the</p> <p>9 foundation and hypothetical unless we show and we have</p> <p>10 evidence.</p> <p>11 MR. LUETKEHANS: We will, but I don't get to put my</p> <p>12 witness on first, Mr. McCluskey.</p> <p>13 MR. MC CLUSKEY: I know, but it's a basic fact</p> <p>14 whether we have oil refineries in the area.</p> <p>15 MR. LUETKEHANS: And we do, and so I'm asking the</p> <p>16 question and we'll show that when my witnesses go on.</p> <p>17 CHAIRMAN KETTER: Let's just qualify this. He</p> <p>18 doesn't know what's in the area, so he's going to give you</p> <p>19 the hypothetical based on if it was in there, and then</p> <p>20 answer the questions, if you can, based on an oil refinery</p> <p>21 being in that area and whatever other ones.</p> <p>22 BY MR. LUETKEHANS:</p> <p>23 Q. So my question is this: If there is an oil</p> <p>24 refinery in the area, do oil refineries usually produce more</p>
<p style="text-align: right;">42</p> <p>1 mobile emissions would be included as probably the major</p> <p>2 source.</p> <p>3 Q. Did you realize there were oil refineries in</p> <p>4 that census tract?</p> <p>5 A. There may well be. No, I did not know that.</p> <p>6 Q. Okay. And there's also oil and tank storage</p> <p>7 in that census tract. You're not aware of anything?</p> <p>8 A. There's oil tank storage in a lot of different</p> <p>9 sources. Oil tanks aren't generally a large source of</p> <p>10 formaldehyde.</p> <p>11 Q. Would you agree that oil refineries produce</p> <p>12 more than a little formaldehyde?</p> <p>13 A. I don't know.</p> <p>14 CHAIRMAN KETTER: I already know where you're going.</p> <p>15 Qualify what a little means.</p> <p>16 MR. MC CLUSKEY: Yeah.</p> <p>17 BY MR. LUETKEHANS:</p> <p>18 Q. Does an oil refinery produce more than the</p> <p>19 average formaldehyde level that you list here?</p> <p>20 A. Well, if there are oil refineries in this</p> <p>21 area, I would be very surprised if they aren't included in</p> <p>22 the EPA's Emission Report, because it does include all point</p> <p>23 sources.</p> <p>24 Q. I'm completely ignorant. My question is if I</p>	<p style="text-align: right;">44</p> <p>1 formaldehyde than the average you have in your chart?</p> <p>2 A. I would have no way of knowing that without</p> <p>3 doing the same type of evaluation I did for the proposed hot</p> <p>4 mix asphalt plant because -- I could expound.</p> <p>5 Q. What oil refinery --</p> <p>6 MR. MC CLUSKEY: Let him finish.</p> <p>7 MR. LUETKEHANS: I apologize, I thought he did.</p> <p>8 THE WITNESS: What you find from an oil refinery in</p> <p>9 the EPA's Emission Investors will be a pounds per year or</p> <p>10 tons per year number. You have to translate that into an</p> <p>11 ambient concentration. So without doing that modeling</p> <p>12 specifically, I can't really say what that number would be.</p> <p>13 BY MR. LUETKEHANS:</p> <p>14 Q. So I live in a subdivision of 50 or 100</p> <p>15 houses; okay? Does that -- and let's say it's the same size</p> <p>16 as the oil refinery as far as square footage, would there be</p> <p>17 the same amount of formaldehyde produced from my 50 or 100</p> <p>18 houses as there would be from an oil refinery?</p> <p>19 A. I don't know. Without knowing -- looking into</p> <p>20 the details, I would be -- I would think the oil refinery</p> <p>21 would emit more than 50 to 100 houses, but I don't know.</p> <p>22 Q. This average is not specific to Emerald Ridge</p> <p>23 Townhomes to the north; correct?</p> <p>24 A. It includes the entire census tract that</p>

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1 **includes those homes. So the census tract is larger than**
2 **just those homes, it's an average over a larger area.**
3 Q. In fact, census tracts can be four or five
4 miles wide; correct?
5 **A. They can be.**
6 Q. There are other hazardous pollutants other
7 than formaldehyde that come from asphalt plants; correct?
8 **A. Correct.**
9 Q. Your report does not provide an analysis of
10 those pollutants, does it?
11 **A. I did not break that out in detail, but they**
12 **are considered in the risk estimates.**
13 Q. But we can't tell that from the report?
14 **A. You can't tell.**
15 Q. You made a comment at the last hearing about
16 bakeries and their VOM -- or you call them VOC emissions.
17 Are you aware that in the Chicago Metropolitan area that
18 bakeries are required to control their VOM emissions?
19 **A. That doesn't surprise me. They could be large**
20 **emission sources, but I don't know that for certain.**
21 Q. You don't know what type of control they're
22 required to include?
23 **A. No, I don't.**
24 MR. LUETKEHANS: Nothing further.

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1 REDIRECT EXAMINATION
2 By: Mr. McCluskey
3 Q. Does the EPA regulate asphalt plants?
4 **A. Yes, it does.**
5 Q. Okay. With your study, with respect to the
6 study that you did, does the asphalt plant that is proposed
7 to be in this location, does that meet the EPA regulations?
8 **A I don't know yet because the details aren't**
9 **proposed on that.**
10 Q. Because we're not there yet; is that correct?
11 **A. Correct.**
12 Q. Okay. But, I saw in your study where you
13 referred to an EPA study back in 2000.
14 **A. Yes.**
15 Q. Of hot mix asphalt plants on page -- the last
16 page of your report.
17 **A. Yes, it's one of the references.**
18 Q. Why does that date back to 2000, and it's the
19 U.S. EPA?
20 **A. It's the U.S. EPA because in the year 2000,**
21 **that culminated a rather intense examination of hot mix**
22 **asphalt plants by the U.S. EPA. There were a lot of**
23 **concerns raised about similar emissions. We talked about**
24 **some of the fugitive emissions from the silos and -- loadout**

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1 **and silos. The EPA spent several million dollars to study**
2 **those emissions, and so that is the year 2000. And,**
3 **frankly, not much has changed in hot mix asphalt plants**
4 **since then. The EPA hasn't seen the need to go back and do**
5 **more testing. If anything, those plants have gotten cleaner**
6 **than the emission factors that existed when the EPA**
7 **published its report in 2000.**
8 Q. What is your conclusion with respect to that,
9 that the EPA has not studied the hot asphalt plants and
10 there hasn't been a report since 2000?
11 MR. LUETKEHANS: Objection, speculation, foundation.
12 CHAIRMAN KETTER: I missed it, what was your
13 objection?
14 MR. LUETKEHANS: Speculation, foundation. He's
15 speculating as to what his conclusions of why the EPA has
16 not retested.
17 CHAIRMAN KETTER: Do you want to rephrase the
18 question and take speculation out.
19 BY MR. MC CLUSKEY:
20 Q. Do you know the reason why there hasn't been
21 any further reports since 2000 that you're aware on EPA hot
22 asphalt plants?
23 **A. The EPA tends to test sources when it feels**
24 **the need to test them and test them new. So I would assume,**

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1 **and this is a little bit of speculation, the EPA didn't see**
2 **the need to test these plants any further.**
3 MR. LUETKEHANS: Objection, move to strike.
4 CHAIRMAN KETTER: You can't make -- you're testifying
5 as an expert, so you can say my conclusion is based on these
6 facts. You can't say I assume, or we're going to go on
7 forever.
8 MR. MC CLUSKEY: You can't speculate.
9 THE WITNESS: Let me rephrase my answer. The EPA
10 tends to investigate sources when it needs to investigate
11 them, when the data characterizing them aren't sufficient
12 any longer.
13 BY MR. MC CLUSKEY:
14 Q. And your conclusion, based upon your review of
15 the data and the EPA, is that there was only trace changes
16 in any air quality as indicated by your evaluation of the
17 proposed Lorig hot mix asphalt plant; correct?
18 **A. That's correct. That figure for formaldehyde,**
19 **I don't know what page it is, but the figure for**
20 **formaldehyde impacts versus the background level is typical**
21 **of essentially all pollutants, that the air quality will not**
22 **change in what I would call a measurable way, meaning if you**
23 **took air quality samples before and after, you wouldn't see**
24 **a statistical difference, or a perceptible increase, because**

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1 **the impacts are going to be so small.**
2 Q. Okay. Between the before and after -- the
3 area before the hot asphalt plant was there and after it was
4 there?
5 **A. Correct.**
6 MR. MC CLUSKEY: Thank you. No further questions.
7 MR. LUETKEHANS: I have one follow-up.
8
9 **RE CROSS EXAMINATION**
10 By: Mr. Luetkehans
11 Q. The report that you provided would not be
12 sufficient for a U.S. EPA permit; correct?
13 **A. Correct. It hasn't looked at criteria for**
14 **this.**
15 Q. It hasn't what?
16 **A. It hasn't looked at the criteria for this.**
17 **The EPA wouldn't have looked at that type of permit.**
18 MR. LUETKEHANS: Thank you.
19 CHAIRMAN KETTER: Thank you. You're done.
20 MR. LUETKEHANS: We would call Dr. Thunder to the
21 stand.
22 MR. MC CLUSKEY: He's the sound expert.
23 CHAIRMAN KETTER: All right. Just for purposes of
24 the record, we brought it up at last hearing, we did get an

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1 opinion. The opinion that we received is that there is no
2 legal obligation for us to strike the data, or the expert's
3 opinion from the record, and that we should just give it
4 whatever weight we deem appropriate. So, if that changes,
5 or you want to re-prepare --
6 MR. LUETKEHANS: And I received a copy of the
7 opinion, so thank you, Mr. Ketter. I appreciate that.
8
9 **THOMAS THUNDER,**
10 Having been previously duly sworn, was examined and
11 testified as follows:
12
13 **CROSS EXAMINATION**
14 By: Mr. Luetkehans
15 Q. Did anyone at the plant or the company know
16 you were going out that day to measure sound at the Lorig
17 Crystal Lake plant?
18 **A. Yes. We had notified the company that we are**
19 **going to be out there that day.**
20 Q. Are you aware that asphalt plants can run at
21 different production rates?
22 **A. Yes.**
23 Q. What was the production rate of the Crystal
24 Lake plant on the day it was tested?

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1 **A. I was told it was 800 -- the plant usually**
2 **does 800 tons a day, but it was a working operational plant,**
3 **and that's -- we were out on that day to make those**
4 **measurements under those conditions.**
5 Q. But you're aware also the plants run on a
6 ton-per-hour rate; correct?
7 **A. Yes.**
8 Q. Do you know what the ton-per-hour rate was
9 while you were testing?
10 **A. I don't know specifically, no.**
11 Q. Okay. So you wouldn't -- how many asphalt
12 plants have you measured?
13 **A. That I've measured? I think our company has**
14 **been involved in two or three different asphalt plants over**
15 **the years.**
16 Q. How about yourself?
17 **A. Myself, one maybe 20 years ago.**
18 Q. Okay. I assume that that plant 20, 25 years
19 ago did not have the exact same readings as the plant that
20 you did today.
21 **A. I didn't do any comparison or look back at**
22 **that literature, no.**
23 Q. Okay. We don't know whether the proposed
24 plant is the exact same layout of equipment and production

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1 as the Crystal Lake plant, do we?
2 **A. I wouldn't expect it would be the exact same**
3 **layout, no.**
4 Q. Is it possible that there are differences in
5 the noise levels emanating from asphalt processes, or are
6 all plants identical?
7 **A. There's probably some variation for sure.**
8 **Crystal Lake was an older plant. The one going in Lemont**
9 **would be a newer modern one.**
10 Q. A difference in a point of measurement of 100
11 feet would create a significant difference in your end
12 calculation; correct?
13 **A. Explain that in more detail.**
14 Q. Here: If I measured 100 feet from the
15 emission source versus measuring from 200 feet from an
16 emission source; right?
17 **A. Yes.**
18 Q. That would create a significant difference in
19 the end result 800 feet away?
20 **A. Yes, that would be your source point.**
21 Q. Correct. And was your measurement taken 100
22 feet from the northern boundary of the plant in Crystal
23 Lake?
24 **A. You're talking Crystal Lake? It was taken**

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1 **about 100 feet from the plant, from the drum.**
2 Q. Which direction?
3 **A. I don't remember offhand.**
4 Q. Was it from the center of the plant, or the
5 outside of the plant?
6 **A. I think it was from the outside of the plant.**
7 **It was 100 feet from the noise generation of that plant, and**
8 **at 100 feet, that's a good enough distance to get a good**
9 **benchmark.**
10 Q. Your report does not include a diagram showing
11 the exact locations you tested, either 100 feet from the
12 plant, or 50 feet from the crusher; correct?
13 **A. No, it doesn't.**
14 Q. And what distance did you measure the crusher
15 here?
16 **A. Would be about 50 feet.**
17 Q. Okay. Could you go to figure 1 of your
18 report. And I don't have the page number, I apologize.
19 MR. MC CLUSKEY: It's page 2.
20 THE WITNESS: That's page 2.
21 BY MR. LUETKEHANS:
22 Q. Okay. In there it says that the plant you
23 measured at 150 feet from the crusher, though; correct?
24 **A. That's actually a typographical error in the**

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1 **narrative.**
2 Q. Is the typographical error the 50 or 150?
3 **A. It's 50 foot.**
4 Q. Is all asphalt equipment the same?
5 **A. I think you asked that before.**
6 Q. Okay. There's different manufacturers, you
7 would agree?
8 **A. Oh, of course.**
9 Q. And you predicted the sound using the IOS
10 modeling 9613-2 at 1,000 feet; correct?
11 **A. IOS standard, yes.**
12 Q. If you put a square or a rectangle, or let's
13 say a square, I know it's not a one-spot plant, but let's
14 assume. If you put a rectangle at 100 feet around all the
15 plant equipment and measured at 100-foot distances, would
16 the readings all be the same?
17 **A. No, there would be some difference. When**
18 **you're out in the field, you can't always make measurements**
19 **where you ideally would like to because of obstructions,**
20 **fluctuations, movements and so forth, so when we go out in**
21 **the field, we have to make a very strategic measurement.**
22 Q. But you would agree that plants and emission
23 sources, noise emission sources, may have louder emissions
24 one side than the other?

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1 **A. That's called acoustic directivity, and that**
2 **can happen to a certain degree, yes.**
3 Q. And one of the ways to check that is to check
4 the same measurement for multiple directions; correct?
5 **A. Correct.**
6 Q. And that wasn't done here?
7 **A. No.**
8 Q. If I told you the nearest residence was only
9 750 feet away from one of the -- from the crushing emission,
10 would that change your report?
11 **A. It would change it a little bit, but the**
12 **crusher was at a lower emissions than the asphalt plant**
13 **itself as to dominant source, and that contributes the most.**
14 Q. But just so we're very clear, sound is
15 additive; correct?
16 **A. Not really.**
17 Q. Two emission sources are the same, or just
18 automatically go to the highest one?
19 **A. Yes, actually it does. The most difficult**
20 **thing to explain to my students, because of the logarithmic**
21 **nature, if you add 70 and 80 dB, you come up with 80 dB.**
22 Q. So if I have -- did you measure -- you said
23 the crusher was lower than the asphalt plant as far as
24 noise; correct?

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1 **A. Yes.**
2 Q. If the crusher is closer to the emission
3 source, would that always be true that the asphalt plant
4 would overdraw or drown out the crusher?
5 **A. Yes, it would. It's called acoustic masking.**
6 Q. Even if the crusher is closer? Okay, so I got
7 crushing 250 or 300 feet closer to the emission -- the
8 receptor.
9 **A. Oh, the receptor. You're talking about the**
10 **receptor as the emission source.**
11 Q. I apologize. The receptor -- the crusher is
12 300 feet closer, or 250 feet closer to the receptor. Does
13 that change the calculation?
14 **A. It would increase the crusher to a certain**
15 **degree, but the dominant source would still be the asphalt**
16 **plant.**
17 Q. And at 250 feet, what's the asphalt plant
18 noise-wise?
19 **A. At 200 feet?**
20 Q. 250 feet.
21 **A. Well, I think I even mentioned if you've got**
22 **100 feet for -- if you made a 100-foot measurement at 75 dB,**
23 **then you're asking for 200 feet?**
24 Q. Go 250.

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1 **A. Well, I don't have a logarithmic calculator,**
2 **but any time you double the distance, the sound level drops**
3 **6 decibels. So if you go from 100 measurement to 200 feet,**
4 **then it drops at 60 dB, so it would drop it from 75 to 69.**
5 Q. And the crusher noise at 50 feet is 70?
6 **A. Correct.**
7 Q. So the crusher then becomes louder?
8 **A. If it was moved significantly closer that way.**
9 Q. Yes.
10 **A. Yes.**
11 Q. You would admit that the crusher cannot be on
12 top of the asphalt plant; correct?
13 **A. Correct.**
14 Q. It's got to be somewhere else.
15 **A. Correct.**
16 Q. Do you understand what the crusher is used
17 for?
18 **A. Yes.**
19 Q. Just so we're clear, the crusher is used to
20 crush recycled asphalt product; correct?
21 **A. Correct.**
22 Q. And then it's put into a storage area;
23 correct?
24 **A. That's right.**

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1 Q. And the storage area here, at least looking at
2 these bins up above, look to be to the north of the plant;
3 correct?
4 **A. It looks to be that way, yes.**
5 Q. And the townhomes are further north?
6 **A. Correct.**
7 Q. So the crusher is closer to the receptors than
8 the asphalt plant is; correct?
9 **A. As it is in that plan as you've described it.**
10 Q. Yeah. Right now that's the only plan I have.
11 **A. But it could be moved possibly. That's a**
12 **noise abatement. If it was really thought that that was an**
13 **issue, we would be working with the team to see what**
14 **arrangements could be made to move it.**
15 CHAIRMAN KETTER: Let's just work with what we have,
16 and not assume if they want to change and resubmit a plan or
17 something. All these questions are going to be assumed
18 based on the exhibit we have there. Is that what your test
19 is based on? I guess we should do your question based on
20 what you used -- the situations for your report.
21 MR. LUETKEHANS: I mean, I'm going off what's in the
22 drawing, and that's all I can go off. So that's the
23 questions I'm asking.
24

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1 BY MR. LUETKEHANS:
2 Q. We know they're not at the same place. We've
3 already established they're not at the exact same location.
4 **A. Correct.**
5 Q. And we've talked about where the aggregate
6 piles are, et cetera. What elevations did you use for your
7 calculations?
8 **A. The elevations? I used an elevation that was**
9 **comparable to what the homeowner's elevation was.**
10 Q. Okay. And do you recall what that was?
11 **A. No, I don't.**
12 Q. Do you recall whether that was the same
13 elevation as the plant, or higher or lower?
14 **A. I don't remember.**
15 Q. Did you include topography in your
16 calculations, or just do a straight distance calculation?
17 **A. No, it was topography.**
18 Q. Did you put any factor in to model for the
19 height of the receiver?
20 **A. For the height of the receiver?**
21 Q. The higher -- that the receiver's higher than
22 the emission, than the emitter.
23 **A. No, at that distance it would be very**
24 **miniscule because you're out several hundred feet, 900 feet.**

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1 **If you go to a two-story versus one-story, the difference**
2 **would be miniscule.**
3 Q. You're suggesting the vegetation can reduce
4 the noise levels by up to 4 decibels; is that correct?
5 **A. It wasn't just vegetation alone. The 4**
6 **decibels in that report includes scattering, it includes**
7 **atmospheric absorption, it includes topography vegetation,**
8 **all of that is tall in comparison with the 20 decibel**
9 **reduction, which is called the inverse square law, which is**
10 **the disparity of sound.**
11 Q. You've provided this Board with a dBA level;
12 correct
13 **A. Correct.**
14 Q. And the dBA is just an A-weighted calculation
15 of different octave bands; correct?
16 **A. That's correct.**
17 Q. And IPCB regulations are not based on dBA
18 levels, are they?
19 **A. No, it's not used, but it's used quite**
20 **frequently. In fact, Burr Ridge uses a dBA.**
21 Q. But the IPCB does not?
22 **A. It does not.**
23 Q. That's the State?
24 **A. That is the State. More detail would be**

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1 **looked into -- if you felt it exceeded it, you would want to**
2 **find out which band exceeded it.**
3 Q. If I had an ambient noise level at 53 dBA and
4 I added a noise that is predicted to also be 53 dBA, what
5 level would be measured at the test location?
6 **A. So you're asking what's 53 plus 53, it would**
7 **be 56 dBA.**
8 Q. Is it okay to add noise to an area that is
9 already above the Illinois standards?
10 **A. I'm not sure what you're asking. Is it okay**
11 **to add noise --**
12 MR. MC CLUSKEY: Objection to the form of that
13 question.
14 MR. LUETKEHANS: I'll rephrase it.
15 CHAIRMAN KETTER: I wanted to get the question read
16 back.
17 MR. LUETKEHANS: Well, it was vague.
18 BY MR. LUETKEHANS:
19 Q. Under the IPCB regulations --
20 CHAIRMAN KETTER: Is that the Illinois Pollution
21 Control Board?
22 MR. LUETKEHANS: Yeah.
23 BY MR. LUETKEHANS:
24 Q. Under the Illinois Pollution Control Board

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1 regulations, is it okay to add noise to an area, or is it if
2 you add noise to an area that is already above the Illinois
3 standards, is that acceptable in the IPCB regulations?
4 **A. I don't think the Illinois Pollution Control**
5 **Board actually dictates something like that. Their limit is**
6 **the noise radiating from the plant alone, without regard to**
7 **any ambient noise or anything like that.**
8 Q. Okay.
9 (Whereupon, the document was
10 marked Objector's Exhibit 7 for
11 identification.)
12 BY MR. LUETKEHANS:
13 Q. Showing you what's marked as Objector's
14 Exhibit 7, this is a chart you recognize; correct? This is
15 the IPCB Regulations, Section 901.102?
16 **A. Yes.**
17 Q. And these octave band numbers is how you
18 actually determine under the IPCB Regulations whether sound
19 is above permissible levels; correct?
20 CHAIRMAN KETTER: Let me just interrupt you before we
21 get too far. We're just going to continue taking exhibits,
22 regardless of hearing, in numerical order. Does this fall
23 into -- or you don't know?
24 MR. LUETKEHANS: It's going to be very hard for me to

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1 do it in a numerical order.
2 CHAIRMAN KETTER: You're not going to have two 7's or
3 something?
4 MR. LUETKEHANS: No. I'm doing Objector's Exhibit 7,
5 and then it will be -- I don't have two 7's.
6 CHAIRMAN KETTER: So both sides know, numbers --
7 we're not going to do hearing Exhibits 1 through whatever,
8 hearing 2 through whatever, just so we don't have
9 duplicates.
10 MR. MC CLUSKEY: I don't have a problem with -- he
11 has his own set, as long as they're identified as Objector's
12 Exhibits when we have Petitioner's Exhibits.
13 BY MR. LUETKEHANS:
14 Q. These octave band numbers are how you actually
15 determine under the IPCB Regulations whether sound is above
16 the permissible levels.
17 **A. It would be the specific level that I don't**
18 **generally use with Boards and so forth, because it's very**
19 **difficult for lay people to understand decibels and**
20 **frequencies.**
21 Q. Well, one thing I think it's pretty easy to
22 understand is if any single one of the octave bands is
23 exceeded, either day or night, you would have a violation of
24 the IPCB Regulations; correct?

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1 **A. Averaged over a one-hour period, yes.**
2 Q. Averaged over one hour.
3 **A. Correct. And if it could be measured in**
4 **reference to the background noise. So if the background**
5 **noise was comparable to the noise coming from the plant, the**
6 **measurement would be invalid and you couldn't state if they**
7 **exceeded it or not.**
8 Q. Except if the background noise is 53 and the
9 noise coming from the plant is 53, we've already decided
10 it's 56; correct?
11 **A. Yes, if you had that combination. You would**
12 **have to have the plant shut down to actually measure the**
13 **background noise.**
14 Q. Well, your background noise doesn't include
15 the plant, because the plant doesn't exist.
16 **A. My background measurements, no. Mine was to**
17 **characterize the ambient, correct.**
18 Q. Your report never provides this Board with the
19 levels for those octave bands, you would agree; correct?
20 **A. That's correct.**
21 Q. Another IPCB standard relates to impulsive
22 noise; correct?
23 **A. That's correct.**
24 Q. Your report provides no discussion of

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1 impulsiveness; correct?
2 **A. That's correct.**
3 Q. In this case, you did find impulsive noises,
4 though; correct?
5 **A. No, I didn't say anything about impulsive**
6 **noise.**
7 Q. Did you find impulsive noises?
8 **A. Not really. When you have rock crushing**
9 **operations, maybe each individual strike would be impulsive,**
10 **but there's so many different strikes on it, it all gets**
11 **mixed together. Some people might call it quasi-impulsive**
12 **noise.**
13 Q. Go to figure 1 on page 2.
14 **A. Okay.**
15 Q. So what we have here on the left is levels of
16 dBAs; correct?
17 **A. Correct.**
18 Q. And on the bottom we have -- these are
19 minutes?
20 **A. Correct, lapsed time.**
21 Q. If you go to the approximately 20, 21 minutes,
22 that big jump there, do you see that?
23 **A. Yes.**
24 Q. That's not an impulsive noise?

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1 **A. No, that's not impulsive.**
2 Q. Do you know what it was from?
3 **A. Yes. It was from the engineer announcing into**
4 **the microphone that he was ready to leave the asphalt area**
5 **and head over to the crushers. So when we do a recording,**
6 **we let it run the entire time. We don't splice it out, we**
7 **don't want the missing 18-minute issue going on, we want to**
8 **kind of complete the measurements.**
9 **So you'll see on the left side of there,**
10 **at zero minutes you'll see that red line all the way up at**
11 **94 decibels. That's the calibration tone. That's the tone**
12 **that he places on the recording to make sure that it's**
13 **scientifically acceptable. And if you look there where it**
14 **says calibration and general annotation with arrows to it,**
15 **you'll see that spike. That's him yelling into the**
16 **microphone that, okay, I'm ready to begin the measurement.**
17 **So the 13-minute sample that was taken was really between**
18 **that, so that's not impulsive noise.**
19 Q. Your report, however, does not say that that
20 is what was occurring. You say at the beginning that there
21 is a calibration of general annotation minutes zero to 4;
22 correct?
23 **A. Yes, and if I were to do that graph over, I**
24 **probably would have commented or annotated on the other line**

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1 **there as well.**
2 Q. Would you agree that impulsive noises, if they
3 occur often enough, can violate the IPCB regulations?
4 **A. State that again.**
5 Q. Would you agree that impulsive noises, if they
6 occur often enough, can violate the IPCB Regulations?
7 **A. Well, they're averaged over an hour as well,**
8 **and it could if it's impulsive noise. So impulsive noise is**
9 **things like firearms or somebody hammering on a roof,**
10 **shotguns, things of that sort are typically what you're**
11 **looking at for impulsive noise. Impact noise, perhaps, from**
12 **railroad cars colliding together, that would be considered**
13 **impulsive noise as well.**
14 Q. How about truck gates lifting and closing or
15 opening and closing?
16 **A. Gates? You mean when they drop the back end**
17 **of it?**
18 Q. Yeah.
19 **A. That would be impulsive.**
20 **(Whereupon, the document was**
21 **marked Objector's Exhibit 8 for**
22 **identification.)**
23 BY MR. LUETKEHANS:
24 Q. Showing you what's been listed as Objector's

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1 Exhibit 8, this is the impulsive standards for the IPCB
2 rates; correct?
3 **A. Yes.**
4 Q. Is that a yes to my question?
5 **A. You ask me if this is impulsive, and I said**
6 **yes.**
7 Q. I just wanted to make sure for the record. I
8 asked kind of two questions. That was my fault.
9 **A. Yes, it says for Section 901.101, Highly**
10 **Impulsive Noise.**
11 Q. Let's talk about -- stay with figure 1 in your
12 report for a minute. It appears that the -- let me ask the
13 question. Is the crusher and asphalt plant running
14 simultaneously?
15 **A. They were at the time it was there, yes.**
16 Q. Okay. Where were they measured from in
17 relationship to each other?
18 **A. In relation?**
19 Q. Yes.
20 **A. To each other?**
21 Q. Yeah.
22 **A. I don't recall offhand. The important**
23 **criterion is that when you're making a measurement, that you**
24 **have a good line-of-sight view to the noise source, there is**

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1 **no obstructions, no shields or anything like that.**
2 Q. How were you able to measure the crusher alone
3 when the asphalt plant was supposedly overtaking the noise,
4 drowning out the other sound?
5 **A. Well, then consider it to be a conservative**
6 **figure if you consider anything, because if you've got**
7 **something over here that's loud and you're trying to measure**
8 **your crusher, then if anything my numbers are too high, not**
9 **too low.**
10 Q. What was the wind direction the day you
11 measured at the Crystal Lake plant?
12 **A. At that distance it really wouldn't matter**
13 **unless it was highly windy, and the concern there would be**
14 **not with the carrying of sound, if you will, but it would be**
15 **the effect it would have on the microphone.**
16 Q. But you don't know because you weren't there;
17 correct?
18 **A. Correct.**
19 Q. Would you agree that wind is often from the
20 south in the Chicago area in the summer?
21 **A. I'm not a meteorologist, so I can't state**
22 **that.**
23 Q. For this report, you used daytime noise
24 standards; correct?

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1 **A. Correct.**
2 Q. And they're different from standards for
3 nighttime?
4 **A. Yes. They are.**
5 Q. You heard the other night Mr. Lorig said the
6 plant will start operations at 6:00 a.m.; correct?
7 **A. Correct.**
8 Q. That's not part of the daytime standards under
9 the IPCB regs?
10 **A. That's correct.**
11 Q. I think you also heard Mr. Lorig say, and I
12 think Mr. Werthmann, that the plant could operate at night;
13 correct?
14 **A. I don't think it was evaporated. Did you say**
15 **evaporated?**
16 Q. I said operate at night.
17 **A. Operate. I heard that he said it could be**
18 **sporadic at night.**
19 Q. And after 10:00 p.m., you would also need to
20 measure against the nighttime standards; correct?
21 **A. That's correct.**
22 Q. Again, looking at what's marked as Objector's
23 Exhibit 7, if I remember correctly, the top standards are
24 daytime, the top chart 901.102?

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1 **A. That's correct.**
2 Q. That's subparagraph A?
3 **A. Subparagraph A, yes.**
4 Q. That's daytime.
5 **A. That's daytime.**
6 Q. And subparagraph B is nighttime; correct?
7 **A. Correct.**
8 Q. You did not provide any comparison of these
9 levels to the nighttime standards in your report, did you?
10 **A. No, I didn't do any nighttime work. The focus**
11 **was daytime.**
12 Q. We discussed earlier that the dBA is not in
13 the IPCB Regs. Where does that standard you have in your
14 report regarding dBA come from?
15 **A. It's a logarithmic summation of all the octave**
16 **bands. If you added them up for the State of Illinois class**
17 **C, class A would be 61 decibels daytime and 51 decibels at**
18 **night.**
19 Q. What is the -- so you came up with 52
20 decibels; correct?
21 **A. That's correct.**
22 Q. And, as you said, the dBA level for nighttime
23 is only 51?
24 **A. That's right.**

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1 Q. Even if the nighttime and daytime levels were
2 not exceeded by a noise source, a noise source can still
3 violate the IPCB Regulations under its nuisance standards;
4 correct?
5 **A. Could you restate that.**
6 Q. Yeah. The only standard in the IPCB regs is
7 not just the generic standard; correct?
8 **A. Well, there are multiple standards.**
9 Q. But one of the standards is -- let me ask this
10 question. Even if you were to have a plant that met all the
11 levels of Exhibit 7, Objector's Exhibit 7, you could still
12 have a plant that violated the IPCB Regulations; correct?
13 **A. Under their general noise nuisance section,**
14 **yes.**
15 MR. MC CLUSKEY: I'm going to object and move to
16 strike the answer and the question because I think it's
17 irrelevant to the issues before this Zoning Board whether
18 it's a nuisance standard. I don't think the objector's
19 alleging nuisance.
20 CHAIRMAN KETTER: I'm not sure where he's going all
21 the way yet until he's finished. I'm going to leave it in
22 for whatever weight can be assigned.
23 MR. LUETKEHANS: For the record, a nuisance, in the
24 IPCB regs, can affect public health, safety and welfare.

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1 BY MR. LUETKEHANS:
2 Q. You're familiar with Knox vs. Turris Coal
3 Company case that the IPCB --
4 THE COURT REPORTER: Knox versus what?
5 MR. LUETKEHANS: Versus Turris, T-u-r-r-i-s.
6 THE WITNESS: It rings a bell, but I don't remember
7 that case.
8 BY MR. LUETKEHANS:
9 Q. Would you agree that the Board has previously
10 found that compliance with the Numerical Noise Standard does
11 not present an absolute bar to finding a violation of the
12 General Nuisance Noise Prohibition?
13 MR. MC CLUSKEY: Objection. I think it's
14 argumentative and it's calling for a legal conclusion that
15 this witness is not.
16 CHAIRMAN KETTER: You can answer that without drawing
17 a conclusion. If you can answer it based on your expertise,
18 do so. If you can't, state it.
19 THE WITNESS: I'm not aware of that offhand.
20 BY MR. LUETKEHANS:
21 Q. But you're familiar with the IPCB, you
22 testified in front of the IPCB a number of times.
23 A. **Absolutely.**
24 Q. Okay. And one of the things you do before

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1 testifying is check out what the IPCB regulations and their
2 opinions say; correct?
3 A. **Sometimes.**
4 Q. I'm going to draw your attention to page 12 of
5 that decision, Objector's Exhibit 10.
6 COMMISSIONER LAZ: Page what, Phil?
7 MR. LUETKEHANS: 12.
8 (Whereupon, the document was
9 marked Objector's Exhibit 10
10 for identification.)
11 BY MR. LUETKEHANS:
12 Q. If you could go to the next to the last
13 paragraph, full paragraph. Do you see where it says, "The
14 Board has previously found that compliance with the
15 Numerical Noise Standards does not present an absolute bar
16 to finding a violation of the General Nuisance Noise
17 Prohibition."
18 Did I read that correctly from that
19 decision?
20 A. **Yes.**
21 Q. You would agree your model cannot predict
22 annoyance to residents; correct?
23 A. **I'm sorry, I didn't hear you..**
24 Q. You agree that your model cannot predict

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1 annoyance to residents; correct?
2 A. **You would have to use site acoustic measures**
3 **to be able to do that.**
4 Q. And you have not been able to do that;
5 correct?
6 A. **I had an opportunity to do that here?**
7 Q. You had not had that opportunity.
8 A. **On this case?**
9 Q. Yes.
10 A. **I don't think it would present any kind of**
11 **nuisance, because that's why we compared it with the**
12 **background noise level. That's why ambient measurements are**
13 **important.**
14 Q. Let's talk about the ambient measurements.
15 First of all, the ambient measurements were obtained from
16 the Emerald Ridge Townhome property; correct?
17 A. **That's what I'm told.**
18 Q. Was the subject property in operation that day
19 to your knowledge?
20 A. **Was the property --**
21 Q. Yeah.
22 A. **-- in operation?**
23 Q. Yes.
24 A. **What do you mean by property?**

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1 Q. The Lorig property.
2 A. **Oh, that. I was not there at the time. It**
3 **was my field engineer. I believe there was a truck or two**
4 **moving around on the site.**
5 Q. The station was unmanned; correct?
6 A. **I believe my field engineer met up with one**
7 **employee.**
8 Q. Your noise station that you put on the Emerald
9 Ridge Townhome property, that was unmanned throughout the
10 day; correct?
11 A. **Oh, yes. It was an audio recording. It was**
12 **unmanned.**
13 Q. Okay. Page 2, last line of your report, last
14 line of page 2. You mentioned some industrial sound. Do
15 you see that?
16 A. **Yes.**
17 Q. As you sit here today, do you know personally
18 where or what those sounds came from?
19 A. **I don't know. When we see peaks like that in**
20 **the ambient noise spectrum, we go to that location on the**
21 **recording and listen to it through headphones to see if we**
22 **can identify what that is, and all my engineer was able to**
23 **say was it sounded like it was some sort of industrial**
24 **noise. That was a low in comparison with the trains that**

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1 **are on there that are significantly higher. That was a lot**
2 **more audible and more identifiable.**
3 Q. Could the industrial sound have come from the
4 subject property, the Lorig property?
5 **A. Can't tell you.**
6 Q. Okay. Do you know what the wind direction was
7 the day that your facility was on the Emerald Ridge Townhome
8 property?
9 **A. I don't remember.**
10 Q. Do you know what the predominant wind was on
11 the day your equipment was on the Emerald Ridge Townhomes?
12 **A. I don't remember.**
13 Q. None of that is in the report; correct?
14 **A. That's correct.**
15 Q. June 8th, 2017 is the day you were out there?
16 **A. Yes.**
17 Q. Sound levels in a particular location will
18 change depending on wind direction?
19 **A. They will.**
20 Q. And you only measured one particular day?
21 **A. For the ambient measurements?**
22 Q. Yes.
23 **A. Well, it was one particular day over an eight**
24 **and-half hour period. It was supposed to be longer.**

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1 Q. One of the items your report notes is the
2 presence of a jet; correct?
3 **A. Correct.**
4 Q. And the ambient noise can also change
5 depending on flight patterns; correct?
6 **A. Yes.**
7 Q. Flight patterns also change depending on the
8 day and the wind direction?
9 **A. Yes.**
10 Q. The analysis of the ambient noise was done in
11 your lab; correct?
12 **A. Correct.**
13 Q. By whom?
14 **A. By Craig Andorka.**
15 Q. Can you spell that?
16 **A. A-n-d-o-r-k-a.**
17 Q. And what is -- did you say Mike?
18 **A. Craig.**
19 Q. What is his level of professional experience?
20 **A. He has a Bachelor's Degree in Electrical**
21 **Engineering and a Master's in Computer Science.**
22 Q. What if we said the IPCB came out with at
23 least one decision that unmanned results cannot be used to
24 provide noise levels; correct?

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1 **A. That's rather antiquated.**
2 Q. Have you got any decision after that that says
3 that they can?
4 **A. Because before the days of being able to**
5 **actually record it digitally, we had to use digital boxes**
6 **that just collected decibel levels. And that issue came**
7 **about in Charter Hall Homeowners Association up here because**
8 **we were working for the Homeowners Association at the time.**
9 **In the days before actual recording, you**
10 **had boxes that would just collect decibel levels, and you**
11 **didn't know what they were from. So, it had to be manned,**
12 **somebody had to be there so if a plane flew over, the person**
13 **on-site would write down that's a plane, and then another**
14 **one, oh, that's birds. So it would annotated. With today's**
15 **technology, we have a recording that rivals C.D. quality**
16 **recording, allows us to do it unmanned so that we're not**
17 **there, we're not obstructing anything. We come back, we**
18 **upload that into our analysis system, we plat it out, and**
19 **then we can go back and listen to any section of that**
20 **recording to identify with our own ears what kind of problem**
21 **it was.**
22 **And I'll give you an example of that.**
23 **There was, you see, annotated on figure 3 at about 4:30 p.m.**
24 **there was birds or something that landed in the tree nearby.**

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1 **That's considered an ambient noise source, of course, but at**
2 **least we know that that section was due to birds. You**
3 **wouldn't know that if you had an older recorder that just**
4 **logged decibel levels, not telling you what the decibels**
5 **were for.**
6 Q. Let's slow down. The Illinois Pollution
7 Control Board in the Charter Hall Homeowners Association
8 case refused to listen to evidence of an unmanned station;
9 correct?
10 **A. Correct.**
11 Q. Because, and I'll quote from the decision if
12 you want to read along, page 14, "Part 951 requires, among
13 other things, that the person taking sound measurements be
14 present while measurements are being taken to look and
15 listen for extraneous sound sources and varying wind
16 conditions that may affect the data."
17 Did you see that?
18 **A. Yes.**
19 Q. Mr. Harmon -- it goes on to say, "Mr. Harmon
20 left the site while the measurements were being taken.
21 Accordingly, he did not comply with this provision of Part
22 951."
23 Do you see that?
24 **A. I saw that.**

<p style="text-align: right;">81</p> <p>1 Q. Part 951 still exists; correct? It hasn't 2 changed since 1998. 3 A. That decision was done in 1998. 4 Q. But Part 951, you follow these regulations 5 regularly; correct? 6 A. Yeah, but technology moves on. 7 Q. But Part 951 has not changed, has it? 8 A. But technology has moved on. 9 MR. MC CLUSKEY: He's responded. 10 MR. LUETKEHANS: No, he hasn't. 11 BY MR. LUETKEHANS: 12 Q. My question is, has Part 951 changed since 13 1998? 14 MR. MC CLUSKEY: He's not here to testify -- 15 CHAIRMAN KETTER: Well, do you use 951 in your 16 expertise when you testify and make reports? 17 THE WITNESS: I use the existence of that, and I use 18 modern technology to be able to address important issues. 19 CHAIRMAN KETTER: And in your going before the 20 Pollution Control Board and others testifying when you're 21 qualified, do you have to testify within the parameters of 22 Rule 951? 23 THE WITNESS: Supposedly, yes. 24 MR. LUETKEHANS: No further questions.</p>	<p style="text-align: right;">83</p> <p>1 residents hear. That's an important element in addressing 2 issues of annoyance, it's an important element in addressing 3 where the levels are from the plant. 4 What the Board is referring to is if 5 you're making a measurement of a source operated -- for 6 example, if the plant were built and the neighbors said we 7 have a problem out here, then, yeah, you probably want to go 8 out there and try to do things to the letter of the law to 9 prove your case. 10 In the Charter Homeowners situation, that 11 was my company that had done that, and I found out later 12 from the Illinois Pollution Control Board that we didn't 13 have to have a qualified engineer man that station, we could 14 have had a homeowner because it was placed in the back yard 15 of a homeowner, and we could have had a homeowner. And I 16 asked the Pollution Control Board, Craig Zach was his name, 17 you go without a recorder all the time, what do you do? He 18 said he leaves, too. He sets up the recorder, and he 19 leaves, too. As long as somebody is in the house watching 20 the equipment, then he's okay. But, the issue is the 21 recording was not made for that purpose, the recording was 22 made to characterize and quantify the ambient noise that 23 exists out there, because that is the crux of whether or not 24 this is a noise issue.</p>
<p style="text-align: right;">82</p> <p>1 REDIRECT EXAMINATION 2 By: Mr. McCluskey 3 Q. Let me ask you that: Supposedly, yes. How is 4 it that the practice -- let's talk about practicality in 5 2017. With respect to technology, what does people in your 6 field, experts in your field use? Do they stand by the 7 machine for eight and-a-half hours, or do they use those 8 recording devices they used in this case? 9 A. Well, a recording device is an excellent 10 device to use because it can be out there, it doesn't 11 obstruct anything, you're allowed to be able to listen to 12 it. If we need weather data, that's readily available. 13 All the reasons why the Pollution Control 14 Board would have you man it are obsolete from an acoustical 15 standpoint. 16 CHAIRMAN KETTER: Let me just ask you one thing: If 17 it was not manned, could the -- would the Board normally 18 throw out your findings based on 951, or is there a 19 look-the-other-way or change in rules or anything of that 20 nature? That's what, I think, is the crux of where he's 21 going. Are you still bound by Rule 951 if you actually 22 testified? 23 THE WITNESS: The essence of measurement was to 24 quantify and characterize the ambient noise that the</p>	<p style="text-align: right;">84</p> <p>1 BY MR. MC CLUSKEY: 2 Q. You're in front of the Zoning Board of 3 Appeals, you're not in front of the Illinois Pollution 4 Control Board, you understand that? 5 A. I understand. 6 Q. Have you practiced in front of a Zoning Board 7 of Appeals on prior occasions? 8 A. Yes. 9 Q. And have you used the same method for this 10 case as you had on prior occasions? 11 MR. LUETKEHANS: Objection, relevance. 12 MR. MC CLUSKEY: I think it's very relevant. 13 CHAIRMAN KETTER: Whether he did or not, if it's not 14 -- it goes back to some of the other stuff, you can do 15 anything you want. If it's not accepted or if it's illegal, 16 it doesn't qualify. 17 MR. MC CLUSKEY: I don't think that's illegal. 18 CHAIRMAN KETTER: You could go out and muff the 19 sounds, and as long as you weren't caught, you'd have lower 20 sounds and Zoning Boards allow it. I don't know, I don't 21 think we're going to get an answer that's standing. If they 22 invoke the rule and nobody was there, would it knock you out 23 as it did in 1998? 24 THE WITNESS: Well, no, because we weren't trying --</p>

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1 the purpose of it was not trying to take a noise measurement
2 of an active plant. In the Charter Homeowners situation,
3 the Charter Homeowners people were filing a complaint
4 against Overland Trucking Company.
5 CHAIRMAN KETTER: But the issue is the level of
6 noise; correct?
7 THE WITNESS: The level of noise from the company,
8 from the trucks.
9 CHAIRMAN KETTER: And the issue -- one of the issues
10 you're testifying to today is your testing of a noise level;
11 correct?
12 THE WITNESS: Of ambient noise.
13 CHAIRMAN KETTER: And if you went in front of the
14 Pollution Control Board with your findings, would it be
15 knocked out based on Rule 921? [Sic]
16 THE WITNESS: Not that particular measurement, no.
17 BY MR. MC CLUSKEY:.
18 Q. You've defined -- what's the ambient noise
19 level measure? What do you mean by that?
20 A. **The ambient noise is the all-encompassing**
21 **sound that surrounds the neighbors, surrounds the residents**
22 **both near and far.**
23 Q. Mr. Luetkehans asked you a question about the
24 night level. You measured 52 versus 51?

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1 A. **Correct.**
2 Q. What is that difference other than 1 decibel
3 with respect to the human ear?
4 A. **Well, 1 decibel is not even within measurement**
5 **of ear. Most instruments have accuracy of plus or minus 2**
6 **dB unless you actually want to go all out and buy an**
7 **\$8,000.00 instrument. One decibel difference is not even**
8 **noticeable by the human ear. It takes at least 2, usually 3**
9 **dB difference before somebody human would say there's a**
10 **difference between those levels.**
11 Q. And you found the measurements you were able
12 to get before your machine was unplugged was within the
13 requirements of the State of Illinois and the noise levels,
14 and within the Village of Burr Ridge; is that correct?
15 A. **Well, when we promulgated, extrapolated, if**
16 **you will, the noise from the plant from our measurements in**
17 **Crystal Lake, we found that by the time they got to the**
18 **homeowners, it would come down to 52 decibels.**
19 Q. Okay. Would it be within acceptable levels in
20 the State of Illinois?
21 A. **Yes.**
22 MR. MC CLUSKEY: Thank you. No further questions.
23
24

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1 RE CROSS EXAMINATION
2 By: Mr. Luetkehans
3 Q. It says plus or minus 2 dBA of your equipment;
4 correct?
5 A. **Correct.**
6 Q. So the nighttime levels could be anywhere
7 between 50 and 54 under that scenario; correct?
8 A. **Well, the nighttime standard is about 51 dB.**
9 **There's no variation there.**
10 Q. I apologize. I said the question wrong. You
11 measured, under your modeling and based on your measuring,
12 the noise that will come to those residents is 52 dBA at
13 night if the plant is operating?
14 A. **Yes, and the noise that's out there now is 53**
15 **dB.**
16 Q. Okay. But we also know, as you just said,
17 that your equipment has a plus or minus 2 accuracy?
18 A. **Correct.**
19 Q. So it could be anywhere between 50, which is
20 lower than the nighttime standard, and 54, which is three
21 decibels higher than the nighttime standard?
22 A. **Yes, there could be some variability.**
23 Q. Okay. You said that -- what I think you said,
24 something -- the IPCB expects someone in the house to watch

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1 the equipment. That's what they are looking for, someone
2 watching the equipment?
3 A. **That's what the expectation is.**
4 Q. In this case, nobody was watching the
5 equipment; correct, for eight hours?
6 A. **That's correct.**
7 Q. And then the other thing is, you said all the
8 reasons that Part 951 was enforced here are obsolete. I
9 think that was exactly what you said, or very close.
10 A. **They're not obsolete if you use what's called**
11 **a data recorder, if that's your mode of assessment where you**
12 **just put a box out there and all it's doing is recording**
13 **decibels, then yes, you should have somebody by that box to**
14 **be able to identify and annotate occurrences and events that**
15 **happened.**
16 Q. And I'm assuming just your equipment only, I'm
17 not trying to go back to the box. But, I think your
18 statement was the updated equipment that you used, the newer
19 equipment, I'm paraphrasing, that because you had this
20 equipment that's so good, all the reasons for Part 951 are
21 obsolete?
22 A. **I believe so, yes.**
23 Q. Okay. Now, one of the reasons Part 951 exists
24 under case law is to measure varying wind conditions;

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1 correct?
2 **A. Correct.**
3 Q. And you were not able to measure varying wind
4 conditions over this eight-hour period because no one was
5 there; correct?
6 **A. But, again, this wasn't a measurement of a**
7 **noise source there, this was just a characterization of the**
8 **ambient, two different purposes.**
9 Q. But ambient noise depends also on wind
10 direction; correct?
11 **A. It does.**
12 Q. So, in this case, we do not know what the wind
13 direction was at any given point during your ambient noise
14 test on that date?
15 **A. I can find that out, but no, the report does**
16 **not say that.**
17 Q. We don't have that information?
18 **A. Correct.**
19 MR. LUETKEHANS: Nothing further?
20
21 REDIRECT EXAMINATION
22 By: Mr. McCluskey
23 Q. Does the railroad that's out there, did that
24 create noise?

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1 **A. According to the ambient noise measurements it**
2 **does.**
3 Q. And it's above the measurements the asphalt
4 plant would have; is that correct?
5 **A. Yes, significantly so.**
6 Q. And where the proposed asphalt plant is going
7 to be is going to be further away from where the railroad
8 tracks are and the trains are to the residents up on that
9 hill; correct?
10 **A. Yes. The ambient noise measurement clearly**
11 **shows train activity and how loud it is.**
12 Q. So that exists right as we are talking today?
13 **A. Yes.**
14 MR. MC CLUSKEY: No further questions.
15
16 RECROSS EXAMINATION
17 By: Mr. Luetkehans
18 Q. You measured it as close to the homes as you
19 felt comfortable with; correct?
20 **A. Yes. The usual protocol is to try to find a**
21 **reference point that is close to the plant or site as**
22 **possible, and we selected that particular location, too,**
23 **because it was shielded from the road traffic noise. Any**
24 **other location would have made the ambient noise levels**

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1 **higher, which would have looked better for the petitioner.**
2 Q. Where did you measure when you measured from
3 the plant to the residences? Did you measure to the homes,
4 or did you measure to the property line?
5 **A. I used Google Earth. Admittedly it's not an**
6 **exact measurement. That's the best I could do. And I took**
7 **the site plan that I was given, and I compared that to**
8 **Google Earth, and I used a Google Earth measurement tool**
9 **that showed me that it was roughly a thousand feet.**
10 Q. Was that a thousand feet to the Emerald Ridge
11 Townhome's property line, or a thousand feet to the --
12 **A. Our ambient noise location looked to be at the**
13 **edge of the property.**
14 Q. You would agree that the ambient -- that the
15 noise level calculations are at the property line, not at a
16 residence; correct?
17 **A. That's correct.**
18 MR. LUETKEHANS: Nothing further.
19 MR. MC CLUSKEY: Well, the property line was closer
20 to the plant than the residents were; is that correct? You
21 were at the edge of the property line.
22 THE WITNESS: It was right at the edge.
23 MR. MC CLUSKEY: Thank you. No further questions.
24 CHAIRMAN KETTER: Okay.

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1 COMMISSIONER LAZ: Mr. Chairman, I got a question.
2 CHAIRMAN KETTER: Okay.
3 COMMISSIONER LAZ: Sir, on the 951 measurement issue,
4 is it that they want to have somebody there with the
5 measuring device so someone could be able to testify these
6 sounds were made at this time while I was present?
7 THE WITNESS: Yeah. I mean, a lot of these rules,
8 this standard is 30 years old.
9 CHAIRMAN KETTER: I think he's asking if you know
10 what the legislative --
11 COMMISSIONER LAZ: The reasoning.
12 CHAIRMAN KETTER: Or body's purpose of enacting that
13 rule was, if you know, or if you don't know.
14 THE WITNESS: I do. If you have decibel levels that
15 are written down on a piece of paper and so forth, you want
16 somebody to say, yes, this was noise that I heard from the
17 plant, or this was noise from birds, or something extraneous
18 to the plant to help interpret those measurements better.
19 COMMISSIONER LAZ: As opposed to just general -- over
20 a general time frame which would be ambient, the general
21 ambient --
22 THE WITNESS: Yes. What we did is just characterize
23 the ambient -- the purpose was not to make what's called a
24 source noise measurement that's made when you have an

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1 existing plan that's operating and people are complaining
2 about it. Then you want to go out there and make a
3 measurement and -- you know, usually we don't not attend
4 those kind of things, because all the State asks for is an
5 hour average, and so if we're going to go out there, we're
6 going to leave an engineer out there for that whole hour.
7 But in this case it was different. We wanted to
8 characterize what is the ambient noise level out there
9 already, because that's going to tell us a lot about the
10 annoyance factor.
11 CHAIRMAN KETTER: I think that's well in there. The
12 question became whether 951 could knock this out or control,
13 and I think we've hammered it well enough.
14 MR. MC CLUSKEY: Thanks.
15 CHAIRMAN KETTER: Okay.
16 MR. LUETKEHANS: We call Mr. Manatt to the stand.
17 MR. MC CLUSKEY: Mr. Ketter, subject to
18 cross-examination, I will not be prepared to cross-examine.
19 CHAIRMAN KETTER: I knew we would not.
20 MR. MC CLUSKEY: Okay.
21 CHAIRMAN KETTER: Just a quick question. I know
22 people have been sitting here very good. How many witnesses
23 do you have an expectation of calling tonight?
24 MR. LUETKEHANS: Tonight just Mr. Manatt and Mr.

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1 Abel.
2 CHAIRMAN KETTER: And each witness seems to be quite
3 an extended period of time. We have a rule when we -- at
4 7:00 we wouldn't go beyond 9:00 because we're not sharp.
5 Whether we're sharp when we're in the beginning or not is
6 open to debate, but our minds start going. Let me tell you,
7 this is very technical. I'm not sure -- how long do you
8 expect you to be with this witness?
9 MR. LUETKEHANS: This witness probably 20 minutes or
10 so, and this witness came in from Iowa, so I'd --
11 CHAIRMAN KETTER: This one we'll get on. I'm just
12 thinking --
13 MR. LUETKEHANS: When we're done, if Mr. Abel does
14 not get on, he's local, we can work that out. I'm not
15 trying to push the witnesses, I just didn't want to leave an
16 evening where you go, "Oh, my gosh, Mr. Luetkehans sat on
17 it."
18 CHAIRMAN KETTER: Don't worry, it won't be you.
19 Let me just ask one thing. This is your witness now; right?
20 MR. LUETKEHANS: Yes.
21 CHAIRMAN KETTER: We swore in all their witnesses.
22 MR. LUETKEHANS: Yeah, he has not been sworn.
23 THE COURT REPORTER: Would you raise your right hand,
24 please.

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1 (Whereupon, the oath was duly
2 administered by the Notary.)
3 THE COURT REPORTER: Will you state and spell your
4 last name.
5 MR. MANATT: Joseph Manatt, M-a-n-a-t-t.
6
7 J O S E P H M A N A T T,
8 Called as a witness by the Objectors herein, having been
9 first duly sworn, was examined and testified as follows:
10
11 DIRECT EXAMINATION
12 By: Mr. Luetkehans
13 Q. Mr. Manatt, what business are you in?
14 A. **I'm in the asphalt paving business.**
15 Q. And how long have you been in that business?
16 A. **I'd say about my whole life, but full-time the**
17 **last ten years. We have a family construction business in**
18 **Iowa that's about 70 years in the running.**
19 Q. And so you've been in the asphalt paving
20 business in Iowa; is that correct?
21 A. **Correct. Done a little bit of work in**
22 **Illinois just across the river.**
23 Q. Can you give the Zoning Board of Appeals some
24 information about your background in the asphalt and

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1 construction business, asphalt paving business.
2 A. **My background in the asphalt paving business**
3 **is obviously my summer jobs, working with the crew and**
4 **everything, and then coming back during college --**
5 Q. Joe, you're going to have to probably speak a
6 little closer.
7 CHAIRMAN KETTER: Just take the mic out and hold it
8 close.
9 MR. LUETKEHANS: Take it out, hold it close, because
10 you're taller than the mic.
11 BY MR. LUETKEHANS:
12 Q. I apologize. Go ahead, please.
13 A. **Sure. So I did my summer work with the family**
14 **business, getting some real field experience. In 2006 I**
15 **committed full-time to coming back to our family business,**
16 **working in the asphalt business on the crew side, on the**
17 **project management and estimation side, moving into a**
18 **general management role, and eventually vice president of**
19 **our asphalt operations.**
20 Q. And how long were you vice president of
21 asphalt operations?
22 A. **I took that position in 2011.**
23 Q. And what was your responsibility as vice
24 president of asphalt operations?

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1 **A. I was in charge of the entire operation from**
2 **procurement of the equipment, management of crews,**
3 **estimation of jobs, and employee hiring and firing, et**
4 **cetera, essentially responsible for the whole division. And**
5 **we did about 5, 600,000 tons on an annual basis.**
6 Q. How many asphalt plants were you responsible
7 for?
8 **A. I was responsible for two permanent and two**
9 **portable asphalt plants.**
10 Q. Before 2006, were you also in the construction
11 business?
12 **A. I was. I worked in San Diego as a real estate**
13 **development employee.**
14 Q. Okay. And are you currently -- the company
15 you were with was called Manatt?
16 **A. The company I was with is called Manatt's,**
17 **Incorporated. We have several sister companies.**
18 COMMISSIONER HAKIM: How do you spell that?
19 THE WITNESS: M-a-n-a-t-t-'s.
20 BY MR. LUETKEHANS:
21 Q. Say that again.
22 **A. I was with Manatt's, which is a parent**
23 **company, for ten years, family-owned business. It's my last**
24 **name. I came back in 2006 to pursue that family business**

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1 **role; however, at the end of 2016 I went off on my own, so**
2 **I'm starting my own asphalt paving company as of six months**
3 **ago.**
4 Q. And so you're in the process of starting an
5 asphalt paving company?
6 **A. Correct.**
7 Q. And have you -- in that process, have you
8 purchased any plants?
9 **A. I have committed to purchase a brand new**
10 **asphalt plant as of last week.**
11 Q. Do you have any involvement with NAPA, which
12 is the National Association of -- what is NAPA?
13 **A. Napa is an acronym for National Asphalt**
14 **Pavement Association. I am the State Director for Iowa. I**
15 **served on the Board of Directors for NAPA. Each state has**
16 **one representative, so I am the state representative for our**
17 **national organization.**
18 Q. And you are on the Board of Directors for the
19 national organization?
20 **A. Correct.**
21 Q. Let's talk about the site that's the subject
22 of this application. This is --
23 CHAIRMAN KETTER: I'm sorry, just for purpose of the
24 record, what's that marked?

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1 MR. LUETKEHANS: This is Petitioner's Exhibit --
2 MR. MC CLUSKEY: Petitioner's Exhibit 1.
3 BY MR. LUETKEHANS:
4 Q. This is the site plan that's part of the
5 application, Mr. Manatt. Based on what you see, what can
6 you tell us about this particular operation?
7 **A. Maybe it would be better to take this.**
8 Q. Yes.
9 **A. This is north, as I understand it. Highway**
10 **83, the entrance coming --**
11 CHAIRMAN KETTER: Could you do us a favor and go on
12 the other side? I apologize to the people out there, but we
13 can't all see it, and I think we better see it if we know
14 where we're going.
15 THE WITNESS: Sure. North, highway 83 all the --
16 CHAIRMAN KETTER: North being up on this?
17 THE WITNESS: All the houses are up here on this
18 bluff.
19 MR. MC CLUSKEY: It's at the top of the diagram, for
20 purposes of the court reporter.
21 THE WITNESS: Yeah. This is the entrance. It looks
22 like this is the asphalt --
23 BY MR. LUETKEHANS:
24 Q. You got to describe a little. As he said,

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1 there's a court reporter. The entrance is the gray area to
2 the east side of the site plan?
3 **A. Yes. The gray area on the eastern parts of**
4 **the site plan. It looks as though this is going to be a**
5 **paved road. I'm not exactly sure. Toward the center and**
6 **the south end of this diagram, it looks like those are some**
7 **of the pieces of an asphalt plant or something missing.**
8 **These are cold feed bins on the westernmost part of the**
9 **diagram, which feeds into a burner of sorts, and then goes**
10 **up into a silo on the southernmost part of the site. It**
11 **looks like on the northern part, north of the plant you're**
12 **going to probably have your aggregate stockpile areas**
13 **closest to the residents, and I would -- for economic**
14 **reasons, you would want your recycled pile closest to your**
15 **recycle bin, which is going to be roughly on the most**
16 **easternmost part of this site.**
17 CHAIRMAN KETTER: Is that delineated, the pile you're
18 just talking about, or you were just saying where you would
19 put it?
20 MR. LUETKEHANS: Let me ask.
21 BY MR. LUETKEHANS:
22 Q. Is the recycled asphalt storage delineated
23 anywhere on this site plan?
24 **A. It's not delineated on this site plan.**

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1 Q. If it was you operating this plant, where
2 would you put the recycled asphalt storage, and why?
3 **A. The most economically-feasible location would
4 be nearest to the bin that the material is going to go into,
5 which is in this area on the northeastern part of the site.**
6 Q. So, you would store and crush recycled asphalt
7 north of the plant?
8 **A. Correct.**
9 Q. And why is that the most economical?
10 **A. The less you have to move material, the more
11 cost effective that it is. So you don't -- you wouldn't
12 have to move it more than once. Assuming this is going to
13 be a crushing yard.**
14 Q. Let's assume there's going to be recycled
15 asphalt crushing on this site. Mr. Lorig testified to that.
16 Is there asphalt or petroleum odor that
17 an asphalt plant emits?
18 **A. Yes.**
19 Q. Does an asphalt plant emit noise?
20 **A. Yes.**
21 Q. Where does that noise come from? What sources
22 does it come from?
23 **A. The noise comes from various places: The
24 exhaust burner is one area, the change in sprockets on the**

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1 **transfer case on the silos, as was proposed here, it looks
2 like silos are proposed. It comes from dumping rock into
3 metal bins. It comes from trucks, it comes from equipment
4 and loaders backing up. That's getting outside the plant
5 itself. That's the ancillary equipment needed.**
6 Q. So on this project site, you're going to need
7 other things going on besides just the asphalt?
8 **A. Sure. You're going to need trucks to bring
9 the material in, you're going to need loaders to load it
10 into the bins. If you're going to crush and manufacture
11 asphalt, you have to have a crusher on-site, all these hard
12 noise creators.**
13 Q. And can a plant of this type emit dust, or
14 does it usually?
15 **A. Yes. You have to get permitted through the
16 EPA. You have to test your bag house. A bag house filters
17 out most of the dust, but there is a limit that is allowable
18 to emit into the atmosphere.**
19 Q. How about the rest of the operations, do they
20 emit dust as well?
21 **A. Certainly every time you move material,
22 there's fine particles. So every time you dump a load of
23 rock, it creates a little bit of dust. Every time a truck
24 drives into the yard, if the yard is not a paved yard, it's**

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1 **going to create dust on a dry day. So, yes, certainly
2 there's dust from many different areas.**
3 Q. Do you take particular precautions at your
4 plants that you've operated to limit dust?
5 **A. We have. We've paved some of our parking lots
6 so that that minimizes some of the dust. It's an expensive
7 process, but to be a good neighbor, sometimes you have to do
8 that. However, you know, trucks bring in dust on their
9 tires, and you continually have to sweep and maintain it.
10 There's also water suppression that we operate on all of our
11 crushing equipment when we do process RAP, recycled asphalt
12 products.**
13 Q. Have you ever operated an asphalt plant in the
14 Chicago or DuPage County area?
15 **A. No.**
16 Q. While you've not run an asphalt plant in this
17 area, would your knowledge of the asphalt business transfer
18 to the business in this area?
19 **A. Yes.**
20 Q. Did you do any research or take any action to
21 get yourself up to speed with any differences between this
22 particular area where this plant is located and your portion
23 of Iowa?
24 **A. I did. I have caught myself up on four**

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1 **locations.**
2 Q. What locations did you go visit?
3 **A. I looked at -- there's probably no map of
4 this. I looked at -- K-5 has a plant in Hodgkins. It's
5 called the Hodgkins Plant, a little northeast of this
6 location.**
7 Q. Maybe we can help you out a little. I think
8 these are the plants you visited, so I'm going to show them
9 to you.
10 (Whereupon, the document was
11 marked Objector's Exhibit 20
12 for identification.)
13 BY MR. LUETKEHANS:
14 Q. Just for purposes of the record, I'm showing
15 you what has been marked as Objector's Exhibit 20. Does
16 that show the four locations you visited?
17 **A. It does.**
18 Q. So Route 66 Asphalt Plant, which is the K-5
19 plant, one of the K-5 plants; correct?
20 **A. Yes.**
21 Q. One of them is K-5 Hodgkins?
22 **A. Yes.**
23 Q. The other one is Orange Crush in Romeoville;
24 correct?

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1 **A. That's correct.**
2 Q. To your knowledge, are these the three closest
3 plants to the proposed site?
4 **A. To my knowledge, yes.**
5 Q. And the proposed Lorig plant, while you didn't
6 go on it, did you actually see the plant and see the
7 intersection at Route 83 and Janes?
8 **A. I drove off of that exit, the circle exit. I**
9 **didn't go on the site, but I looked at it from Google Earth.**
10 **Q. And did you look at it from the townhomes, the**
11 **view of the townhomes?**
12 **A. I did.**
13 Q. For the record, Emerald Ridge Townhomes.
14 Okay, so you visited the four plants, the three plants plus
15 the proposed site. What else did you do?
16 **A. I asked about the production and tried to**
17 **familiarize myself with the markets in this area.**
18 Q. So when you say you asked about the
19 production, who did you ask about the production?
20 **A. I asked an individual at K-5 what their**
21 **production of these plants are. And, I mean, I can tell**
22 **what the plant can produce just by looking at it. A lot of**
23 **times asphalt plants sit and aren't utilized full-time.**
24 Q. And did you talk to anybody at the Orange

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1 Crush site?
2 **A. I did.**
3 Q. Who did you speak to there?
4 **A. I spoke to a man named Sam.**
5 Q. And what did you learn -- let's start and go
6 one plant at a time. What did you learn about the K-5
7 Hodgkins plant in your conversations?
8 **A. The K-5 Hodgkins plant, it has six silos.**
9 **It's a 600-ton-an-hour asphalt plant. It looks like two**
10 **blind silos, five or six vertical asphalt oil tanks can**
11 **produce between 1500 to 2,000 tons a day, according to them,**
12 **on a busy day.**
13 MR. MC CLUSKEY: Mr. Chairman, I'm going to object to
14 what the other production plants are, unless it's going to
15 be related directly to this plant. And I don't think it's 1
16 proper foundation for an expert to testify as to what other
17 plants are, then to relate it to relevance in this case.
18 MR. LUETKEHANS: Well, the relevance in this case is
19 whether you're building a 600-ton plant and going to operate
20 it at only 800 tons per day when your competition is between
21 1500 and 2,000 tons per day surrounding you.
22 MR. MC CLUSKEY: I think that proves my point. Still
23 not relevant.
24 CHAIRMAN KETTER: I think it's a stretch. If you

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1 want to show what the plant does, maybe you might be able to
2 go further on that, but you're trying to draw a parallel
3 without showing that they're going to produce that. You've
4 done a great job showing they have the capacity of going up
5 to 4800 tons, but we don't know where they're at.
6 BY MR. LUETKEHANS:
7 Q. Does anybody -- if you had a 600-ton plant,
8 would you ever produce 4800 tons?
9 **A. In one day, yeah.**
10 Q. And is the size of the dryer important in
11 production?
12 **A. Yes.**
13 Q. Why is it important?
14 **A. That's how you size a plant, you gauge how**
15 **fast you can dry the rock. The point of what you're doing**
16 **is trying to heat the product and dry it and get the**
17 **moisture out of it. And then when you introduce the**
18 **recycled product, it's a heat transfer. That's where some**
19 **of these VOCs come from that we were talking about earlier.**
20 **That's what rejuvenates the oil in the recycled product, so**
21 **your product is measured production-wise on the size of the**
22 **dryer.**
23 Q. Were you advised by anyone at K-5 what the
24 average load size is per truck?

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1 MR. MC CLUSKEY: Again, I want to object to what K-5
2 does and what --
3 MR. LUETKEHANS: Well, here, no. Can I --
4 MR. MC CLUSKEY: Let me just finish my objection
5 first. I object because I don't think it's relevant to this
6 case.
7 MR. LUETKEHANS: I mean the reality is the relevance
8 is the same people who are going to be purchasing from this
9 plant are the same people who are purchasing from the nearby
10 plants. So the average of what their tonnage per truck is
11 is seriously relevant, and it goes to how many trucks we're
12 going to see in and out of this plant on a daily basis.
13 MR. MC CLUSKEY: That's great testimony, but counsel
14 is not testifying. He's added in a lot of evidence that we
15 haven't heard.
16 MR. LUETKEHANS: Because he's about to testify to it
17 and you objected beforehand.
18 CHAIRMAN KETTER: Let me hear the question read back.
19 THE WITNESS: A typical truck size is between 16 and
20 20 tons in the State of Illinois.
21 CHAIRMAN KETTER: Pretty much where we've been on
22 this whole thing. 15, I think was the low, up to 22, was
23 it?
24 MR. LUETKEHANS: The question is the average size

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1 that you were advised that is coming out of the K-5 Hodgkins
2 plant.
3 MR. MC CLUSKEY: Again, I have the same objection.
4 CHAIRMAN KETTER: I think that stands by itself.
5 That's how they're running K-5.
6 MR. LUETKEHANS: It's not how they're running K-5,
7 it's how the business is running.
8 CHAIRMAN KETTER: Is that a standard industry spec?
9 THE WITNESS: Yes. There are no other sizes of
10 trucks, it's got to be between 15 and 22.
11 CHAIRMAN KETTER: Then why don't we do this: It
12 might be go smoother, and maybe I'm off base, let's go with
13 the industry, what it allows, because if someone is using a
14 30-ton truck, they may be against the law and they may get
15 written for overweights, but let's talk about what's
16 allowed.
17 MR. MC CLUSKEY: Mr. Chairman, I don't have an
18 objection with respect to the type of trucks, and I probably
19 jumped the gun. But if you start to talk about the capacity
20 and the sales and everything that K-5 does, it's obviously
21 K-5 is very interested in this case, so I object to what
22 their figures are and the information that he received from
23 them, to then transfer it to this particular case. That's
24 my objection.

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1 BY MR. LUETKEHANS:
2 Q. Mr. Lorig testified he was going to have
3 between three and five silos on the plant. Is the number of
4 silos important?
5 A. Yes.
6 Q. Why?
7 A. Well, silos cost money, so that's a large
8 investment. The whole point of an asphalt plant is to run
9 it continuously. That's why you have silos so you have that
10 surge capacity when you don't have a truck there. Three to
11 five silos, that means you're going to run the plant a lot
12 and you're going to run it very consistently. And with a
13 plant of this size, 600 tons an hour is what I've been told,
14 you don't start and stop.
15 MR. MC CLUSKEY: Object and move to strike. It
16 sounds like hearsay evidence of what he's been told.
17 MR. LUETKEHANS: 600 tons per hour is what your
18 client testified to in this hearing. That's what he's
19 referring to, your client's testimony.
20 MR. MC CLUSKEY: I didn't hear that. So the basis
21 for an expert's opinion is the testimony has to be
22 reasonably relied upon by the Frye Test.
23 MR. LUETKEHANS: The Frye Test does not apply in a
24 zoning hearing.

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1 MR. MC CLUSKEY: Well, we're following the rules --
2 CHAIRMAN KETTER: We are using him as an expert.
3 Unless you can tie this into this site, you know, you're
4 showing what the general around it is.
5 MR. LUETKEHANS: My question was not the general
6 around it.
7 CHAIRMAN KETTER: Well, the three around it; correct?
8 MR. LUETKEHANS: No. My question was -- the question
9 he was complaining about was Mr. Lorig's statement about
10 three to five silos he was going to put on this site.
11 That's what Mr. Lorig said about this site.
12 CHAIRMAN KETTER: And then why doesn't he just
13 testify to what the purpose of three to five silos in your
14 experience would be.
15 MR. LUETKEHANS: And that's what I was getting to
16 when he said he rejected the three to five silos.
17 CHAIRMAN KETTER: Well, it was the way -- maybe it's
18 the way it's worded. You say, if you have three silos on
19 there, in your expert opinion what does three silos connote,
20 and what type of silos? We're going to get in this. Are
21 they 30 feet, 40 feet, or what? We don't know how many
22 silos, we don't know the size.
23 MR. LUETKEHANS: Correct, we don't.
24 CHAIRMAN KETTER: I think all this is speculation.

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1 MR. LUETKEHANS: Well, that's the problem we have,
2 Mr. Chairman. We don't know how big their plant is going to
3 be because they refuse to tell us.
4 CHAIRMAN KETTER: And you've made that point, so then
5 you can't give him the facts and get an answer on it.
6 MR. LUETKEHANS: I'm not giving him the facts.
7 BY MR. LUETKEHANS:
8 Q. The question is this: Would you buy three to
9 five silos if you were only going to produce 800 tons per
10 day, in your opinion?
11 A. No.
12 Q. Why not?
13 A. A silo is meant for surge capacity when a
14 truck isn't there. Three to five silos at 2 to 300 tons
15 apiece, let's just say 300 tons, three silos, that's 900
16 tons you can produce to put in a silo. You want to run your
17 plant continuously. And a plant that's a 600-ton-an-hour,
18 you're going to run it for an hour and-a-half out of a day,
19 and that doesn't make economic sense. There's no sense to
20 doing that. It's spending the money.
21 CHAIRMAN KETTER: Can I just ask something? We keep
22 getting this terminology, and maybe it's just me, and I
23 apologize, when someone says continuous, to me that means
24 non-stop.

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1 THE WITNESS: Correct.
2 CHAIRMAN KETTER: So from dawn -- from 12:01 a.m. to
3 12:00 p.m. it's going to run? What do you mean by
4 continuous?
5 THE WITNESS: The continuous flow of a plant is all
6 the belts are turning at the same time, they're all going
7 through that drum, the drum is turning, everything's mixing
8 together, and it's going up into a silo all at once.
9 A batch plant, however, makes a single
10 batch of asphalt. You might compare it to a load of
11 concrete. That is one batch contained in that. An asphalt
12 plant runs differently. You got all your belts turning --
13 as I read in the testimony, you know, you make your recipe,
14 how much rock, how much percentage of rock, and you run that
15 continuously and you don't stop until you're out of storage
16 capacity.
17 BY MR. LUETKEHANS:
18 Q. And when you say continuously, you weren't
19 talking 24/7, you were talking during hours of operation?
20 A. **I was talking about the process of making**
21 **asphalt as a continuous process. The more you start and**
22 **stop that process, the more inconsistent your mix becomes as**
23 **well. You do not want to start and stop asphalt plants**
24 **because the DOT -- IDOT and other agencies, they pay you**

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1 **incentive or disincentive based on how consistent your**
2 **asphalt is.**
3 Q. Just because if you store asphalt for a long
4 period of time in the silos, does that affect your
5 consistency?
6 A. **It can, yes. Negatively.**
7 Q. So is that something in your business you try
8 and avoid unnecessarily storing for long periods of time?
9 A. **Yes.**
10 Q. Do you know what the cost of a plant like
11 this, a 600-ton per hour plant would cost to purchase?
12 A. **A 600-ton-an-hour plant --**
13 MR. MC CLUSKEY: I'm still going to object on the
14 basis of the testimony. I'm reading the testimony from Mr.
15 Lorig on cross-examination by Mr. Luetkehans, and he says,
16 "So we don't know how many tons per hour this plant you're
17 going to put out can do?" And page 79, 13 says, "I'm saying
18 it's probably generally in the 3 to 400 tons per hour."
19 That was the testimony. Now we're up to
20 600.
21 MR. LUETKEHANS: Wait a second. The exhibit you put
22 into evidence says the Gencor -- and Mr. Lorig said he was
23 going to build a plant similar to the one in evidence, which
24 is Exhibit 4, says 600 tons per hour.

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1 MR. MC CLUSKEY: That's what the plan is, but the
2 testimony, the sworn testimony says I'm saying probably
3 generally 3 to 400 tons per hour.
4 CHAIRMAN KETTER: But, if it has -- he can question,
5 I guess, up to the capacity of what it could do, and you
6 could come back and show if it was a lower one, and we'll
7 stretch it out.
8 MR. LUETKEHANS: It's clearly a 600-ton per hour drum
9 in the evidence.
10 CHAIRMAN KETTER: He's going to ask you questions
11 based on the 600 tons.
12 BY MR. LUETKEHANS:
13 Q. Do you know what the cost of a plant like this
14 would be to purchase and install?
15 A. **I know a range, yes.**
16 Q. What would that be?
17 A. **A plant that looks like this with three to**
18 **five silos and this many cold feed bins, 600-ton-an-hour**
19 **capacity with a bag house that can supply that sort of air**
20 **flow, recycle bins, new tanks, everything is \$7, \$8 million.**
21 Q. And, in your opinion, having operated this
22 business and what you've learned about asphalt production in
23 this particular area, could you profitably operate an
24 asphalt plant at the proposed location averaging 800 tons,

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1 or even 1,000 tons per day?
2 MR. MC CLUSKEY: Let me object on the basis that this
3 gentleman has testified that he runs plants in Iowa, which
4 might be a different economic basis and a profitability
5 basis.
6 MR. LUETKEHANS: I think he can cross-examine him on
7 that, but that's not the basis for the objection.
8 CHAIRMAN KETTER: Let's just clarify. Are you going
9 to use -- you sit on some Board and that as the
10 representative from Iowa. Are you testifying as an industry
11 standard, or based on what would be profitable only in Iowa?
12 MR. LUETKEHANS: For the record, he's testifying as
13 to what would be profitable in this area based upon the
14 information he received by talking to other operators plus
15 his own knowledge. That's something that's clearly within
16 his expertise, and something he's able to do.
17 MR. MC CLUSKEY: I think if we would let the witness
18 answer that as opposed to Mr. Luetkehans.
19 MR. LUETKEHANS: That was the question.
20 MR. MC CLUSKEY: I don't think --
21 MR. LUETKEHANS: The question was based on his
22 experience and based on his conversations with your
23 knowledge of the information in the area. If he wants to
24 cross-examine him.

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1 CHAIRMAN KETTER: I didn't think you limited it in
2 that regard. Now I think you've laid very good parameters.
3 If you did, I'm losing it probably this late at night.
4 THE WITNESS: There's different economics that go
5 into different areas in Iowa even. It's not like Iowa is
6 all the same.
7 CHAIRMAN KETTER: And that's fabulous, but we're here
8 in Illinois, and you're going to testify in Illinois.
9 THE WITNESS: Based on the information I've gathered,
10 no, 800 tons a day is not -- for a plant this size is not
11 going to be economically feasible. You've got to sell more
12 asphalt than that.
13 BY MR. LUETKEHANS:
14 Q. And why not?
15 A. **You have a certain amount of fixed costs with**
16 **a depreciation schedule on a \$7 or \$8 million plant, let**
17 **alone the site work that goes in it on top of that. The**
18 **more tons you run, the lower those fixed costs get on a**
19 **per-ton basis.**
20 Q. And would you buy three to five silos or that
21 large a drum for that little capacity if it was you?
22 A. **No. I wouldn't put -- I would put my capital**
23 **elsewhere.**
24 Q. Is there any reason that you would intend to

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1 operate at less than full capacity on a plant like this?
2 A. **Yes. Just because a tonnage plant is rated at**
3 **600 tons an hour doesn't mean you have to run it at 600 tons**
4 **an hour.**
5 Q. But if you could sell more than 800 tons per
6 day, would you?
7 A. **Absolutely.**
8 Q. You wouldn't intend to sell only 800 tons per
9 day, would you?
10 A. **No. I would sell as many tons as I could.**
11 Q. If you have a 600-ton-per-hour plant, what's
12 the lowest ton per hour you can reasonably run that type of
13 plant?
14 A. **Based on the calibration of the computer**
15 **systems in there, you can typically, on the low end,**
16 **probably run a 600-ton-an-hour plant consistently at 200**
17 **tons per hour.**
18 Q. It would take you four hours of the day to get
19 to 800 tons?
20 A. **Correct, on the very, very lowest end.**
21 Q. Have you ever operated an asphalt plant at
22 night?
23 A. **Yes.**
24 Q. Do you need lighting to operate an asphalt

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1 plant at night?
2 A. **Yes.**
3 Q. Even if the asphalt was in the storage silos,
4 would you need lighting to operate -- and you weren't
5 producing, but you were still having trucks come on and
6 getting material out of the silos, would you still need
7 lights to operate at night?
8 A. **Absolutely. For safety reasons if you don't**
9 **-- this many silos, you want to make sure your truck's in**
10 **the right position so you don't dump it on the cab and**
11 **injure the driver. Safety is everything in this business.**
12 Q. Could you reasonably store enough asphalt in
13 the silos to do a heavy highway project at night?
14 A. **Could you reasonably store?**
15 Q. Yeah.
16 A. **If you had five silos with 300 tons in each**
17 **one of them, you could do 1500 tons. That's probably about**
18 **one night's worth, yeah.**
19 Q. Would there be a concern doing that?
20 A. **Yes.**
21 Q. What's the concern?
22 A. **Maybe a rain storm comes, maybe you have a**
23 **breakdown in your equipment. You don't make the mix, put it**
24 **in a silo and then shut everything off and leave. That's**

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1 **just not how you do it. You make it as trucks come in, and**
2 **that silo is there just as a surge, just if trucks get hung**
3 **up in traffic or, you know, the paving crew comes to an area**
4 **where they have to slow down, you don't put up an entire**
5 **day's run into storage and then load it into trucks as**
6 **trucks come in.**
7 Q. So if you were -- let's talk about the number
8 of trucks real quickly. Would it be fair to say that the
9 amount of trucks going out, or the amount of material going
10 out would have to equal the amount of material going in on a
11 regular basis?
12 A. **Yes.**
13 Q. So, if you had 1600 tons of asphalt going out,
14 you would have to bring in approximately 1600 tons of
15 aggregate or materials; correct?
16 A. **This site is not located in a quarry location**
17 **like the other locations, so yes, you have to bring in**
18 **material to this site and then put it in the asphalt plant**
19 **and then ship the combined product out.**
20 **If you're doing crushing and recycling on**
21 **the yard, you're actually bringing more in than you're**
22 **shipping out.**
23 Q. Why is that?
24 A. **Well, you have a stockpile of crushed**

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1 **material. Sometimes you just sell crushed product on its**
2 **own, so it's actually probably more than 1600 tons.**
3 Q. Have you been on the access to the site, the
4 Illinois Route 83 and Janes?
5 **A. I've been on -- yeah, I've been on 83 and**
6 **Janes. [Sic]**
7 Q. Okay. Going southbound on Route 83 turning
8 right on Janes, would you feel comfortable having your
9 trucks come in that location?
10 MR. MC CLUSKEY: Objection. Now this is going into
11 traffic safety. I think it's gone beyond. It's duplicate.
12 CHAIRMAN KETTER: I'll sustain that.
13 MR. LUETKEHANS: Okay.
14 BY MR. LUETKEHANS:
15 Q. Have you ever seen three trucks come in at
16 once on a plant?
17 **A. Yes.**
18 Q. Nothing further.
19 Let me ask this question: Do you know
20 how big an asphalt cement truck is, how long?
21 **A. An asphalt cement truck is approximately 70**
22 **feet long.**
23 MR. LUETKEHANS: Nothing further.
24 MR. MC CLUSKEY: I'm going to defer to next week when

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1 we reschedule.
2 CHAIRMAN KETTER: Okay. This might be a good point
3 to break.
4 MR. LUETKEHANS: Okay.
5 CHAIRMAN KETTER: I don't think --
6 MR. LUETKEHANS: Before we go back on the record, can
7 Mr. McCluskey and myself have a conversation to try to
8 figure out a common date?
9 CHAIRMAN KETTER: Sure.
10 MR. LUETKEHANS: And then, Joe, I'll get some dates
11 from you. Thank you.
12 CHAIRMAN KETTER: You might as well do two because
13 he's going to cross-examine the ones you put on, you're
14 going to put Mr. Abel on, and he's probably going to want to
15 prepare to cross him again.
16 MR. LUETKEHANS: Yeah.
17 CHAIRMAN KETTER: Why don't you just pick two dates.
18 MR. LUETKEHANS: The reality is I have four more
19 experts besides Mr. Abel, so it's going to be a couple of
20 nights.
21 (Whereupon, a brief recess was
22 had.)
23 CHAIRMAN KETTER: If you want to quiet down, we're
24 going to get back on the record here. We're back on the

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1 record for everybody that chooses to listen. We're going to
2 reconvene for the ongoing hearing on August 16th. It will
3 start at 6:30, and we'll probably go to about 8:30, and then
4 we will reconvene for another hearing on 9/28 starting at
5 6:00 and probably go into about 8:30 on that night. And
6 then at that point we'll know about where we're at in the
7 process of experts testifying, and maybe by then into cross-
8 examination for the applicant's side.
9 For the people that are coming, we
10 appreciate. You've been very good. I guess any time if you
11 choose to get up and cross-examine or speak, that's going to
12 basically be your one bite at the apple. It usually
13 behooves everyone to wait until both sides are done.
14 And I know the gentleman back there is
15 doing that goofy laugh that gets to me, but absent him,
16 that's probably the best time because then you've heard it
17 all, you are in an educated position to make questions or
18 comments or cross-examine.
19 At any time you can submit stuff
20 throughout this process, and at any time if you have a
21 document that you heard tonight or that comes up, you can
22 get it out of the office. It's probably going to be put on
23 the website, and you can pull it to read it and have more
24 insight.

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1 But having said that, then there will be
2 no notice. It will be reconvened in a continuing process
3 8/16 at 6:30 in this room, followed by the 9/28 hearing that
4 will begin at 6:00. When we start back, it will be the
5 objectors putting on their witnesses, experts, whatever.
6 And it appears the way we're going, he will probably carry
7 over to the second meeting to finish his case, and then the
8 applicant has the chance to cross-examine them. And then
9 the final part will be the applicant is the last one you
10 will hear from of the parties presenting or cross-examining
11 or whatever.
12 When he finishes his closing argument or
13 whatever he wants to do and says I rest, that's it, that's
14 when we'll open it up to the public. If we start on 9/28
15 with the public, and we don't finish, we will schedule
16 another hearing. Everybody that chooses to speak will have
17 their chance. Anybody that chooses to hire somebody or
18 whatever, then let us know ahead of time so that, for
19 scheduling, we can work with that. And if at any time if
20 you have documents, pictures, whatever it is you want to
21 submit, check with staff, they can tell you the form, but
22 then it's an ongoing process that you can submit.
23 UNIDENTIFIED SPEAKER: Mr. Ketter, so we have
24 hundreds of petitions now that are being collected or we

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<p style="text-align: right;">125</p> <p>1 have in opposition of this proposal, and so we would -- if 2 the Zoning Board of Appeals would like a copy of those, 3 because ultimately we would like to submit the forms to the 4 actual County Board. Would you like copies? 5 MR. LUETKEHANS: If you reach out to me, I will help 6 coordinate that with you. 7 UNIDENTIFIED SPEAKER: Okay, great. 8 MR. LUETKEHANS: Mr. Chairman, I talked to Mr. Doran, 9 and one exhibit we would like to just put in, there's no 10 objection at this point, it's our list of clients, 11 objectors, so that -- since I meant to do it when we 12 started. It's Objector's Exhibit 19. Mr. Doran asked for 13 this. I think it's appropriate that we put in who we 14 represent. 15 (Whereupon, the document was 16 marked Objector's Exhibit 19 17 for identification.) 18 CHAIRMAN KETTER: You know, I find myself every time 19 I make a statement, something comes up and I have to reverse 20 myself. In answer to your question, everything that's 21 submitted and becomes a part of this file goes to the County 22 Board. 23 UNIDENTIFIED SPEAKER: If we can make copies, we can 24 submit the originals with you.</p>	<p style="text-align: right;">127</p> <p>1 or group, that if you want to speak for the group, the group 2 has to give you the authority to speak for them, unless you 3 want to speak as an individual, but then you're not speaking 4 other than in your own capacity. 5 UNIDENTIFIED SPEAKER: Do we have to give the group's 6 name beforehand, or can we do that at next hearing? 7 CHAIRMAN KETTER: When you get up to speak, you can 8 say I'm such and such, a group. We met, we have a written 9 resolution, and here's our standing. 10 Any other pressing question? I thank 11 everybody. You've been fabulous. 12 COMMISSIONER LAZ: You should see some of the other 13 groups we've had other times. You have been great. 14 CHAIRMAN KETTER: And, Paul, this will be all up on 15 the website; correct? 16 MR. HOSS: Yes. 17 CHAIRMAN KETTER: Obviously you won't see that on the 18 website, but whatever can be published on a website, you can 19 go on and review. If you have questions, you can direct it 20 to the office and Mr. Hoss can do it, or he can assign staff 21 to answer your questions. 22 UNIDENTIFIED SPEAKER: Mr. Ketter, you said 23 everything would be on the website. Does that include the 24 transcript from tonight's hearing as well?</p>
<p style="text-align: right;">126</p> <p>1 CHAIRMAN KETTER: If the originals are here -- you 2 want to put the originals here because this is the file. 3 When this file is closed, that's all. If the process goes 4 further, this will be part. This is the record. 5 But only what comes in through this hearing is part of the 6 official record. 7 UNIDENTIFIED SPEAKER: Understood. Thank you, Mr. 8 Ketter. 9 CHAIRMAN KETTER: Now, I don't know who else is here. 10 I received from Mr. Luetkehans his list of objectors. If 11 you're an objector and you hired Mr. Luetkehans, he speaks 12 for you. So then you will probably, unless you have a real 13 good reason that your attorney -- you want to speak outside 14 your attorney, and I don't know too many people that want to 15 speak outside their attorney, because you may say stuff that 16 hurts his case, but we will address that when we get to it. 17 The only other thing is just for purposes 18 of clarification, if you are in a homeowners group, you can 19 get up as a homeowner and speak. If you want to speak for 20 the group, it behooves you to have your group meet, take a 21 vote, and do a resolution or something if you want to speak 22 for the group. 23 I don't know other than homeowners 24 associations. If you have some other type, any association</p>	<p style="text-align: right;">128</p> <p>1 CHAIRMAN KETTER: When they're finally typed -- 2 MR. HOSS: Yes. 3 CHAIRMAN KETTER: I paused on that because usually 4 you have to pay for a transcript. This is her livelihood, 5 and when we -- maybe it's me, but when you publish something 6 that somebody's getting paid for, and people are going to 7 get it for free, I guess it will be up to -- I don't know 8 what our contract is. 9 MR. HOSS: It will be. 10 CHAIRMAN KETTER: I guess I've been told it will be. 11 UNIDENTIFIED SPEAKER: Fantastic. Thank you. 12 CHAIRMAN KETTER: Then we will adjourn until August 13 16th at 6:30. 14 (Whereupon, the hearing was 15 continued to August 16th, 2017 16 at 6:30 p.m.) 17 18 19 20 21 22 23 24</p>

Petition No. Z17-028
July 20, 2017

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.
14

15
16
17 _____
18 CERTIFIED SHORTHAND REPORTER
19

20
21
22 My Commission Expires:
23 May 5, 2018
24

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