

BEFORE THE VILLAGE BOARD  
OF THE VILLAGE OF ROUND LAKE PARK  
SITTING AS A POLLUTION CONTROL FACILITY  
SITING AUTHORITY

IN RE: APPLICATION FOR LOCAL SITING )  
APPROVAL FOR GROOT INDUSTRIES ) 3-01  
LAKE TRANSFER STATION, )

Transcript of proceedings at the hearing  
of the above-entitled cause on the 30th day of  
September, 2013, at the hour of 7:00 o'clock p.m.  
(Proceedings concluded at 8:16 p.m.)

REPORTED BY: LISA M. BRINGLE, CSR

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1 APPEARANCES:

2 SCHIROTT, LUETKEHANS & GARNER, LLC,  
BY: MR. PHILLIP A. LUETKEHANS

3 The Hearing Officer;

4 HINSHAW & CULBERTSON,  
BY: MR. RICHARD PORTER

5 On behalf of Groot Industries;  
6 THE LAW OFFICES OF RUDOLPH F. MAGNA,  
BY: MR. PETER S. KARLOVICS

7 On behalf of Board of Trustees  
of the Village of Round Lake  
8 Park;

9

10 THE SECHEN LAW GROUP, P.C.,  
BY: MR. GLENN C. SECHEN  
On behalf of Village of Round Lake  
11 Park;

12 TRESSLER, LLP,  
BY: MR. STEPHEN T. GROSSMARK  
13 On behalf of the Village of  
Round Lake;

14

JEEP & BLAZER, LLC,  
15 BY: MR. MICHAEL S. BLAZER  
On behalf of Timber Creek  
16 Homes, Inc.;

17 MR. LARRY M. CLARK  
On behalf of the Solid Waste Agency  
18 of Lake County, Illinois.

19 ALSO PRESENT:

20 MS. PAT WILLIAMS,  
Village of Round Lake Park Trustee;  
21 MS. RAE ANNE McCARTY,  
Village of Round Lake Park Trustee;  
22 and other Trustees previously listed.

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1 THE HEARING OFFICER: I've got 7:00 o'clock, so  
2 we are bringing the proceeding back to order.

3 First, we have scheduled public comment  
4 for 7:00 o'clock. So is there anyone here for  
5 public comment that wishes to make public comment  
6 tonight?

7 Okay. The lady in the pink, if you'll  
8 come over and -- I'm sorry. Come right here if you  
9 wish. The mic right in front of me is working.  
10 And you if you want to stand at the lectern or  
11 whatever is easiest for you.

12 MS. PISCITELLO: Hi. I'm Nancy Piscitello.

13 THE HEARING OFFICER: Okay. Nancy, if you  
14 could spell your last name, and why don't you  
15 provide your address.

16 MS. PISCITELLO: It's P-i-s-c-i-t-e-l-l-o.

17 THE HEARING OFFICER: Okay. And your address?

18 MS. PISCITELLO: 512 West Wildspring in Round  
19 Lake.

20 THE HEARING OFFICER: Okay. Please proceed.

21 MS. PISCITELLO: I just wanted to say that I  
22 live like within a mile of where they want to put  
23 this transfer station -- or half a mile, excuse me.  
24 And I've been there 15 years. And I always plant

4

1 flowers around my front door and in my garden that  
2 have scent to them, lavender and exotic lilies, and  
3 the reason I do that is because I think that the  
4 fragrance is really nice, and I want people when  
5 they want to come to my house to be able to smell  
6 that and have a good feeling. And I feel really  
7 bad that the county and that Round Lake Park get to  
8 make the decision that now my house is going to  
9 smell like garbage because we all know it does. It  
10 does at all of the other transfer stations. So I  
11 just wanted to state that. I'm not really happy,  
12 and if there was any way that I know how to get us  
13 out of this, we'd be out of it.

14 THE HEARING OFFICER: Thank you, and I'll call  
15 you Nancy because I'm not sure I can do your last  
16 name justice, but thank you for your time and thank  
17 you for coming.

18 Mr. Smith, I know you do, and then we'll  
19 let the gentleman in the back. Mr. Smith first,  
20 though, if you would. I know you've been waiting.

21 MR. SMITH: This is going to be hard for me.  
22 I'm not used to public speaking.

23 THE HEARING OFFICER: That's okay. Take your  
24 time. No one is great at it.

1 MR. SMITH: That's fine.

2 MS. PISCITELLO: Why didn't you say that to me?

3 THE HEARING OFFICER: Because you didn't say  
4 you were afraid of public speaking.

5 MS. PISCITELLO: You could tell.

6 MR. SMITH: My name is Brian Smith. I live at  
7 204 New House Lane in Round Lake Park. I live  
8 about 1300 feet away from the proposed Groot site,  
9 and the one question I have, I have one question  
10 concerning Criterion vii for the siting  
11 application. And Criterion vii reads, "If the  
12 facility will be treating, storing or disposing" --

13 MR. PORTER: I'm sorry for interrupting,  
14 Mr. Hearing Officer. We are willing and able to  
15 allow Mr. Moose to answer Mr. Smith's questions.  
16 One of the things you asked us earlier --

17 THE HEARING OFFICER: Yes. Let me --  
18 Mr. Smith, is this one of the questions you want  
19 answered, or is this part of a public statement you  
20 wish to make?

21 MR. SMITH: Actually, this was a question. We  
22 had talked about it previously and --

23 THE HEARING OFFICER: Okay. When Mr. McGinley  
24 is done -- I assume by your statement, Mr. Porter,

6

1 that you're willing to let Mr. Moose answer his  
2 question?

3 MR. PORTER: Yes.

4 THE HEARING OFFICER: Okay. If you have public  
5 comment you wish to make now other than your  
6 question --

7 MR. SMITH: No, I do not.

8 THE HEARING OFFICER: Okay. So we'll let you  
9 ask Mr. Moose his question when we are done with  
10 Mr. McGinley and after public comment.

11 We have one other gentleman that has  
12 something he wishes to say at least, and then we'll  
13 get to you after that, Mr. Smith, if that's  
14 acceptable.

15 MR. SMITH: Okay. Thank you.

16 THE HEARING OFFICER: Thank you.

17 MR. KARLOVICS: Mr. Hearing Officer, could the  
18 record, please, reflect the presence of Trustee Pat  
19 Williams at 7:00 p.m.

20 THE HEARING OFFICER: Yes, and all of the  
21 trustees that were here before the break are still  
22 here.

23 Sir, please proceed.

24 MR. CARBONE: First of all, I would like to

1 thank you for allowing me to be able to speak and  
2 give testimony this evening. My name is Michael  
3 Carbone. That's C-a-r-b-o-n-e. I was a former  
4 resident of Round Lake. I just moved in June of  
5 this year. Part of the reason which made my  
6 decision was because of this transfer station or  
7 EcoPark, as I'm hearing it's called, being  
8 developed into the Round Lake Park area.

9 So the past year I've been around, and I  
10 learned a lot of things about transfer stations,  
11 EcoParks, and I have to tell you, it's been a huge  
12 eye opener.

13 I found myself asking the same questions  
14 every time about the issue about these transfer  
15 stations; what is it going to do to the community?  
16 How is the community going to benefit from  
17 installing this device or system?

18 So let me paint a picture because I went  
19 down to Batavia and talked to folks and went to  
20 some other transfer stations to find out so I could  
21 learn as a community member, as a taxpayer, how  
22 does it benefit.

23 So here is the picture I'd like to paint.  
24 Winds travel east and west. The homes that lie



1 near them are going to get a good whiff of this  
2 dump. That's just going to happen. How do I know  
3 this? I've been to them, and they all look and  
4 smell the same. They can put all of the little  
5 scent things in there now and in the dead of winter  
6 when the air doesn't travel very far. Like I said,  
7 in Batavia, for instance, a home that is one radial  
8 mile from the transfer station, however, on a nice  
9 hot day with the right breeze, having the family  
10 over for a nice barbecue is really not the best  
11 thing you should do in that community. So cancel  
12 your family barbecue. That's what I heard from one  
13 homeowner that I've met that lived in that area.

14 To me, that's not a benefit, and that is a  
15 risk of people moving, like myself, and property  
16 values going way down.

17 You can look at Prairie Crossing. I know  
18 Prairie Crossing has an actual dump, but they also  
19 have a recycling transfer station, and you can  
20 decipher which one smells different from one  
21 another. Those homes have lost over 50 percent in  
22 value, which were once \$400,000 now about \$200,000.  
23 To me, that's not a benefit.

24 So tell me the pros and cons. Tell me

1 what the benefits versus the risks are. How much  
2 revenue does this bring to you, to the Village of  
3 Round Lake Park, and I think I saw numbers which,  
4 and correct me if I'm wrong, maybe \$100, \$120,000  
5 in revenue, which is good for the size of the  
6 Village of Round Lake Park. I don't disagree with  
7 that.

8 Let me ask you, have you spoke to other  
9 community members or villages next to you that  
10 borders Round Lake Park? Did you work with Round  
11 Lake and talk with them how their citizens will  
12 feel about this? Did you go to Hainesville and  
13 talk to them?

14 When I spoke to the director of Batavia,  
15 she says the first thing that their company does is  
16 they go out and do a PR campaign to see if it's  
17 going to work for both the community and for their  
18 company. That I don't believe was done. Correct  
19 me if I'm wrong.

20 This transfer station is a real bad idea.  
21 It requires hoards of trucks to drive through every  
22 day, up to a maximum of, I believe, 240. That's  
23 including the whole EcoPark as it's designed, and  
24 this is going to cause massive congestion, which

1 already exists on 120. There is going to be a lot  
2 of noise, smell, rats. And this truck pollution  
3 will increase respiratory and other ailments for  
4 the poor, for the kids and families that live  
5 within a mile from here.

6           You can say, well, Mr. Carbone, where did  
7 you get that information? I Googled it. It's an  
8 awesome tool. And let me tell you what I found out  
9 from Googling. And it wasn't very easy. There's  
10 not a lot of studies that are done on waste  
11 transfer stations. What I did find is 9 out of 10  
12 were against them. You know what that 10 percent,  
13 you know who are in favor of those? The local  
14 government. They are the ones promoting it saying  
15 how great this is for the local community. It  
16 brings in good tax dollars.

17           So Round Lake Park cannot afford an Erin  
18 Brockovich moment. The Round Lake Park community  
19 loses in this move.

20           I would like to see the pros versus the  
21 cons on this project. Has anyone done those? Have  
22 we weighed them out, the options?

23           I'm on a lot of boards, and that's what I  
24 do in my own home. I weigh it out, pros and cons.

1 I make my decision, long-term and short-term. Or  
2 did you have your execs do that, the folks that you  
3 pay, the consultants? Did they do that for you?  
4 Where is that information? I would like to see it.  
5 I would like to see the pros versus the cons.

6 Because you know what, I did my own sheet  
7 of pros versus cons this afternoon. I do like I  
8 teach my kids at home, a piece of paper, fold it up  
9 in half. Pros on one side and cons on the other  
10 side. And let's -- I'm going to tell you what I  
11 came up with.

12 Pros: Extra revenue to the community or  
13 the Village of Round Lake Park. Like I said, maybe  
14 \$100 to \$120,000 a year. It sounds like it's a lot  
15 of money. Maybe 10, 12 jobs. That's all I could  
16 come up with on the pro side. Let me tell you, I  
17 thought about it because I want to be fair, and I  
18 want it to work, but that's what I came up with.

19 The cons: Decrease in property revenue.  
20 Homes will decline in value. I'm a real estate  
21 broker. I do property abatements. Homes are going  
22 to go down in value. Let me give you an example.  
23 If a thousand homes in Round Lake -- the Village of  
24 Round Lake Park, a thousand homes lost a hundred

1 dollars in value because of this transfer station  
2 or EcoPark, that's a hundred thousand dollars that  
3 you thought you gained. There is no pro or con  
4 there. You just broke even. Maybe you gained an  
5 extra 20,000. You're going to get noise pollution,  
6 air pollution.

7 I can only imagine what the cost of all of your  
8 attorneys you've been dishing out for the last  
9 couple of years. I would like to see those. What  
10 are you paying in your attorney fees? Because they  
11 are only going to go up.

12 Look at Morton Grove. They had to hire a  
13 full-time firm because they've got people out there  
14 fighting.

15 Then you've got the congestion again,  
16 infrastructure, rodents. Who is going to -- that  
17 100 or 120,000 short-term might be a benefit, but  
18 long-term, that doesn't even cover the cost of the  
19 rodents that need to be destroyed, beat up. It's  
20 not going to happen.

21 Show me the commonsense, and I'll be the  
22 first one to go out there and tell everyone this is  
23 a good idea. Tell me if I'm wrong.

24 And the likelihood of accidents, auto

1 accidents, right there on Porter and 120, unless  
2 you get the state or someone -- I believe the state  
3 has to be the one that funds that for an  
4 intersection -- I can bet on it 10 to 1 that you're  
5 going to have an auto accident. I hate to say  
6 that, but someone is going to get hurt because of  
7 all of that congestion and that traffic. It's just  
8 going to happen. Statistically it will happen.

9 Do not sacrifice this community for the  
10 short-term revenue, please. There is so much con  
11 versus pro, a fifth greater would tell you this is  
12 a bad idea.

13 There is nothing environmentally good  
14 about it. Have we spoken to the environmentalists?  
15 What do they say?

16 So I'm demanding that you show this  
17 community that the benefits outweigh the risks.  
18 That's fair. That's the job of this board, to show  
19 what outweighs the risks. What's the long-term  
20 plan here? I demand that you show this is not  
21 going to affect the seniors, the poor, the children  
22 and the residents of this community and the ones  
23 next to it. These residents will become future  
24 victims of this dump.

1           We have seniors that live right across the  
2 street, Bradford Place. I'm sure you've heard from  
3 them. And Round Lake Park is already making its  
4 residents feel like they aren't worth anything.

5           So that is all I have to say. I want to  
6 thank you. Thank you for all of your time.

7           THE HEARING OFFICER: Thank you, Mr. Carbone.

8           Is there anyone else who wishes to make  
9 public comment? And just so you know, we will  
10 again be having public comment tomorrow and  
11 throughout the hearing. So if you have anything in  
12 particular you wish to say at that point, we will  
13 be doing it again. Thank you all. Thank you for  
14 being here, those of you who are here.

15           And, Mr. McGinley, if you want to, please,  
16 take the stand again. Mr. Sechen, if you want to  
17 continue with your cross-examination.

18           CHARLES M. MCGINLEY, P.E.,  
19 called as a witness herein, having been previously  
20 duly sworn, was examined and testified as follows:

21           CROSS EXAMINATION (resumed)

22           BY MR. SECHEN:

23           Q. Mr. McGinley, is it accurate that the  
24 orientation of the transfer station building can

15

1 affect the transmissions of -- transmission of  
2 things like odor and noise, that sort of thing?

3 A. Yes.

4 Q. You're not offering an opinion, though, as  
5 to whether the transfer station building is  
6 suitably oriented on this property, are you?

7 A. Correct.

8 Q. Are you familiar with Groot?

9 A. No.

10 Q. Do you know whether Groot can be  
11 considered a skilled operator of transfer stations?

12 A. No.

13 UNIDENTIFIED SPEAKER: Can you use a mic  
14 please?

15 THE HEARING OFFICER: Not really. We are out  
16 of mics that work. Oh, you've got one that's  
17 working? Thanks.

18 MR. PORTER: I don't need it.

19 THE HEARING OFFICER: I'm sure you won't need  
20 it ever again, right, Mr. Porter?

21 Go ahead. I apologize.

22 BY MR. SECHEN:

23 Q. Mr. McGinley, is it true that a skilled  
24 transfer station operator can know when to close

16



1 the doors based on things such as wind and that  
2 sort of thing?

3 A. A trained, skilled operator, yes.

4 Q. And you don't know whether Groot is a  
5 trained skilled operator, do you?

6 A. Correct.

7 Q. Is it also true that a trained skilled  
8 operator, if you will, knows how much mist to apply  
9 to the transfer station interior with respect to  
10 knocking down things like dust and odor?

11 A. No.

12 Q. What goes into determining how much mist  
13 needs to be applied from a misting system?

14 A. Misting systems are on or off.

15 Q. Well, is it accurate that the misting  
16 system can use different materials in the mist?

17 A. Yes.

18 Q. And a skilled operator can make a  
19 determination of which materials would be proper at  
20 any given time; is that correct?

21 A. No.

22 Q. Who can?

23 A. Possibly the salesperson that sells the  
24 chemical for the misting system.

1 Q. A salesman?

2 A. Possibly a sales engineer that sells the  
3 product.

4 Q. You don't mean a degreed engineer?

5 A. I beg your pardon?

6 Q. A degreed engineer?

7 A. I know that some sales engineers working  
8 for companies that sell misting systems are degreed  
9 engineers. I don't know about all of their  
10 qualifications.

11 Q. Are you talking more specifically about a  
12 licensed professional engineer in the State of  
13 Illinois?

14 A. If they applied, they wouldn't be licensed  
15 by Illinois if they tried to, like I have. I don't  
16 know if anyone has attempted to apply to be a  
17 registered engineer that works for one of these  
18 product companies.

19 Q. Well, then can a licensed professional  
20 engineer skilled in the art of transfer station  
21 design determine what materials to use in the  
22 misting system?

23 A. Unlikely.

24 Q. So then your sole likely source of that

1 skill would be a salesman?

2 A. That has been the history of that  
3 business, yes.

4 Q. Have you seen misting systems that were  
5 effective in controlling odor?

6 A. I've seen misting system that appear to be  
7 partially effective in controlling odor.

8 Q. Well, by "partially effective," you mean  
9 they reduced odor but didn't totally eliminate it  
10 in the cases that you saw?

11 A. Yes, and in the cases that I've tested.

12 Q. That doesn't mean that a misting system is  
13 incapable of eliminating odor, does it?

14 A. I've never seen one that has eliminated  
15 odor 100 percent, but I'm only in the business 40  
16 years.

17 Q. Now, you mentioned the air change rate of  
18 four to six air changes in an hour. You commented  
19 on that; is that correct?

20 A. I said that I read that in Mr. Moose's  
21 testimony.

22 Q. And you said that was insufficient?

23 A. I said that in most cases of large  
24 buildings, that's insufficient.

1 Q. Did you conduct some sort of a study to  
2 see if it's insufficient in this case?

3 A. I testified earlier that I did several  
4 very simple calculations using the building volume,  
5 the openings of the doors and a calculation about  
6 air change rates, but I did not include that in my  
7 study.

8 Q. Are those the only calculations that would  
9 be necessary in determining the correct number of  
10 exchanges in an hour?

11 A. Presuming the building is closed in other  
12 ways, like seams of the building construction,  
13 correct, there is an exhaust system that exhausts a  
14 certain cubic feet per minute. There is a certain  
15 volume of the building, and there are openings in  
16 the building defined by the doors. And three  
17 simple calculations will tell you what the velocity  
18 is going through a doorway when it is full open.

19 Q. What would be the appropriate velocity at  
20 this site that would meet your standards?

21 A. At least 100-feet-per-minute face velocity  
22 going into all of the doors, and that would be in  
23 moderate, low/moderate wind conditions because  
24 higher wind conditions could easily disturb even a

1 100-foot-per-minute face velocity.

2 Q. Now, how many air changes in an hour would  
3 that translate into?

4 A. For this building, I would estimate from  
5 my calculations, which I did not do for this study  
6 and which I think should be done by a professional  
7 mechanical engineer so it's on record for this  
8 facility, but I would estimate 10 to 12 air changes  
9 per hour. That is what is used for rendering  
10 plants.

11 Q. That's what is used for a rendering plant?

12 A. That's typically the number used for  
13 rendering plants, a minimum of 10 to 12 air changes  
14 per hour.

15 Q. What's typically used in a transfer  
16 station?

17 A. It's not in the manuals that the engineers  
18 are using for designing transfer stations.

19 Q. Is that because transfer stations don't  
20 always have such systems that would change the air  
21 at any given rate?

22 A. Are you -- if you're speaking about the  
23 exhaust fans, if the exhaust fans are not large  
24 enough, the air change rate would be low.

1 Q. Well, let's take a step back. I guess  
2 that stands to make a certain amount of sense, but  
3 you mentioned that the manuals don't cover this  
4 particular issue?

5 A. I have not found them in the manuals, but  
6 perhaps those civil engineers and structural  
7 engineers who designed these buildings have manuals  
8 that guide them into the exhaust rate for the  
9 volume and air exchange rate.

10 Q. But you don't know that for sure, do you?

11 A. I have not taught odor management from  
12 those manuals.

13 MR. KARLOVICS: Mr. Hearing Officer, at this  
14 point, I would like to have the record reflect the  
15 presence of Trustee Rae Anne McCarty. She arrived  
16 at 7:20 p.m.

17 THE HEARING OFFICER: The record shall so  
18 reflect.

19 BY MR. SECHEN:

20 Q. At bottom, sir, isn't it accurate that  
21 what you really object to in this particular  
22 circumstance is you feel there should be more  
23 systems in place to guarantee the lack of odors  
24 being emitted from the premises?

1           A.    No, not completely correct in portraying  
2    what I have endorsed in terms of operational and  
3    design.

4           Q.    Well, you mentioned the fans, and I take  
5    it you would need some sort of air handling system  
6    that would produce a higher velocity, more changes  
7    per hour.  That's one thing; is that correct?

8           A.    That presumes if the doors are open during  
9    business hours.  If the doors are closed except for  
10   truck passage, the question of how much airflow is  
11   needed changes because if doors are only open for  
12   truck passage, there would be a likelihood of only  
13   one, perhaps two, of the six doors open and,  
14   therefore, less open space, less exhaust needed to  
15   maintain a negative pressure, but that is still  
16   separate from the air change rate question.

17          Q.    Okay.  Is it accurate that the velocity of  
18   that exchange rate of air coming into the building,  
19   the higher it is, the more minimized the  
20   possibility of odor escaping through open doors  
21   would be?

22          A.    Correct.

23          Q.    And it would be further minimized, in your  
24   view, if you placed the filtration system on the

1 output of the air handler?

2 A. Correct.

3 Q. Did you hear Mr. Moose's testimony -- or  
4 strike that.

5 Did you read Mr. Moose's transcript with  
6 respect to the activated charcoal filter that was  
7 at one time in the Glenview transfer station?

8 A. No.

9 Q. Would it surprise you to learn that that  
10 system has been deactivated because it wasn't  
11 needed?

12 A. It wouldn't surprise me that an air  
13 pollution system is deactivated after it's been run  
14 for a while.

15 Q. An air pollution system? We are talking  
16 about the exhaust fans with the activated carbon  
17 filter on the exhaust side, on the output?

18 A. Excuse me. I should have used the full  
19 term, air pollution control system.

20 Q. Okay. You want to call that an air  
21 pollution control system. Are you familiar with  
22 any odor complaints or odor issues at that  
23 particular transfer station?

24 A. No.



1 Q. Are you aware that that transfer station  
2 is run by Groot?

3 A. I'm not aware of that.

4 Q. Are you aware of any such complaints or  
5 citations with respect to odors at any of Groot's  
6 transfer stations?

7 A. No.

8 Q. Is it accurate that were odors to occur,  
9 steps can be taken to minimize those odors?

10 A. Yes.

11 Q. Other than what you've mentioned here  
12 today pursuant to my questions, what other steps  
13 would you recommend should odors be noticed?

14 A. I have no way of knowing, unfamiliar with  
15 that transfer station, what options would be on the  
16 table for that transfer station if odors -- odor  
17 issues or complaints were brought to that  
18 management.

19 Q. But that didn't stop you from recommending  
20 a better exhaust system, one that would produce  
21 more cubic feet per minute out, did it?

22 A. I don't believe I recommended an exhaust  
23 system of a greater cubic foot per minute out.

24 Q. Isn't that what we have just been talking

25

1 about?

2 A. No, not the recommendations that I have  
3 listed.

4 Q. Are you referring to you would like a  
5 filter on that exhaust?

6 A. One way to minimize the amount of air that  
7 has garbage odors in it is to filter the air that  
8 is exhausted.

9 Q. And if odors are a persistent problem at  
10 that facility, is it accurate that such a system  
11 could be retrofitted?

12 A. There is always possible retrofit options,  
13 difficult if they are not thought of as part of the  
14 initial design.

15 Q. And what are some of the other retrofit  
16 options?

17 A. For air filtration are you speaking of?

18 Q. Yes, sir, those that would eliminate your  
19 objections.

20 A. Well, the air filtration systems depend  
21 upon where the fans are, what space is available to  
22 add filtration inside the building, outside the  
23 building, the ductwork that would be needed to  
24 carry the air exhaust to those filtration systems.

26

1 Those are all part of a basic site layout when odor  
2 management is on the table.

3 Q. Basically, a big air handler, isn't it?

4 A. It's not rocket science, but it's a little  
5 bit more than just one big air handler.

6 Q. Well, an air handler or maybe an activated  
7 charcoal filter on the exhaust side or a biomass  
8 filter of some sort?

9 A. Good ideas.

10 Q. But yet those good ideas weren't necessary  
11 to implement at the Glenview station.

12 MR. BLAZER: Objection, foundation.

13 THE HEARING OFFICER: Sustained.

14 BY MR. SECHEN:

15 Q. Assuming, sir, that those recommendations  
16 weren't necessary to keep in place at the Glenview  
17 station --

18 MR. BLAZER: Oh, no.

19 BY MR. SECHEN:

20 Q. -- why do you think they are necessary at  
21 this station?

22 MR. BLAZER: Improper hypothetical, lack of  
23 foundation.

24 THE HEARING OFFICER: Objection overruled.

27

1 THE WITNESS: I have no knowledge of the  
2 station you're speaking of. I have no knowledge of  
3 the community and its socioeconomic makeup, and I  
4 have no knowledge of the people that may or may not  
5 complain, so I cannot answer your question.

6 BY MR. SECHEN:

7 Q. You're saying that the socioeconomic  
8 makeup of the community makes a difference?

9 A. Rich people have more sensitive noses than  
10 poor people, sir.

11 (Applause.)

12 THE HEARING OFFICER: Please, no clapping,  
13 please. Thank you.

14 BY MR. SECHEN:

15 Q. Well, then assuming the highest standard,  
16 are there any other things that you would recommend  
17 that could be placed in this facility to help meet  
18 your objections?

19 A. I would recommend that an override system  
20 for the automatic door closures be locked out from  
21 operation so that the closed doors that open  
22 automatically for truck passage is allowed to  
23 facilitate in and out. Closed, and opened when the  
24 truck needs to pass, and then close when the truck

28

1 passes. Lock out and hide the system that  
2 overrides that automatic system and you've gone  
3 halfway to happiness with regard to odors in the  
4 community.

5 Q. Is that it?

6 A. They jump, not rocket science.

7 Q. And that despite the fact that it may not  
8 be necessary to do that if a skilled operator were  
9 operating the transfer station?

10 A. Correct.

11 MR. SECHEN: No further questions.

12 EXAMINATION

13 THE HEARING OFFICER:

14 Q. I have a couple questions for Mr. McGinley  
15 just so I'm clear. Have you ever -- this kind of  
16 goes to the objection that has been made.

17 Have you ever testified in a Section 39.2  
18 hearing before?

19 A. I have no knowledge -- is that a  
20 federal --

21 Q. Have you ever testified at an Illinois  
22 transfer or landfill hearing under Section 39.2  
23 before?

24 A. No.

1 THE HEARING OFFICER: Nothing further.

2 Mr. Blazer, do you have any further  
3 questions?

4 MR. BLAZER: I do.

5 REDIRECT EXAMINATION

6 BY MR. BLAZER:

7 Q. Mr. McGinley, based on your experience and  
8 your knowledge and your training, is there some  
9 property of garbage odor that prevents it from  
10 traveling more than a thousand feet?

11 A. No.

12 Q. And in your experience over the last  
13 four decades, have you personally observed garbage  
14 odor that has traveled more than a thousand feet?

15 A. Yes.

16 Q. Could you explain?

17 A. Well, I was at a transfer -- I was at a  
18 landfill just --

19 MR. PORTER: I'm going to object. It's  
20 completely irrelevant and prejudicial. Unless  
21 there is some foundation laid that this facility  
22 has any semblance whatsoever to the facility that's  
23 proposed, this is just that, irrelevant and  
24 prejudicial.

30

1 THE HEARING OFFICER: I'm going to sustain the  
2 objection as it goes to the witness talking about  
3 landfills. If he has transfer station experience,  
4 he can talk about that.

5 BY MR. BLAZER:

6 Q. Transfer stations.

7 A. I do not recall sufficient information to  
8 answer your question.

9 Q. All right. Regarding the hearing  
10 officer's question about your experience in  
11 testifying at these particular proceedings, talking  
12 now about the type of testimony you've given today  
13 regarding odors and odor control measures and  
14 management options to deal with odors, how many  
15 times have you testified as an expert witness with  
16 respect to those issues?

17 A. Approximately ten times.

18 Q. In more than one state?

19 A. Yes.

20 Q. In more than one type of proceeding?

21 A. Yes.

22 MR. BLAZER: That's all I have.

23

24

1 THE HEARING OFFICER: Mr. Porter?

2 RE CROSS EXAMINATION

3 BY MR. PORTER:

4 Q. Following up on something you raised  
5 during Mr. Sechen's questioning, you mentioned that  
6 you attempted to get licensed in Illinois. Did I  
7 hear that correctly?

8 A. And in many other states for odor  
9 engineering, but was declined because a state -- a  
10 state licensure board does not recognize odor  
11 engineering.

12 Q. Isn't it true that in Illinois, there is  
13 reciprocity for engineers if they have an  
14 engineering license in the state with substantially  
15 equal criteria as Illinois?

16 A. Yes, I am aware of that.

17 Q. And if I understand it correctly, you  
18 applied in Illinois, and they rejected your  
19 application because you do not have substantially  
20 equal qualifications as a licensed engineer in  
21 Illinois, correct?

22 A. I didn't say I applied as a chemical  
23 engineer for a reciprocity. I said that I made  
24 calls to find out if there is licensure for the

32



1 field of practice of odor engineering.

2 Q. You haven't used your chemical engineering  
3 in any way in respect to the opinions you've  
4 offered here today, correct?

5 A. The chemical engineering training is a  
6 broad-based engineering training. So to separate  
7 the sense of opening and closing a door or  
8 filtration of air, yes, that involves the concepts  
9 that are taught in chemical engineering but as a  
10 broader base as odor control engineering.

11 Q. What chemical analysis study model did you  
12 run in relation to your opinion that the doors need  
13 to be closed at all times?

14 A. There is no chemical analysis.

15 Q. If ever the wind or odor is determined to  
16 be an issue or a problem at this facility, isn't it  
17 true that Groot is free to close the doors?

18 A. Yes.

19 Q. And they have fast-acting rubber doors in  
20 the plant, correct?

21 A. Yes.

22 Q. Do you have any reason to believe they  
23 won't close the doors?

24 A. Facilities typically do not close doors

1 unless it's necessary because it feels open, and it  
2 seems like it slows trucks down, but for six  
3 seconds of waiting for the door to open is a false  
4 concept of slowing the process down.

5 Q. If it is determined that the doors need to  
6 be closed because of particular wind conditions or  
7 a particular odorous load that comes in, they can  
8 be closed, right?

9 A. Depending upon who determines that need,  
10 correct.

11 Q. And you have no experience, background,  
12 interviews from any source that would suggest Groot  
13 won't do that reasonable activity of closing the  
14 doors, right?

15 A. I would trust them 100 percent.

16 Q. There was some discussion on counsel's  
17 questioning that -- concerning washing the tipping  
18 room floor. Have you now learned that a street  
19 sweeper is going to be used in order to sweep that  
20 floor?

21 A. We saw that and read that in the permit  
22 application, correct.

23 Q. And are you aware that street sweeper  
24 indeed uses water?

1 A. Most street sweepers use water, correct.

2 Q. So that would accomplish the cleaning  
3 aspect of the floor, correct?

4 A. Yes.

5 Q. There was some discussion about the fact  
6 that a New Hampshire regulation allows waste to  
7 remain in place at transfer stations there after  
8 seven days. Do you recall that?

9 A. Yes.

10 Q. And so the New Hampshire board --

11 MR. GROSSMARK: Objection, discloses facts not  
12 in record.

13 THE HEARING OFFICER: You may finish the  
14 question.

15 BY MR. PORTER:

16 Q. It also provides or if odor is being  
17 caused, that it needs to be removed, right?

18 A. Yes.

19 Q. And so the New Hampshire statute itself  
20 identifies that it's passable for waste to be in  
21 place for at least up to seven days without odor  
22 emanating from the premises, correct?

23 A. In New Hampshire, correct.

24 Q. And again, for people that came in late,

1 Groot is going to be removing all waste daily,  
2 correct?

3 A. I understand that to be part of the permit  
4 operation of the plant.

5 MR. PORTER: At this time, Mr. Luetkehans, I  
6 have nothing further, and I would reiterate my  
7 prior objection to this witness testifying here  
8 today as he's not licensed in Illinois and move to  
9 strike that.

10 THE HEARING OFFICER: We'll deal with that as  
11 soon as everybody is done, Mr. Porter. We'll be  
12 dealing with that as soon as everybody is done.

13 MR. PORTER: Thank you.

14 THE HEARING OFFICER: Mr. Grossmark, do you  
15 have anything further?

16 MR. GROSSMARK: No.

17 THE HEARING OFFICER: Mr. Clark?

18 MR. CLARK: No.

19 THE HEARING OFFICER: Mr. Sechen?

20 MR. SECHEN: Nothing.

21 THE HEARING OFFICER: Mr. Blazer, anything as  
22 to --

23 MR. BLAZER: No.

24 THE HEARING OFFICER: Okay. I'll say it for

1 the record. As to Mr. Porter's recross, you have  
2 nothing, correct?

3 MR. BLAZER: No.

4 THE HEARING OFFICER: Okay. Mr. Porter, you  
5 wish to re-raise your objection.

6 Is there anything that either party -- I  
7 have now read the case law that you've provided and  
8 the regulations. Is there anything in particular  
9 that anyone wishes to add that hasn't -- that  
10 wasn't already said earlier today?

11 MR. BLAZER: Mr. Hearing Officer, if you've  
12 read the Thompson decision, I think we're  
13 satisfied.

14 THE HEARING OFFICER: Mr. Porter?

15 Mr. McGinley, you can have a seat. You  
16 don't have to stand up there anymore.

17 MR. PORTER: I just want to reiterate that the  
18 Thompson decision applies to disclosure of a 213  
19 witness. This is not a circuit court of law. He  
20 is not a disclosed 213 witness. That decision is  
21 not relevant.

22 The question before us today, which is  
23 whether or not Mr. McGinley is here to provide  
24 expert testimony as an engineer at this site

1 hearing, and that is not controlled by the Supreme  
2 Court case. Instead, it's controlled by the  
3 Van Breemen case as well as the Illinois Department  
4 of Professional Regulations, and particularly the  
5 Engineering Practice Act, which explicitly provides  
6 that only qualified persons shall be authorized to  
7 engage in the practice of professional engineering  
8 in the State of Illinois.

9 In addition to that, at a minimum, it's up  
10 to, I suppose, you, Mr. Luetkehans, to decide  
11 whether or not, even putting aside the issue of  
12 licensure, if you have the requisite qualifications  
13 to be offering opinions concerning criterion ii, he  
14 did not. He is not a design engineer. He is not a  
15 professional engineer in essential design. He is a  
16 chemical engineer and admitted that he's done no  
17 chemical analysis whatsoever in relation to this  
18 siting application.

19 Therefore, putting aside the issue of  
20 licensure, they haven't laid the appropriate  
21 qualifications to provide expert testimony of  
22 topics that he was brought here to testify about.

23 MR. BLAZER: May I respond to that,  
24 unfortunately, now?

1 THE HEARING OFFICER: Yes.

2 MR. BLAZER: Also, a person will be allowed to  
3 testify as an expert if his experience and  
4 qualifications afford him knowledge that is not  
5 common to lay persons --

6 THE HEARING OFFICER: If what you're going to  
7 quote is Thompson, don't bother. I've read it.  
8 You're going to hear portions of Thompson from me.  
9 If you have something else to add, feel free.

10 MR. BLAZER: That's all.

11 THE HEARING OFFICER: As everyone in this  
12 hearing knows, the issue is one of fundamental  
13 fairness. We are not using the Rules of Evidence.  
14 However, I think the case law is instructive, and  
15 we will cite Thompson -- a quote from Thompson,  
16 which says at 221 Ill. 2d -- actually, strike that.  
17 Yes, 221 Ill. 2d 414 at pages 428 to 29:

18 "With regard to expert testimony, it is  
19 well settled that the decision whether to admit  
20 expert testimony is within the sound discretion of  
21 the trial court." Now I'm omitting the citations.

22 "A person will be allowed to testify as an  
23 expert if his experience and qualifications afford  
24 him knowledge that is not common to laypersons, and

1 where his testimony will aid the trier of fact in  
2 reaching its conclusions. There is no  
3 predetermined formula for how an expert acquires  
4 specialized knowledge or experience and the expert  
5 can gain such through practical experience,  
6 scientific study, education, training or research.  
7 Thus, formal academic training or specific degrees  
8 are not required to qualify a person as an expert;  
9 practical experience in a field may serve just as  
10 well to qualify him. An expert need only have  
11 knowledge and experience beyond that of an average  
12 citizen. Expert testimony, then, is admissible if  
13 the proffered expert is qualified by knowledge,  
14 skill, experience, training, or education, and the  
15 testimony will assist the trier of fact in  
16 understanding the evidence."

17 As Thompson goes on to state at page 431  
18 to 434:

19 "If the legislature" -- 433 to 434, "If  
20 the legislature wanted to condition any testimony  
21 by a professional on whether the individual holds a  
22 state license, it could enact a statute setting  
23 standards for such expert witnesses, as it has done  
24 in cases in which the standard of care applicable

40



1 to a medical professional is at issue."

2 I find Van Breemen to be -- to be not  
3 applicable in that it is a registration cease and  
4 desist case. The issue in that case is not his  
5 ability to testify.

6 I do, however, find the lack of  
7 registration relevant to the weight of  
8 Mr. McGinley's testimony, but that -- but I do find  
9 also that the testimony is admissible.

10 Now, Mr. McGinley at one point gave a very  
11 broad finding that Criterion ii, "The facility is  
12 so designed, located and proposed to be operated  
13 that the public health, safety and welfare will be  
14 protected." And then he went on to say as it  
15 related to odor. I do believe that his opinion as  
16 it relates to the broad issue of the design  
17 location and proposal of the facility is improper;  
18 however, his opinions as to odor and odor alone and  
19 how that may or may not affect Criterion ii, I do  
20 find to be proper and admissible.

21 The general, broad statement that  
22 Section ii is not applicable is not really within  
23 his area of expertise in my opinion; however, the  
24 specific findings or the specific statements he

1 made as to odor I think are relevant and  
2 admissible. So that's kind of where we are at at  
3 this point in my opinion.

4 That being said, I think there are  
5 exhibits, Mr. Blazer. You wish to move to admit  
6 certain exhibits?

7 MR. BLAZER: I do. Thank you, Mr. Hearing  
8 Officer. I will move to admit TCH Exhibit 3, which  
9 is the resume.

10 THE HEARING OFFICER: Is there an objection  
11 other than the -- and you are not waiving your  
12 objection on any of these, Mr. Porter, as to the  
13 overall issue of his admissible testimony.

14 MR. PORTER: Thank you. No other objections.

15 (Whereupon, TCH Exhibit  
16 No. 3 was received into  
17 evidence on October 1, 2013.)

18 THE HEARING OFFICER: Okay. Next one,  
19 Mr. Blazer.

20 MR. BLAZER: Exhibit 4 is the report.

21 THE HEARING OFFICER: I assume same objection?

22 MR. PORTER: Same response.

23 THE HEARING OFFICER: Okay. That will be  
24 admitted as well over the objection.

1 (Whereupon, TCH Exhibit  
2 No. 4 was received into  
3 evidence on October 1, 2013.)

4 MR. BLAZER: And then we have 41 and 42, which  
5 are the two MSW Management articles.

6 THE HEARING OFFICER: Well, I don't think you  
7 asked that these be admitted. I think I have  
8 some --

9 MR. BLAZER: I think I did.

10 THE HEARING OFFICER: I don't think I did. I  
11 don't think you asked they be admitted. At least  
12 my notes don't show that. I am going to, however,  
13 admit them over Mr. Porter's prior objection  
14 pursuant to the prior reasoning.

15 MR. PORTER: And I have nothing more to add to  
16 those prior objections.

17 THE HEARING OFFICER: Okay.

18 (Whereupon, TCH Exhibit  
19 Nos. 41 and 42 were received  
20 into evidence on  
21 October 1, 2013.)

22 MR. BLAZER: That's all we have for this  
23 evening, Mr. Hearing Officer.

24 MR. PORTER: I had Exhibits 10 and 11 --

1 THE HEARING OFFICER: Yes, and honestly, unless  
2 someone has an objection, I think it's a lot easier  
3 to deal with these kinds of issues as they are  
4 coming up instead of waiting until your rebuttal  
5 case, for lack of a better word. So unless someone  
6 has an objection, I will take up Groot Exhibits 10  
7 and 11. Does anyone have an objection to Groot  
8 Exhibit 10?

9 MR. BLAZER: I apologize, Mr. Hearing Officer,  
10 I lost track of which those are. 10 is the excerpt  
11 from the EPA thing?

12 THE HEARING OFFICER: Groot Exhibit 10 is Bates  
13 stamp pages 23, 24, 29 and 30, which is the excerpt  
14 from the waste transfer station EPA, which I think  
15 is part of --

16 MR. BLAZER: It's part of ours as well. No  
17 objection.

18 THE HEARING OFFICER: Correct. Okay.

19 (Whereupon, Groot Exhibit  
20 No. 10 was received into  
21 evidence on October 1, 2013.)

22 THE HEARING OFFICER: How about Groot  
23 Exhibit 11? Is there an objection to Groot  
24 Exhibit 11?

1 MR. BLAZER: There is an objection to Groot  
2 Exhibit 11, foundation, foundation.

3 THE HEARING OFFICER: Okay. Mr. Porter?

4 MR. BLAZER: If I just may add, Mr. Hearing  
5 Officer --

6 THE HEARING OFFICER: Please.

7 MR. BLAZER: -- if this were simply an aerial  
8 photo of the area that the witness identified next  
9 to -- we'll forgive him for being a Twins fan, but  
10 next to the stadium, that would be fine.

11 The problem is someone drew a somewhat  
12 cockeyed circle on here and wrote a thousand feet.  
13 We have no idea who did that, where it came from,  
14 what the foundation is. So that's my concern.  
15 Without that circle I have no problem with that.

16 THE HEARING OFFICER: Mr. Porter.

17 MR. PORTER: The foundation was laid while the  
18 witness was on the stand. He identified the  
19 exhibit as depicting what it depicts, and,  
20 therefore, there has been sufficient foundation  
21 laid.

22 THE HEARING OFFICER: I do have to agree with  
23 Mr. Blazer, and I have the same concern. No one  
24 has been able to or has laid the thousand foot

1 circle, Mr. Porter -- no one has been able to give  
2 us that foundation.

3 Unless someone has an objection, I would  
4 allow you to submit what's called Groot Exhibit 11A  
5 as a substitute of this tomorrow without the red  
6 thousand-foot circle because I don't know how you  
7 can get that in.

8 MR. PORTER: Thank you. We'll take you up on  
9 that.

10 THE HEARING OFFICER: Tomorrow why don't you  
11 resubmit that exhibit, Mr. Porter, so I'm not  
12 forgetting, if you would.

13 Mr. Smith -- before we finish today we  
14 have some follow-up things with Mr. Smith.  
15 Mr. Smith I know had one question for Mr. Moose  
16 that the applicant agreed to allow him to ask.  
17 Again, there will not be any follow-up questions by  
18 the attorneys. This is just Mr. Smith's question.

19 So, Mr. Smith, if you want to come up here  
20 and ask your question, and Mr. Moose, if you want  
21 to take the stand, for lack of a better word. And  
22 remember, obviously, you're still under oath.

23 MR. SMITH: Do I need to restate my name and  
24 all of that?

1 THE HEARING OFFICER: No. She's got that. If  
2 you could just state your question -- or ask your  
3 question I guess.

4 MR. SMITH: Okay. My question is about  
5 Criterion vii, which states, "If the facility will  
6 be treating, storing or disposing of hazardous  
7 waste, an emergency response plan exists for the  
8 facility which includes notification, containment  
9 and evacuation procedures to be used in case of an  
10 accidental release."

11 You state that, "Under the criteria,  
12 hazardous waste will not be accepted, transferred  
13 treated, stored or disposed of at the facility.  
14 Therefore, the proposed transfer station will not  
15 be treating, storing or disposing hazardous waste.  
16 Criterion vii is not applicable."

17 But in Section 2.4, page 8, the last  
18 paragraph on the page --

19 THE HEARING OFFICER: Of the application,  
20 correct?

21 MR. SMITH: Of the application. It states in  
22 the middle of the paragraph that, "Waste material  
23 that cannot be returned to the generator will be  
24 separated from the remainder of the waste on the

47

1 tipping floor and placed in containers that  
2 indicate are specifically for the temporary storage  
3 of unacceptable waste. These containers will be of  
4 steel construction and will be kept within the  
5 facility."

6 So to me that right there states that you  
7 will be storing and disposing of the waste, which  
8 is in violation of Criterion vii.

9 THE HEARING OFFICER: Is there a question,  
10 Mr. Smith?

11 MR. SMITH: My question is why would you not  
12 have an emergency response plan which Criterion vii  
13 asks for if you're going to be storing accidental  
14 waste?

15 MR. MOOSE: I think there is about three pieces  
16 there, so let's start with Criterion vii first.  
17 There is no intention to accept hazardous waste at  
18 this facility. That's why we said that's not  
19 applicable.

20 If you go back to your page 2.4.8, it's  
21 under "Waste Screening and Load Checking  
22 Procedures," if unacceptable waste does find its  
23 way into the transfer station and we see it, we are  
24 going to pull it out and either recycle it or have



1 it disposed of properly and safely.

2 In the area that you read a minute or two  
3 ago, it was referring to steel containers to store  
4 up unacceptable waste so we have a sufficient  
5 amount ready to transport. Those would be white  
6 goods, washers and dryers, tires, things like that.

7 Under Criterion v, which is our  
8 contingency plan, and contained in Appendix P,  
9 there is an emergency response still reaction plan  
10 that also includes what we do if hazardous waste or  
11 liquid waste somehow found the way into the  
12 transfer station. The response plan has a method  
13 to contain the spill, clean it up and dispose of it  
14 properly as well as notification procedures.

15 THE HEARING OFFICER: Anything further,  
16 Mr. Smith, or does that answer your question?

17 MR. SMITH: Not really because Criterion vii  
18 says "in case of an accidental release." That's  
19 what they are planning for, so they should have  
20 submitted a Criterion vii.

21 THE HEARING OFFICER: Okay. Your point is in  
22 the record, and I'm sure the board will take that  
23 into account with everything else.

24 MR. SMITH: Thank you.

1 THE HEARING OFFICER: Thank you.

2 Does anyone else have additional public  
3 comment that has not been made so far and wishes to  
4 make it?

5 Okay. Thank you.

6 We have a few issues amongst the attorneys  
7 here that we should probably deal with. One is the  
8 potential -- the document labeled, "Potential State  
9 Designated Truck Routes to Existing Regional  
10 Disposal Sites." That was submitted by Groot in  
11 response to a request I made on Thursday, I think  
12 it was. Is there an objection to this document?

13 MR. BLAZER: There is.

14 THE HEARING OFFICER: Mr. Blazer?

15 MR. BLAZER: A couple of objections. Number  
16 one, what you specifically asked for was potential  
17 routes from this proposed facility to the Winnebago  
18 landfill.

19 THE HEARING OFFICER: Actually, I'm not even  
20 sure I asked for that.

21 MR. BLAZER: Actually, you did.

22 THE HEARING OFFICER: No. I think I asked for  
23 something much more limited than that.

24 MR. BLAZER: And you may have. The problem is,  
50

1 number one, this shows potential routes to,  
2 regardless of what you may have asked, to Winnebago  
3 and three landfills that haven't been discussed at  
4 this hearing and three landfills that are  
5 inconsistent with where the traffic expert said  
6 this waste was going.

7           Beyond that, it doesn't affect -- it  
8 doesn't identify the routes in any way. It doesn't  
9 give you the information you asked for.

10           THE HEARING OFFICER: Here is what I was  
11 looking for, and I have to agree this is not --  
12 this is much different than what I was looking for.  
13 And I was looking -- and I know, Mr. Porter, you  
14 weren't here Thursday when I asked for this.

15           MR. PORTER: I did happen to read it, though.

16           THE HEARING OFFICER: What I was looking for is  
17 really almost like a Google map, an aerial showing  
18 the particular roads that were discussed to get to  
19 94 and to get to 20. Those were the things that  
20 were testified to. And what I was just looking for  
21 was those particular routes, not Class II truck  
22 routes, no definition of them, just an aerial  
23 showing me I think it was Route 137 -- I don't  
24 remember what roads it was. I apologize. I don't

1 have my notes in front of me, but I'm looking for  
2 just an aerial of this particular area west. How  
3 do I get to 20. How do I get 94, and what are  
4 those roads, not labeled how you're going to do it,  
5 but just labeling the major roads that will get you  
6 there. Because that -- there were certain roads  
7 that were testified to, and I don't remember. One  
8 I think is 137, but I may be wrong, so don't hold  
9 me to it. That's all I'm looking for were those  
10 routes that were discussed and an aerial showing  
11 that.

12 Now, what I especially asked for was I was  
13 hoping that the parties would agree to come up with  
14 an agreed aerial to put as a demonstrative exhibit  
15 in. I would still ask that you try and spend  
16 some -- get some agreement. If not, Mr. Blazer, I  
17 would ask that you provide your own idea of what it  
18 was I was asking for; and Mr. Porter, if you could,  
19 now that I've had, hopefully, an opportunity to  
20 explain it better than I most likely did Thursday.

21 MR. BLAZER: I will endeavor to do the latter.  
22 As far as the former, you may recall I asked  
23 Mr. Mueller, and he rejected the proposition. I'm  
24 willing to work with Mr. Porter or Mr. -- actually,

1 Helsten is probably the most reasonable one.

2 THE HEARING OFFICER: Let's not -- no  
3 aspersions, please. Let's get through this. But I  
4 guess my suggestion is you both -- this seems to me  
5 like something that should be worked out by the  
6 parties.

7 MR. BLAZER: It should be a no-brainer.

8 THE HEARING OFFICER: That it is not something  
9 I should not have to get involved in, but  
10 Mr. Porter.

11 MR. PORTER: Our concern is the testimony has  
12 been clear that while presently that is the intent  
13 that the waste -- landfill -- that is not  
14 guaranteed throughout the life of the duration of  
15 this facility, and that has been very clear to --

16 THE HEARING OFFICER: That has been clear,  
17 Mr. Porter.

18 MR. PORTER: That's why you now have in front  
19 of you the routes that can be used to go to all of  
20 the facilities.

21 THE HEARING OFFICER: Here is the concern I  
22 have. The concern I have is that this exhibit or  
23 even an exhibit with the truck routes is somehow  
24 "new evidence" that is beyond anything you've done

1 before or is in the application and then now  
2 somehow I'm letting testimony come -- I'm letting  
3 something go in that I asked for that is beyond  
4 kind of what was contemplated in the application  
5 and in the original testimony.

6 I don't want to be the person -- I'm not  
7 trying to allow anybody to submit additional  
8 testimony. All I'm looking for is an aerial that  
9 says here are the major roads in this area. And  
10 the board can then -- they may know the roads. I  
11 just don't. The board can then figure out -- I can  
12 then figure out myself here is how I would get here  
13 by looking at an aerial because I don't know this  
14 area like many of you do. So that's all I was  
15 looking for is a demonstrative to help me  
16 understand the already existing testimony.

17 Let Mr. Porter go first because I was  
18 talking to him.

19 MR. PORTER: What about simply providing a map,  
20 a Rand McNally. I'm not sure Goggle is going to  
21 work for you, but a Rand McNally that shows the  
22 roads.

23 THE HEARING OFFICER: And that may be the  
24 solution. All I'm looking for is something along

1 those lines. It doesn't have to be an aerial. I  
2 just thought that was the simplest way in this day  
3 and age.

4 MR. BLAZER: I don't want to reinvent the wheel  
5 here, and I'll give Chuck Helsten a call tomorrow  
6 morning to see if we can work it out. If we can't,  
7 there is a program that real estate professionals  
8 and all kinds of professionals use called Google  
9 Earth, which we have in use in my office. It  
10 generates very detailed aerial maps of roadways and  
11 all kinds of things. So if I can't work it out  
12 with Chuck in the morning, I will get you ours.  
13 They can get you theirs, and we'll do the best we  
14 can. Again, this should not be --

15 MR. PORTER: We have Google Earth, too.

16 MR. BLAZER: Congratulations.

17 THE HEARING OFFICER: And, Mr. Porter, if you  
18 would rather give me a Rand McNally map, I'm okay  
19 with that, too. Just please give me something that  
20 doesn't go beyond the testimony we already have,  
21 and that's my concern here is that we are talking  
22 about things that Mr. Moose or no one ever really  
23 testified about, and your record is very clear,  
24 however, I want to make -- you have not or at least

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1 it's your position that this is not the Winnebago  
2 landfill, and I understand that and I think  
3 everybody who sat here for the last week-and-a-half  
4 or week or so does understand that. At least I  
5 think I do.

6 Okay. That being said, I'm assuming kind  
7 of by what's occurring here that no one has -- that  
8 the two of you have not sat down -- or the  
9 attorneys have not yet sat down and tried to come  
10 up with a schedule for findings of fact and  
11 conclusions of law. Is that a fair statement?

12 MR. BLAZER: Not since before the break, no.

13 THE HEARING OFFICER: Not since I discussed it,  
14 has there been any further discussions, or not  
15 really?

16 MR. BLAZER: There has not.

17 THE HEARING OFFICER: Mr. Porter?

18 MR. PORTER: I'm sorry. I was talking.

19 THE HEARING OFFICER: That's okay. My question  
20 is I assume at this point that there has not been  
21 any discussion amongst the lawyers as to a proposed  
22 schedule for findings of fact and conclusions of  
23 law at this point?

24 MR. PORTER: There has not been. I would like



1 to comment, however, we would prefer to do one  
2 findings of fact after the conclusion of the  
3 comments. We could do it within seven days of the  
4 conclusion of that. I am very concerned that if we  
5 do it in the other manner that you suggested  
6 earlier, we are going to end up in a situation  
7 where some party will ignore whatever rules or  
8 grammar and stick to it and end up doing a response  
9 brief to the brief that had been filed previously.  
10 I would rather just have one document filed at the  
11 close of the comment.

12 MR. SECHEN: That means if one simultaneously  
13 filed documents by all of the parties -- I would  
14 much rather see Groot's first.

15 THE HEARING OFFICER: And I also have a concern  
16 that once we do this, we are now looking at the  
17 conclusion of the public comment approximately  
18 November 1st or 2nd, give or take. That's 30 days  
19 out. I'm just doing it off the top of my head,  
20 sometime around November. And I don't remember the  
21 day the village board has to act, but I think it's  
22 sometime around December 8th. And again, that's  
23 not -- please don't hold me to that.

24 MR. BLAZER: Does anybody here know what day

1 180 is?

2 MR. SMITH: 120 days from --

3 THE HEARING OFFICER: Actually, I think I had  
4 approximately December 21st. And it may be off a  
5 couple of days, but that's what I think I had.

6 The concern is that with the holidays,  
7 with Thanksgiving, that we would run into some  
8 timing of me getting this done for the board, them  
9 having a chance to really go over the criteria and  
10 make proper findings and not be rushed. That's the  
11 concern I have.

12 I guess what I would like is for the  
13 parties to talk in the morning, try and come up  
14 with an agreed schedule. If not, both of you  
15 submit, you know, tomorrow at noon your proposed  
16 schedules or both or whomever. I don't mean -- if  
17 "both" is the wrong word, I apologize, because I'm  
18 not trying to dis-include anybody, but I would be  
19 at that point at noon, I would look at those  
20 schedules, whoever presents them, and try and make  
21 what I think is the fairest decision at that point  
22 given the time frames and some of the limitations.

23 I will tell you that I would be -- and I  
24 understand your concern, Mr. Porter, about someone

1 trying to go beyond what we have talked about, but  
2 I also think that on my own motion, I have the  
3 right to say this is all we are looking at or the  
4 proposed signs that relate specifically to public  
5 comment and things that have changed because of  
6 public comment. I think I'm capable of doing that,  
7 and I think that's within my discretion.

8           So given that, that's kind of where we are  
9 at because I will not on November, you know, 8th or  
10 whatever the date is accept a brief that is 20  
11 pages long and regurgitate everything or -- now, as  
12 far as simultaneous briefs, as far as a briefing  
13 schedule, I will leave that to you guys to make  
14 your own suggestions, and I will listen to  
15 everybody's position on that tomorrow. But I would  
16 like to leave here tomorrow, even if we are not  
17 done tomorrow, I would like to leave here with me  
18 being able to set a schedule of here is what we are  
19 going to do.

20           As we said before, there is a possibility  
21 that we will do closings tomorrow. I think it  
22 would probably be appropriate to be ready.  
23 However, if it appears to me that we are not going  
24 to be able to finish the closings, we are not going

1 to start them. You know, I may be wrong, but I'm  
2 going to try my best to if we have got -- I'm not  
3 going to let Groot proceed with their closing and  
4 someone have the rest of the day or half of -- it's  
5 going to be all in one day to the extent I can make  
6 that occur.

7           And my guess is that we are probably going  
8 to finish -- I'm not trying -- I don't know what  
9 Mr. Sechen is going to do, but my guess is that we  
10 probably will not start with closings tomorrow, but  
11 if the parties wish to say we are going to start  
12 Wednesday for sure, I'm willing to do that, too.  
13 It's up to the parties.

14           MR. BLAZER: I think part of the question is,  
15 unfortunately, Mr. Hearing Officer, because we  
16 don't know what Glenn is going to do, obviously, it  
17 will come as no surprise, and I already told him,  
18 we'll have an objection with respect to what he  
19 circulated with respect to Mr. Kleszynski, but on  
20 the assumption that, just for the sake of argument,  
21 that that gets overruled and Kleszynski does  
22 testify, I know that Glenn doesn't want to put him  
23 on until MaRous testifies. We are putting MaRous  
24 on tomorrow at noon, and I think we have a full day

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1 scheduled tomorrow --

2 THE HEARING OFFICER: We only have until 5:00  
3 tomorrow. That's why we're --

4 MR. KARLOVICS: Mr. Hearing Officer, the  
5 village board meeting takes one to complete, from  
6 6:00 to 7:00 p.m. If we wanted to reconvene at  
7 7:00 p.m., or give us until 7:30, we'd be able to  
8 use the rest of the time that this facility is  
9 available if you wish.

10 THE HEARING OFFICER: Okay. Let's play it by  
11 ear. I'll be honest. I have no idea what  
12 Mr. Porter's client and his client are going to do  
13 on rebuttal, but, you know, we have to keep that in  
14 mind as well.

15 MR. PORTER: I'll confess; we are right now  
16 looking at very little rebuttal, and we would  
17 prefer to do closings tomorrow.

18 THE HEARING OFFICER: Okay. Let's see what we  
19 can do. Again, I'm not -- okay. I think everybody  
20 should plan on being ready to go tomorrow. I'm not  
21 promising anything, but if we can't look like we're  
22 going to finish, I'm not going to. We are not  
23 going to go to midnight to do this. We are going  
24 to give everybody a sufficient time period, and I

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1 would like everyone to be ready tomorrow to tell  
2 me, you know, within 5, 10 minutes what -- how long  
3 their closing would occur so we can schedule that.  
4 I'm not going to limit you, but I think it's only  
5 fair that we try and keep it down to a dull roar  
6 because you're all going to have another  
7 opportunity to submit briefs, and this board, as  
8 you know, has been very -- has been here most times  
9 and has been very tentative and a large part of the  
10 process. We've had the majority or a large number  
11 of the board here pretty much every day.

12 So Mr. Porter?

13 MR. PORTER: One small housekeeping matter. I  
14 want to officially withdraw the Potential State  
15 Designated Truck Routes Document that we gave you  
16 earlier.

17 THE HEARING OFFICER: Motion to withdraw is  
18 granted.

19 MR. PORTER: And I don't know if the board has  
20 got it at all, but I ask that it be collected.

21 THE HEARING OFFICER: I think Mr. Karlovics can  
22 do that. Anybody who has this document here,  
23 please turn it in to Mr. Karlovics. I don't know  
24 that anybody got it, but if you did, please give

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1 that to Mr. Karlovics, and I will give the original  
2 back to Mr. Porter unless there is an objection to  
3 that.

4 Okay. The last thing, I just -- I know we  
5 are going to have this issue tomorrow if Mr. Sechen  
6 does call Mr. Kleszynski as to the appropriateness  
7 of that as well as the disclosure time period.

8 However, I do want to for the record state  
9 that what we are talking about is Mr. Sechen's  
10 disclosure that was done Sunday, September 29th, at  
11 2:07 p.m.

12 I would also ask that if anyone -- I do  
13 not know how I'm going to rule on the -- what I  
14 know is a coming objection by Mr. Blazer, but I  
15 would also ask that if anyone is objecting to this,  
16 that they look at this in twofold: One as --  
17 obviously, the first is not to if the objection is  
18 going to be to bar it. Mr. Blazer -- if not, I  
19 would ask that Mr. Blazer consider whether he would  
20 like additional time to respond or to be ready for  
21 Mr. Kleszynski's testimony if that's appropriate.  
22 But I'm not asking you to -- Mr. Blazer, I do want  
23 everybody to have the opportunity because the  
24 ordinance does suggest that if necessary to clear

1 any of this up, we would give someone an  
2 opportunity.

3 I'm not pre-ruling, and you can -- you can  
4 discuss it tomorrow, Mr. Blazer, but I don't want  
5 anybody to think I'm pre-ruling before, but I do  
6 want you to understand that is a possible action  
7 for me if someone needed additional time, to grant  
8 it to them.

9 So is there anything else further tonight?  
10 Hearing nothing, we will be back tomorrow at noon.  
11 And honestly, Mr. Karlovics, I forgot -- I have the  
12 wrong page with me -- what time we are doing public  
13 comment tomorrow. Do you recall?

14 MR. KARLOVICS: 4:00 o'clock.

15 THE HEARING OFFICER: Public comment will be at  
16 4:00 tomorrow. We will make a determination as to  
17 whether we will come back after the village board  
18 meeting to finish closings or whether we do it  
19 Wednesday starting at noon. Those are kind of it,  
20 but either way, we will be done Tuesday or  
21 Wednesday.

22 Thank you very much, everyone. Thank you  
23 for attending. I know the village board does  
24 appreciate you coming and giving your comments, as



1 much as it may not have been the easiest thing in  
2 the world to do. But you all presented yourself  
3 very well even if you felt uncomfortable. So thank  
4 you everyone, and we will see you tomorrow.  
5 Appreciate it.

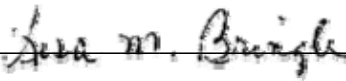
6 (Whereupon, further proceedings  
7 in said cause were adjourned to  
8 October 1, 2013, at the hour of  
9 12:00 p.m.)

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1 STATE OF ILLINOIS )  
2 ) SS:  
3 COUNTY OF C O O K )  
4

5 LISA M. BRINGLE, being first duly sworn,  
6 on oath says that she is a court reporter doing  
7 business in the City of Chicago; and that she  
8 reported in shorthand the proceedings of said  
9 hearing, and that the foregoing is a true and  
10 correct transcript of her shorthand notes so taken  
11 as aforesaid and contains the proceedings given at  
12 said hearing.

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Lisa M. Bringle, CSR

Lic. No. 084-003301



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