

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 LAKE ) No. 03-01  
TRANSFER STATION, )

Transcript of Proceedings at the hearing  
of the above-entitled cause on the 25th day of  
September 2013, at the hour of 3:00 o'clock p.m.

(Proceedings concluded at 5:45 p.m.)

Reported By: Jennifer Campbell, CSR, RPR

License No.: 084-003282

1 APPEARANCES:  
2 SCHIROTT LUETKEHANS & GARNER, LLC, by  
3 MR. PHILLIP A. LUETKEHANS  
4 THE HEARING OFFICER  
5  
6  
7 HINSHAW & CULBERTSON, LLP, by  
8 MR. CHARLES F. HELSTEN and  
9 MR. RICHARD S. PORTER  
10 On behalf of Groot Industries;  
11  
12 THE LAW OFFICES OF RUDOLPH F. MAGNA, by  
13 MR. PETERS S. KARLOVICS  
14 On behalf of the Village of Round  
15 Lake Park;  
16  
17 THE SECHEN LAW GROUP, P.C., by  
18 MR. GLENN SECHEN  
19 On behalf of the Village of Round  
20 Lake Park;  
21 TRESSLER, LLP, by  
22 MR. STEPHEN T. GROSSMARK  
23 On behalf of the Village of Round  
24 Lake Park;  
25  
26 JEEP & BLAZER, LLC, by  
27 MR. MICHAEL S. BLAZER  
28 On behalf of Timber Creek  
29 Homes, Inc. ;  
30 MR. LARRY M. CLARK,  
31 On behalf of The Solid Waste Agency  
32 of Lake County, Illinois;  
33 ALSO PRESENT: Ms. Linda Lucassen,  
34 Village of Round Lake Park Mayor.  
35 Ms. Jean McCue, Trustee  
36 Ms. Donna Wagner, Trustee

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I N D E X

WITNESS EXAMINATION

DEVIN MOOSE (Continued)

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JOHN W. THORSEN

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NUMBER MARKED FOR ID

Applicant's Exhibits 1 - 9	Admitted	127
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TCH

No. 1	34
No. 2	36
No. 22	117

EXHIBITS RETAINED BY COUNSEL

1 THE HEARING OFFICER: Mr. Blazer, you may  
2 proceed with your cross examination of Mr. Moose.

3 MR. BLAZER: Thank you, sir.

4 DEVIN MOOSE,  
5 previously called as a witness herein, having been  
6 first duly sworn, was examined and testified as  
7 follows:

8 CROSS EXAMINATION (Continued.)

9 BY MR. BLAZER:

10 Q. Mr. Moose, did you prepare the Criterion 8  
11 Section of the siting application?

12 A. It was done under my supervision.

13 Q. Did you prepare it?

14 A. No. It was done under my supervision.

15 Q. Who wrote it?

16 A. It was typed and reviewed. It was typed  
17 by Christina Seibert and reviewed and approved by  
18 me.

19 Q. And did you -- strike that.

20 Did your counsel give you a copy of the  
21 Solid Waste Plan of 2009 update?

22 A. Yes, he did.

23 Q. Okay. I note on the second page it  
24 indicates that Shaw Environmental's name and logo

4

1 are there. Shaw was involved in some fashion in  
2 the --

3 THE HEARING OFFICER: I'm looking, Mr. Blazer.  
4 I'm not sure what you're talking about on the  
5 second page. Are you talking about the Solid Waste  
6 Management Plan?

7 MR. BLAZER: I should have said that. I  
8 apologize. We've identified it, since the  
9 Applicant didn't introduce it, we've identified it  
10 as TCH Exhibit 27. We handed it out. I apologize  
11 to the Board. I assure you, you will have copies  
12 of everything I have been referring to.

13 THE HEARING OFFICER: Actually, isn't it -- is  
14 that in the application? If I -- no, it's not.

15 MR. BLAZER: It's not in the application.

16 THE HEARING OFFICER: Okay. I'm sorry. Go  
17 ahead.

18 MR. BLAZER: But I can assure all of you,  
19 you'll have everything that I've referenced that  
20 hasn't been absolutely rejected first thing  
21 tomorrow morning. My office has already made  
22 copies of it.

23 BY MR. BLAZER:

24 Q. All right. First of all, TCH 27 is the

1 plan that you're testifying about, correct?

2 A. Yes.

3 Q. And I note on the second page, as I was  
4 saying, Shaw Environmental's name and logo is on  
5 there, correct?

6 A. Yes.

7 Q. All right. And Shaw had some involvement  
8 in development of the solid waste plan, is that  
9 right?

10 A. Some involvement.

11 Q. And did you have involvement in the  
12 drafting and preparation of the current version of  
13 the solid waste plan?

14 A. No.

15 THE HEARING OFFICER: Mr. Blazer, let me just  
16 interrupt you one more time, hopefully I'm done.  
17 If you want to hand this to the Village Board, at  
18 least they'll have one copy amongst them. That's  
19 the one that was filed. I have my own, so . . .

20 BY MR. BLAZER:

21 Q. If you could turn for me, please,  
22 Mr. Moose, to Page 4-9 of the plan.

23 A. Okay.

24 Q. And I'm looking at under Section 4.2.4

1 Landfill, the paragraph No. L.1. The end of that  
2 paragraph reads, "SWALCO will consider expanding  
3 the list of landfills located outside of Lake  
4 County deemed to be serving Lake County. If the  
5 owner of the landfill proposed for inclusion first  
6 negotiates a host agreement with SWALCO, the host  
7 agreement must provide for a capacity guarantee and  
8 payment of a host fee for each ton of Lake County  
9 waste taken to the landfill."

10 MR. HELSTEN: Object to the relevance. This is  
11 the landfill section, not the transfer station  
12 section. We're not proposing to site a landfill.

13 THE HEARING OFFICER: Objection overruled.

14 MR. BLAZER: Thank you, Hearing Officer.

15 BY MR. BLAZER:

16 Q. Did I read that correctly, Mr. Moose?

17 A. You're a good reader.

18 Q. All right. Now that we know that the  
19 waste of this facility will in fact be going to the  
20 Winnebago landfill, to your knowledge, has the  
21 Winnebago landfill negotiated a host agreement with  
22 SWALCO.

23 MR. HELSTEN: Same objection. This is not a  
24 landfill proposal for which we would have to comply

1 arguably with 4.2.4 of the County Solid Waste  
2 Management Plan. This is a transfer station, which  
3 Mr. Moose has testified which the application sets  
4 forth. We have negotiated or host agreement for  
5 the transfer station.

6 THE HEARING OFFICER: I am going to let him  
7 proceed.

8 MR. BLAZER: Thank you very much, Mr. Hearing  
9 Officer.

10 BY MR. BLAZER:

11 Q. Would you like me to repeat that question,  
12 Mr. Moose?

13 A. As I recall it, A, we're not going through  
14 Winnebago landfill. B, it's not -- we're going --  
15 developing a transfer station, not a landfill.

16 So, no, we have not negotiated a host  
17 agreement with a landfill, because we're not  
18 proposing to take it to a landfill, which means  
19 direct haul, and we don't know which landfill we're  
20 going to.

21 Q. That wasn't my question. So let me try  
22 asking it again. That's the one I'd ask you to  
23 answer.

24 Has the Winnebago landfill, not you, not

1 Shaw, not Groot, not any anybody else other than  
2 the Winnebago landfill negotiated a host agreement  
3 with SWALCO to your knowledge?

4 MR. HELSTEN: Objection. Irrelevant.

5 THE HEARING OFFICER: Objection. Overruled.  
6 You may answer, if you know.

7 THE WITNESS: Not to my knowledge.

8 BY MR. BLAZER:

9 Q. All right.

10 A. Nor would I know why they would.

11 Q. Has the Winnebago landfill provided a  
12 capacity guarantee to SWALCO for Lake County waste?

13 MR. HELSTEN: Objection it's irrelevant, not  
14 applicable.

15 THE HEARING OFFICER: Objection overruled. If  
16 you know.

17 THE WITNESS: Not to my knowledge.

18 BY MR. BLAZER:

19 Q. Has the Winnebago landfill agreed to pay a  
20 host fee to SWALCO for every ton of Lake County  
21 waste that it takes?

22 A. Not to my knowledge.

23 MR. HELSTEN: Objection. Irrelevant.

24 THE HEARING OFFICER: Objection overruled.

1 MR. BLAZER: Could you pull up slide either 14  
2 or 15. 15 is fine.

3 THE HEARING OFFICER: Mr. Helsten, is this  
4 PowerPoint going in to be Groot Exhibit 9?

5 MR. HELSTEN: Yes, it is.

6 THE HEARING OFFICER: That's fine. I just want  
7 to make sure that the record is clear that that's  
8 what we're referring to.

9 MR. HELSTEN: That's what we are referring to.

10 BY MR. BLAZER:

11 Q. This Slide 15 is one of the two where you  
12 have discussed the life cycle assessment, correct?

13 A. Yes.

14 Q. And that's the life cycle assessment that  
15 was prepared in accordance with the solid waste  
16 plan, TCH Exhibit 27, is that correct?

17 A. Yes.

18 MR. BLAZER: This is TCH Exhibit 10,  
19 Mr. Hearing Officer. I have given you my  
20 highlighted one. No? Okay. And, again, before I  
21 distribute for the members of the board, I checked  
22 with Peter on this, I only brought seven today. He  
23 suggested I just give you copies of everything  
24 tomorrow morning, so I'll continue giving them to

10

1 the lawyers today. You'll get everything tomorrow.

2 BY MR. BLAZER:

3 Q. You've had a chance to look at TCH  
4 Exhibit 10, Mr. Moose?

5 A. Yes.

6 Q. Thank you.

7 I recognize it doesn't have all of the  
8 data behind it, but do you recognize this to be the  
9 text portion through the conclusion of the life  
10 cycle assessment that we just talked about that's  
11 referenced in your Slide 50?

12 A. Yes.

13 Q. This is the one?

14 A. Well, I can't see if that was the one, but  
15 the one I have in front of me is.

16 Q. All right. And this document was prepared  
17 in compliance with the solid waste plan?

18 A. As part of it, yeah, the solid waste plan,  
19 yes.

20 Q. And you believe that it does comply?

21 A. I believe that SWALCO believes it  
22 complies.

23 Q. I'm asking you, though?

24 A. Yes. Perfect. That's why we prepared it.

11

1 Q. So you do believe it does comply?

2 A. Yes.

3 MR. BLAZER: All right. That's all I have,  
4 Mr. Hearing Officer.

5 THE HEARING OFFICER: Mr. Grossmark, are you  
6 next?

7 Mr. Grossmark has no questions.

8 Mr. Clark.

9 MR. CLARK: Couple.

10 CROSS EXAMINATION

11 BY MR. CLARK:

12 Q. Mr. Moose, do you believe that -- it's  
13 your opinion, isn't it, that the facility is  
14 consistent with the Solid Waste Management Plan,  
15 correct?

16 A. That is correct.

17 Q. And that's what's required by the statute,  
18 the Lake County Solid Waste Management Plan?

19 A. Yes.

20 Q. In the -- you make reference in your  
21 testimony and in the application, you said that  
22 with regard to green and sustainable building  
23 principles that besides the daylighting and the  
24 stormwater management, you may also potentially

12

1 incorporate some other sustainable building  
2 principles into the new building. Do you recall  
3 that?

4 A. That's pretty routine these days.

5 Q. What types of things are you talking  
6 about?

7 A. In buildings like this, it might be  
8 reutilized, recycled concrete for base course,  
9 recycled asphalt. It could be toilet and plumbing  
10 fixtures, low-water-use fixtures in the employee  
11 facilities, low-energy lighting within the tipping  
12 floor and within the office area, recycled products  
13 as much as possible.

14 MR. CLARK: Okay. That's all I have.

15 THE HEARING OFFICER: Mr. Sechen.

16 MR. SECHEN: Thank you.

17 EXAMINATION

18 BY MR. SECHEN:

19 Q. Mr. Moose, at one point in time, the  
20 Village of Round Lake Park had a solid waste  
21 management plan, is that correct?

22 A. Yes.

23 Q. And that solid waste management plan was  
24 in effect when the application was filed?

13

1 A. Yes.

2 Q. Is your opinion that the application also  
3 satisfies is consistent with that plan as well?

4 A. It is.

5 MR. BLAZER: Objection. Relevance.

6 THE HEARING OFFICER: Overruled.

7 MR. SECHEN: I'm sorry?

8 THE WITNESS: It does.

9 MR. SECHEN: Thank you.

10 BY MR. SECHEN:

11 Q. Now, there's been some talk about the  
12 Winnebago landfill paying money -- excuse me --  
13 reaching a host agreement with Lake County?

14 A. Yes.

15 Q. Do transfer trailers go to more than one  
16 landfill? I mean, theoretically they can go to any  
17 landfill, I suppose?

18 A. Yes. And, in fact, you know, we don't  
19 know what landfill this is going to. The Winnebago  
20 had come up, because I have directed members of my  
21 team, Christina, during the life cycle analysis,  
22 Mr. Werthmann during his traffic analysis, we had  
23 to select a landfill in order to perform that,  
24 putting a dot on a map and having a destination is

14

1 required in order to create the traffic showing  
2 going to the west and then we had to put it down on  
3 the map to perform a life cycle analysis.

4           However, hauling or disposal agreement  
5 between transfer stations and landfills are  
6 relatively short-term, two to five years at best.  
7 And that's pretty consistent throughout all this  
8 industry. So although Groot may be bringing their  
9 waste now to Winnebago landfill, there is no  
10 guarantee that they're going to bring it to that  
11 landfill over the course of the life of this  
12 facility for the next 20 or 30 years.

13         Q. And, theoretically, they can go to some  
14 other landfill pretty much any time they want?

15         A. At some point, yes.

16         Q. Okay. Mr. Moose, you mentioned that the  
17 Lake County Solid Waste Management Plan promotes  
18 the development of transfer stations within the  
19 borders of Lake County?

20         A. I don't think I used the word promote, but  
21 it allows it as one of its disposal options or  
22 management options.

23         Q. Is it accurate to say that, should the  
24 landfills in Lake County be void of space at some

1 point in the future, you're going to need transfer  
2 stations and transport the waste elsewhere?

3 A. Well, they will be voided space at some  
4 point in the future. I think that's a known. Even  
5 if they had an expansion, they're still finite.  
6 And if you look at the trend, and Groot is betting  
7 on the speculative nature of expansions that this  
8 county like the surrounding counties is going to  
9 have to evolve and convert to a  
10 transfer-station-based system.

11 Q. And, hence, the Lake County plan  
12 apparently recognizes that?

13 A. I think so. The fact that transfer  
14 stations is an option.

15 Q. And do you have any idea how many parcels  
16 there are in Lake County that would satisfy the  
17 2214 setback requirements for a transfer station?

18 A. The parcels, no. But I can tell you that  
19 I have looked at probably like, for example,  
20 hundreds of square miles already in the county,  
21 have not found but a handful.

22 Q. And those parcels will presumably be at  
23 some point developed, and if they're developed, you  
24 won't be able to put a transfer station on them?

1           A.    You know, my recommendation to my client  
2   on this is we should obtain the property now before  
3   the next building boom comes and we lose the  
4   property.

5           Q.    And there isn't a day care center on it?

6           A.    Right.

7           Q.    Now -- okay.  Just one second.

8                    If someone were to suggest, Mr. Moose,  
9   that rather than sending our waste to a transfer  
10   station, we just not develop transfer stations in  
11   the county and just direct haul it to landfills for  
12   however long those landfills are around, would that  
13   be, in effect, ultimately leading to something  
14   other than what the Lake County Solid Waste  
15   Management Plan envisions, ultimately?

16           MR. BLAZER:  Objection to the speculative  
17   nature of the question.

18           THE HEARING OFFICER:  Objection overruled.

19           THE WITNESS:  Yeah.  Because they're talking  
20   about developing facilities before the closure of  
21   the existing facility, which, you know, I think is  
22   a very prudent thing to do, especially based on  
23   experience against the other surrounding counties.  
24   So that there is a piece of infrastructure in place

1 that allows an orderly transition.

2 BY MR. SECHEN:

3 Q. And in order to make that transition, how  
4 many years do you have? How long does it take to  
5 develop a transfer station?

6 A. You know what, you've said this before.  
7 We have been on this one for five years, we're  
8 going to open maybe in 2016, if Mr. Blazer is nice  
9 enough to keep us on the court, but four to seven  
10 years.

11 THE HEARING OFFICER: Mr. Blazer has an  
12 objection.

13 MR. BLAZER: Yes. This is seriously beyond the  
14 scope of testimony. If Mr. Sechen wanted to ask  
15 these questions, he probably needed to ask them  
16 yesterday. He talked about how long it takes to  
17 develop a transfer station.

18 MR. SECHEN: Can I argue or --

19 THE HEARING OFFICER: Yes.

20 MR. SECHEN: Well, we have a finite period  
21 given the landfills, given the lucrative amount of  
22 space to develop the transfer stations envisioned  
23 by the plan.

24 THE HEARING OFFICER: And, I guess, here's

18

1 where I'm at on this whole issue. I think it has  
2 been put in by Mr. Moose on day one and by  
3 Ms. Seibert yesterday, so I'm going to sustain the  
4 objection for being duplicative and  
5 over-repetitive, because I think I have heard this  
6 now six times in the last few days. So if I can't  
7 figure it out by now, I've got bigger issues.  
8 How's that?

9 MR. SECHEN: I am more interested in the  
10 Village Board.

11 THE HEARING OFFICER: I have very little doubt  
12 they have heard it six times and remember it, too.

13 MR. SECHEN: Well, they have just heard it  
14 again. Thank you.

15 THE HEARING OFFICER: Okay. I'm going to  
16 recognize Mr. Karlovics. Yesterday, as you may  
17 recall, the first thing we -- that Mr. Karlovics  
18 had received an e-mail from Brian Smith who on the  
19 first day I had asked questions that he had  
20 submitted. We decided at that time instead of they  
21 were probably more appropriate for Mr. Moose' first  
22 testimony, but we agreed, and Mr. Helsten was kind  
23 enough to oblige that we would ask them of  
24 Mr. Moose today instead of putting him on first

1 thing Tuesday. So given that, Mr. Karlovics is  
2 going to ask the three questions or approximately  
3 three questions he received from Mr. Smith so that  
4 we can include the public whenever possible.

5 So, Mr. Karlovics, please.

6 MR. KARLOVICS: I'm going to read these word  
7 for word. This is again questions from Brian  
8 Smith, Round Lake Park resident.

9 Question No. 1: Is there a plan in place  
10 if liquid hazardous material goes down the drain to  
11 notify the receiving body of such a spill?

12 THE WITNESS: There is a spill reaction control  
13 plan within the application. Spill reaction  
14 control plan is designed to prevent it from going  
15 down the drain to begin with. There's a series of  
16 absorbant sock, S-O-C-K. As well as rubber drain  
17 covers that we put over the drains to keep liquid  
18 from getting into the drain. Transfer stations are  
19 designed with a fairly flat floor and the location  
20 of the drains relative to the location where we tip  
21 the waste or put the waste on the floor is a very  
22 long distance. So there's a long reaction time  
23 from the place -- time you place waste on the floor  
24 until the time they can get to the drains.

20

1           The facility is also designed large enough  
2 so that we continue -- we could continue operations  
3 for a relatively small leak.

4           So it's not designed once it's in the  
5 drains, but it's designed to prevent it before it  
6 actually gets in the drain. And once we have  
7 contained it and kept it from getting in the drain,  
8 we have a contract with a emergency response  
9 contractor who would arrive onsite in short notice,  
10 clean the facility to appropriate standards, then  
11 dispose of the material properly.

12           THE HEARING OFFICER: Mr. Karlovics, I'm going  
13 to interrupt you just for a second, because I have  
14 a little more leeway, I think, than you do.

15           And, Mr. Moose, I think the question was  
16 specifically, and you gave us a lot of  
17 what-have-its, but the question specifically is, is  
18 there a plan in place to notify the receiving body  
19 if the material goes down the drain. So assuming  
20 that those steps are for any reason insufficient,  
21 is there a plan for notification is the question.

22           THE WITNESS: Yes. That's contained in the  
23 spill reaction plan.

24           THE HEARING OFFICER: Great. Thank you.

1           Go ahead, Mr. Karlovics.

2           MR. KARLOVICS: Could I just follow up?

3           Who gets notified?

4           THE WITNESS: Fire department.

5           MR. KARLOVICS: Question No. 2: What happens  
6 to the loaded trucks waiting to dump if you reach  
7 your maximum capacity for the day before 4:00 p.m.?

8           I believe this goes to the issue of the  
9 stacking of the Packard trucks.

10          THE WITNESS: Well, I hear it a little  
11 different.

12           But if we get to -- we don't have a  
13 maximum capacity, but let's say we get to 4:00 p.m.  
14 and a lot of trucks show up, there is more than  
15 enough room onsite to stack or cue the trucks. We  
16 also have more than enough room within the transfer  
17 station building itself to temporarily store the  
18 waste until we can get loaded and get them back on  
19 the street. We also ask for flexible operating  
20 hours in such an event to allow for, past  
21 4:00 o'clock, 7:00 or 8:00 or 9:00 o'clock until we  
22 can get that waste out.

23          MR. KARLOVICS: Okay. Question No. 3 is part  
24 editorial comment by Mr. Smith and then there's a

22

1 question at the end of this editorial comment.  
2 Question No. 3 for Mr. Moose: I, that's Brian  
3 Smith, find it hard to believe that in the  
4 1,368 square miles of Lake County, 201 Porter Road  
5 is the only suitable -- only site suitable for a  
6 transfer station. There's just too much open  
7 space. My question is, if this hearing denies your  
8 application, do you have another site in mind to  
9 build on? If so, where?

10 THE WITNESS: No. I don't have a site in Lake  
11 County. I imagine that there is another site  
12 somewhere that meet the criteria. I haven't found  
13 it yet. This site is a very, very good site for  
14 all the reasons we've been talking about.

15 MR. KARLOVICS: Thank you, Mr. Moose.

16 THE HEARING OFFICER: Mr. Halsten.

17 MR. HELSTEN: Nothing further of Mr. Moose.

18 THE HEARING OFFICER: Mr. Blazer, I'll let you  
19 clarify. That's it.

20 MR. BLAZER: Absolutely.

21 THE HEARING OFFICER: There's not been a lot of  
22 cross to do much with here.

23 MR. BLAZER: I understand.

24 This is just a follow-up to one of --

1 THE HEARING OFFICER: Okay. And for the  
2 record, I'm noting that this is over Mr. Halsten's  
3 objection, continuing objection on this issue. So,  
4 please, Mr. Blazer.

5 FURTHER EXAMINATION

6 BY MR. BLAZER:

7 Q. This is just in follow-up to one of the  
8 questions and answers from Mr. Sechen.

9 Mr. Moose, I tried to write this down, I'm  
10 not sure if I got it exactly right. Please correct  
11 me if I got it wrong.

12 In response to one of Mr. Sechen's  
13 questions, you said that hauling agreements are  
14 pretty short-term or something to that effect.

15 A. Disposal agreements.

16 Q. Disposal agreements, with are pretty  
17 short-term?

18 A. Yes.

19 Q. All right. Well, you are aware that Groot  
20 currently has an agreement with the Winnebago  
21 landfill providing for the Winnebago landfill to  
22 accept all waste generated through transfer  
23 stations owned and/or operated by Groot Industries  
24 and disposed of at the Winnebago landfill, correct?

24

1 MR. HELSTEN: Irrelevant.

2 THE HEARING OFFICER: You may answer.

3 THE WITNESS: Yes. That's why I instructed him  
4 to use that as a destination to do the analysis.

5 MR. BLAZER: And as a matter of fact, you  
6 helped negotiate that agreement, didn't you?

7 MR. HELSTEN: Objection. Irrelevant.

8 THE HEARING OFFICER: Objection sustained.

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

10 MR. SECHEN: Can I have one follow-up?

11 THE HEARING OFFICER: Very quickly, Mr. Sechen.

12 CROSS EXAMINATION

13 BY MR. SECHEN

14 Q. Mr. Moose, do you have any idea whether  
15 that agreement precludes the use of any other  
16 landfill?

17 A. No.

18 THE HEARING OFFICER: Thank you, all.

19 Unless Mr. Helsten has something, which  
20 I'm guessing there's no chance he wants to do,  
21 you're done, Mr. Moose.

22 Mr. Helsten, I know that I think that's  
23 the last of your witnesses for your case in chief?

24 MR. HELSTEN: Yes, it is, Mr. Hearing Officer.

25

1           What I would like to do now, the previous,  
2 the court reporter who was here previously marked  
3 Applicant's Exhibit A, which is Michael Werthmann's  
4 PowerPoint.

5           I would like Mr. Moose's PowerPoint on  
6 Criterion -- excuse me -- on Criterion 6.  
7 Mr. Werthmann's marked as Applicant's Exhibit A. I  
8 would like to present to the court reporter  
9 Mr. Moose's PowerPoint presentation on Criterion A  
10 to be marked as Applicant's Exhibit 9. Then I  
11 would move those two exhibits into evidence.

12         THE HEARING OFFICER: They will be admitted  
13 subject to the prior objection for demonstrative  
14 purposes only, unless there is something specific  
15 about these that changes that argument.

16         MR. BLAZER: That's exactly where I was. Thank  
17 you.

18         THE HEARING OFFICER: Okay.

19         MR. HELSTEN: And I would like to tender these  
20 to you, Mr. Hearing Officer.

21         THE HEARING OFFICER: Thank you, Mr. Helsten.

22         MR. HELSTEN: Mr. Hearing Officer, I just want  
23 to confirm, my notes show Applicant's Exhibits 1  
24 through 9 have been offered and admitted into

1 evidence.

2 HEARING OFFICER: Give me a second. I believe  
3 that's correct, but let me just double-check.

4 All right. That's my understanding and my  
5 records as well. If anyone has a different  
6 understanding or different position, please let me  
7 know right now. Hearing none, that's correct, and  
8 no one seems to object to that, Mr. -- or no one  
9 seems to disagree that, subject, obviously, to the  
10 prior objections.

11 MR. HELSTEN: Thank you, Mr. Hearing Officer.  
12 With that, the Applicant closes its case in chief.  
13 Of course, it reserves the right to offer more  
14 exhibits in cross-examination of other  
15 participant's witnesses and reserves the right to  
16 offer rebuttal evidence, but we close our case in  
17 chief.

18 THE HEARING OFFICER: Thank you, Mr. Helsten.  
19 And I think Mr. Blazer is going to proceed next.

20 Mr. Blazer.

21 MR. BLAZER: Before we do that, to the extent  
22 the Applicant has documents it that it intends to  
23 utilize in cross-examination, based on your prior  
24 orders, Mr. Hearing Officer, it would have been

27

1 incumbent on them to have produced them to us. So  
2 if they have them, we request that they produce  
3 them to us now.

4 THE HEARING OFFICER: Mr. Helsten.

5 MR. HELSTEN: I don't know yet what Mr. Blazer  
6 is going to present. And, by the way, Mr. Mueller  
7 and Mr. Porter will be conducting the  
8 cross-examination, so I don't think they know what  
9 exhibits they're going to be referring to until we  
10 see what Mr. Blazer and the other participants may  
11 offer up. These are not mind-readers.

12 THE HEARING OFFICER: Mr. Blazer, I know where  
13 you're going to go, but we're going to take it as  
14 it comes. I wasn't willing to do a blanket ruling  
15 for you, and I'm not willing to do one against you  
16 either. You understand what I'm saying. It's  
17 going to go both ways here.

18 MR. BLAZER: What's good for the goose is good  
19 for the gander.

20 THE HEARING OFFICER: Absolutely. I think your  
21 first witness is Mr. Thorsen.

22 MR. BLAZER: It is. As I indicated before,  
23 Mr. Hearing Officer and to all counsel, Mr. Thorsen  
24 has a medical issue with his foot, so we would

1 request that he be allowed to take a seat to  
2 testify, if that's okay.

3 THE HEARING OFFICER: Absolutely. The only  
4 question I have is -- well, let's go off the record  
5 for a second.

6 (Discussion off the record.)

7 HEARING OFFICER: You may proceed when ready.

8 MR. BLAZER: Thank you very much, Mr. Hearing  
9 Officer.

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

13 DIRECT EXAMINATION

14 BY MR. BLAZER:

15 Q. Sir, would you state your name, please?

16 A. John Thorsen.

17 MR. BLAZER: Was he sworn?

18 THE HEARING OFFICER: No. Please swear in the  
19 witness.

20 (Witness duly sworn.)

21 BY MR. BLAZER:

22 Q. Are you employed, Mr. Thorsen?

23 A. I am.

24 Q. Who do you work for?

1 A. Autumnwood ESH Consultants.

2 Q. What is the business of Autumnwood ESH  
3 Consultants?

4 A. Environmental consulting.

5 Q. Could you give us a summary of your  
6 educational background?

7 A. I have a bachelor's degree in engineering  
8 and a master's degree in regional planning.

9 Q. Where did you go to college?

10 A. Purdue for bachelor's. Illinois for  
11 master's.

12 Q. And could you summarize for us your  
13 professional experience since receiving your  
14 bachelor's.

15 A. Well, I have 40 years of experience. The  
16 first seven years working for the Wisconsin  
17 Department of Natural Resources as a regulator,  
18 whereupon I went -- crossed to the dark side and  
19 started private consulting in 1980.

20 The first five years of that experience  
21 was in wastewater and water quality planning. I  
22 began working in waste management in 1978 and have  
23 been working in waste management since then.

24 In the private sector, I've probably done

1 about 50 percent of my work for private industry  
2 and 50 percent for government, done solid waste  
3 projects, hazardous waste projects, solid waste  
4 landfill planning and design, solid waste  
5 operations, and participated in the ARF landfill  
6 proposed expansion and was the project manager and  
7 project engineer on that expansion opportunity.

8 Q. Do you hold any licenses or  
9 certifications?

10 A. I am a registered engineer in Illinois,  
11 Indiana, Michigan, and Wisconsin. And I'm a board  
12 certified environmental engineer by the American  
13 Association American Academy of Environmental  
14 Engineers.

15 Q. Now, you mentioned some of your experience  
16 in the waste industry, and you mentioned the ARF  
17 landfill, is that correct?

18 A. Correct. Now the Countryside.

19 Q. All right. So the ARF landfill is what is  
20 today known as the Countryside landfill in  
21 Grayslake?

22 A. Correct.

23 Q. Is that correct?

24 A. That is correct.

1 Q. You've got to wait until I finish before  
2 you start.

3 And could you describe again what your  
4 experience was with what is now the Grayslake, the  
5 Countryside landfill in Grayslake.

6 A. Well, we started out as basically landfill  
7 engineers making sure they were accepting  
8 appropriate waste, advising them on what to accept  
9 and not to accept.

10 MR. PORTER: I'm sorry. Mr. Luetkehans, can we  
11 get a time frame?

12 THE HEARING OFFICER: Give me an objection,  
13 foundation, and we'll go from there.

14 MR. PORTER: Objection. Foundation.

15 THE HEARING OFFICER: Perfect. Thank you.

16 BY MR. BLAZER:

17 Q. When did you work on the ARF landfill?

18 A. This was in the 1980s.

19 Q. Okay. And you were describing what you  
20 did.

21 A. We were serving as operations consultants  
22 for the landfill. We advised them, for example, to  
23 put in a wheel wash to keep the mud off the road.  
24 We put in some gas relief wells because they had

1 some problems with odors.

2 It was originally a peat bog. We  
3 excavated the peat bog. We did some consulting  
4 there. And eventually they decided that they  
5 needed to expand their landfill, and we assisted  
6 them with their expansion application.

7 Q. You have on your lap there what has been  
8 marked as TCH Exhibit 1. Do you see that?

9 A. I do.

10 Q. Okay. What is that document?

11 A. That is my curriculum vitae.

12 Q. Your resume?

13 A. My resume. Professional profile.

14 Whatever you want to call it.

15 Q. Do you have specific experience with  
16 respect to solid waste need issues?

17 A. Yes. I have one in doing the needs  
18 testimony on the ARF proposed landfill expansion.

19 Q. And what did you do for that?

20 A. You know, it's been so long ago, it's  
21 pre-computers, I don't have that information  
22 anymore. But it was basically a dissertation to  
23 meet the No. 1 Criterion in 3902.

24 Q. To meet Criterion 1 that the landfill

1 expansion was necessary to accommodate the waste  
2 management needs of Lake County?

3 A. Correct.

4 Q. And out of your 40-plus-year career, how  
5 much of that career has been focused on waste  
6 issues in Lake County?

7 A. Oh, that's hard to tell. I lived in Lake  
8 County for 20 years, I worked in Lake County for  
9 20 years. I'm currently up in Wisconsin. But many  
10 of my clients are in Lake and McHenry County. I  
11 would say 20 to 25 percent.

12 Q. In terms of solid waste need issues in  
13 Lake County, did you ever participate on any  
14 committees or any sort of governmental activities?

15 A. Well, it wasn't really a need situation.

16 The Lake County planning staff created  
17 kind of an ad hoc work group called solid waste  
18 advisory committee.

19 I believe Mr. Clark was on it, also.

20 It was in the '80s when the county was  
21 lobbying for the Solid Waste Planning Act -- I'm  
22 not sure that's the exact name -- that provided for  
23 required counties to plan for solid waste  
24 management.

1 Q. Okay.

2 A. And I represented ARF landfill.

3 Lake County was interested in getting a  
4 swap of input from private sector as well as public  
5 sector as well.

6 Q. Have you ever testified as an expert  
7 witness in any proceeding?

8 A. At the ARF landfill proceedings as well as  
9 different private sector items for deposition or  
10 for expert witness.

11 Q. Could you describe what you were retained  
12 to do in this matter.

13 A. I was retained to review the needs section  
14 of the application and determine -- and to  
15 determine whether or not there was a need for a  
16 transfer station at this point in time.

17 Q. And did you prepare a report outlining  
18 your conclusions?

19 A. I did.

20 Q. And you have on your lap there, I think,  
21 TCH Exhibit 2, is that correct?

22 A. I do.

23 Q. And is that the report that you prepared?

24 A. It is.

1 Q. Now, Mr. Thorsen, the need assessment in  
2 this siting application from Shaw has 28 pages of  
3 text plus something over 60 pages of facts and  
4 figures and appendix. Your report is just a few  
5 sentences over four-page long. How is it that you  
6 were able to come to your opinions so much more  
7 quickly than Shaw did?

8 A. Well, it was fairly simple for me.

9 The need is based on the amount of  
10 capacity left in the in-county landfills and the  
11 amount of waste projected to be generated.

12 I took at face value that the capacity of  
13 the incoming landfills in the service area  
14 landfills, if you will, is 2027.

15 And I took the information on the need or  
16 the generation of waste from the application.

17 I took the last three years of waste  
18 receipts from the two incoming landfills, and I  
19 averaged it, and it turns out that there is plenty  
20 of landfill space until 2027.

21 Q. So you haven't come up with your own  
22 numbers, you used Shaw's numbers?

23 A. Correct.

24 Except for one point.

1 Q. Yes.

2 A. Let me get to that. The fourth column in  
3 Table 1. I took their table.

4 Q. First of all you're --

5 A. Referring to Page 2.

6 Q. Page 2 of your report?

7 A. Correct.

8 Q. And it's Table 1 entitled, Evaluation of  
9 Need Based on Data in Appendix G, et cetera?

10 A. Right.

11 Q. Go ahead.

12 A. They had a calculation of the amount of  
13 waste that went out of county to other transfer  
14 stations. I took that and took it out to two  
15 places and added it up, and it was 11 tons a day.  
16 Really not a significant amount, but that was the  
17 only thing I changed.

18 Q. And you indicated that you used the  
19 landfill capacity data for the last two, three  
20 years did you say?

21 A. Landfill receipts data.

22 Q. All right. For 2010, '11, and '12?

23 A. Correct.

24 Q. And I think we've established in this

1 hearing up until now that the IEPA, as it usually  
2 dose, if ever, later, hasn't yet published the 2012  
3 landfill capacity report yet, correct?

4 A. Correct.

5 Q. How did you get that data?

6 A. I called Ellen Robinson, who is  
7 responsible for generating that report at IEPA, and  
8 she provided me with that information.

9 Q. I have one spare.

10 All right. Mr. Thorsen, I've handed you  
11 what's been marked as TCH Exhibit 2. Is that the  
12 information you were referring to that you received  
13 from Illinois IEPA?

14 A. It is.

15 Q. How did you know to call Ellen Robinson to  
16 get this information?

17 A. Well, on the inside of each of the  
18 reports, in the reports, she is listed as the  
19 person responsible for it.

20 Q. All right. Let's briefly go through your  
21 report. We won't go through it in detail, since  
22 it's already there.

23 But your overall conclusion, as you said,  
24 is that there is no need, urgent or otherwise, for

1 this transfer station in Lake County. Is that  
2 correct?

3 A. At this time, that is correct.

4 Q. Could you explain why not?

5 A. As I have said, the Applicant has  
6 indicated that they have -- that the county has  
7 landfill capacities in the county through 2027.

8 The Table 1 that we've already referred to  
9 indicates the waste generated in the service area  
10 and the service area needs and the average disposal  
11 in Lake County in 2010 to 2012, and it shows that  
12 there is an overage of capacity.

13 And even though it did not show an  
14 expansion, a growth in the amount of waste  
15 generated, which might be expected or quantity of  
16 waste grows along with the population, there is  
17 some question about numbers of tons per day  
18 generated based on Mr. Clark's testimony -- or a  
19 cross-examination yesterday and what the Applicant  
20 has submitted.

21 Q. Have you also considered the need for a  
22 transfer station in Lake County that would  
23 transport waste over 60 miles away?

24 A. I have.

1 Q. And what is your opinion with respect to  
2 that?

3 A. Well, I haven't done detailed analysis. I  
4 did mainly a mileage analysis. And that mileage  
5 analysis is summarized on Page 3 and Page 4.

6 And in-county direct-haul mileage from the  
7 centroid to the landfill and back to the centroid  
8 is 2,331 miles per day, 2,331. And to take the  
9 same 750 tons -- I only did it on the capacity of  
10 the transfer station. Take that same 750 tons and  
11 transfer it to the transfer station, haul it to the  
12 transfer station, and then transfer it. I used  
13 Winnebago County landfill. And get the transfer  
14 trailers over there and back, it's 5600 --  
15 5,694 miles or more than twice as many miles per  
16 day to haul the waste. And that, in combination,  
17 would not have a current need, just seems to be a  
18 waste of fuel and a waste of carbon into the air.

19 Q. You've already said that your opinion,  
20 your overall opinion regarding land and need for  
21 this facility, do you also have an opinion as to  
22 whether or not Groot has demonstrated that the  
23 proposed transfer station is necessary to  
24 accommodate the waste needs of the area that is

1 intended to serve, that being Lake County?

2 A. I do.

3 Q. And what is that opinion?

4 A. There is no need at this time.

5 Q. And they have not demonstrated that there  
6 is?

7 A. I do not believe that they've  
8 demonstrated, that is correct.

9 Q. And what is the basis for that opinion?

10 A. The basis of the opinion is the very  
11 simplistic method I started out with. They had I  
12 indicated there is landfill capacity until 2027.  
13 They have done all the preliminary engineering,  
14 have spent five years on this. It should not take  
15 more than two more years to design, permit, and  
16 construct a facility, particularly since they have  
17 done so many transfer stations and probably have  
18 many pieces of the design specification already  
19 developed.

20 MR. BLAZER: That's all I have at this time,  
21 Mr. Hearing Officer.

22 THE HEARING OFFICER: All right. One second.  
23 Sorry.

24 Mr. Porter, do you want to proceed next?

41

1 MR. PORTER: I do. Are we ready to do that?

2 I need to grab my mic with me.

3 THE HEARING OFFICER: Well, I have a feeling

4 Mr. Blazer is going to want that one, too.

5 MR. PORTER: He won't need it.

6 MR. BLAZER: All these assumptions about me.

7 CROSS EXAMINATION

8 BY MR. PORTER:

9 Q. Good afternoon, Mr. Thorsen. My name is  
10 Rick Porter, and I represent the applicant.

11 A. Good afternoon.

12 Q. The professional profile you provided  
13 shows that you've been involved in only two  
14 proposed Illinois municipal solid waste projects,  
15 is that accurate?

16 A. That is.

17 Q. And one of them is the ARF landfill in  
18 Grayslake back in the '80s, is that correct?

19 A. That is correct.

20 Q. And the other you list as a Land and Lakes  
21 landfill in Joliet. When were you involved in  
22 anything to do with the Land and Lakes landfill  
23 near Joliet.

24 A. That was in either the late '80s or the

42

1 early '90s.

2 Q. Is that actually the Romeoville landfill?

3 A. It is.

4 Q. All right. Now, if I understand  
5 correctly, you were involved in designing the  
6 leachate collection system, the gas management  
7 system, a well wash system, and surveying to  
8 determine whether or not the available air space,  
9 whether or not there was available air space,  
10 that's what the report indicates, right?

11 A. Where?

12 Q. In your curriculum vitae?

13 THE HEARING OFFICER: I think he's asking --

14 BY MR. PORTER:

15 Q. Oh, I'm sorry. The ARF landfill.

16 A. That is incorrect. I believe one of the  
17 reasons the ARF proposal was denied was they  
18 refused to put in a leachate collection system  
19 which we advised them strongly to do. They did not  
20 have one at the time. And I believe that is why,  
21 one of the primary reasons why it was denied.

22 Q. Okay. You mentioned that you have a vague  
23 recollection of testifying concerning need in  
24 regard to that landfill about 20 years ago?

1 MR. BLAZER: Object to the characterization.

2 MR. PORTER: I'm not characterizing. I'm  
3 repeating essentially what he said.

4 MR. BLAZER: He is not.

5 THE HEARING OFFICER: Objection to the form is  
6 sustained.

7 BY MR. PORTER:

8 Q. You mentioned that you think you did  
9 something in relation to need in regard to the ARF  
10 landfill, is that correct?

11 MR. BLAZER: Object to the form of the  
12 question.

13 THE HEARING OFFICER: Objection overruled.

14 THE WITNESS: I mentioned that I did testify to  
15 need.

16 BY MR. PORTER:

17 Q. Now, in what format? What context?  
18 Was it a local siting hearing?

19 A. It was a local siting hearing.

20 Q. Do you know if Section 39.2 existed at the  
21 time when you were testifying?

22 A. We did. That was what the hearing was  
23 held. That was the format and the framework of the  
24 hearing.

1 Q. Okay. I'm sorry. You spoke while I was,  
2 so I didn't hear what you said.

3 Did 39.2 exist when you were testifying in  
4 relation to the ARF landfill?

5 MR. BLAZER: Mr. Hearing Officer, this is -- I  
6 don't know where this is going, but Mr. Porter  
7 knows full well that 39.2 has existence since the  
8 end of 1981, and this expansion project occurred in  
9 the late 1980s.

10 THE HEARING OFFICER: He is allowed to ask the  
11 question. And you can object. And then we'll go  
12 from there. Please, just object and as to the  
13 basis, and we'll move on.

14 And, Mr. Thorsen, I would ask you, and it  
15 is very, very hard, I understand that because I do  
16 it regularly. You are often going to know what  
17 Mr. Porter is going to ask you, so it's just human  
18 nature to answer while he's asking, but please  
19 attempt to try your best to wait, because otherwise  
20 this lady to my right is going to go crazy. So,  
21 you know, it will create a much cleaner record if  
22 you wait until Mr. Porter is completely done with  
23 his question. So Mr. Porter please proceed.

24

45

1 BY MR. PORTER:

2 Q. In relation to the ARF landfill, did you  
3 draft a report concerning need?

4 A. Yes.

5 Q. And in order to do that, did you do a  
6 study?

7 A. I'm not sure exactly what we did.

8 Again, things were quite different back  
9 then, and we do not have computer records. I  
10 imagine if I went into Lake County's or possibly  
11 the city, Village of Grayslake's records, I could  
12 get that.

13 Q. Okay. Other than ARF landfill, have you  
14 ever been hired by any other entity to perform a  
15 needs analysis concerning waste disposal?

16 A. No.

17 Q. Are you aware that municipalities and  
18 counties in Illinois often have local solid waste  
19 management plans?

20 A. Yes.

21 Q. Are you aware that part of those plans  
22 includes performing a needs analysis?

23 A. Yes.

24 Q. Have you ever been hired by a municipality

1 or a county to perform a needs analysis?

2 A. No.

3 Q. Have you ever taught a course on  
4 performing waste disposal needs analysis?

5 A. Please repeat.

6 Q. Have you ever taught a course on  
7 performing waste disposal needs analyses?

8 A. No.

9 Q. Have you ever attended a course on  
10 performing waste needs analysis?

11 A. No.

12 I'm not aware that there are any.

13 Q. Have you ever attended a continuing legal  
14 education seminar topic, for example, put on by  
15 SWANCC concerning such a needs analysis?

16 A. No.

17 Q. Have you ever authored any publications  
18 concerning performing waste disposal needs  
19 analysis?

20 A. No.

21 Q. When were you hired by Mr. Blazer in  
22 relation to this matter?

23 A. In August of this year.

24 Q. And exactly when in August?

1           A.    I don't know the exact date.  My report is  
2   dated August 30th, so it was probably around the  
3   15th.

4           Q.    So at most -- well, strike that.

5                    I think you have testified, the only  
6   document that you reviewed was the Groot  
7   application, is that correct?

8           A.    No.  I did not testify to that.

9           Q.    Well, other than the Groot application,  
10   did you review any other documents in preparation  
11   for your testimony today?

12          A.    I did.

13          Q.    What?

14          A.    Several years of the Illinois annual  
15   reports, the Veolia needs applications, the  
16   energy -- I'm not sure what the document is called  
17   right now, I don't have it in my hand, but it was  
18   referred to in Mr. Blazer's last cross-examination  
19   of Mr. Moose.  I'm not sure what else I had in  
20   there, but I had at least reviewed those documents.

21                THE HEARING OFFICER:  One second.

22                BY MR. PORTER:

23           Q.    Your report doesn't identify any documents  
24   other than the Groot application as having been

48

1 reviewed by you, is that correct?

2 A. That is correct.

3 Q. You did not compile any of your own data  
4 in relation to your opinions here today, is that  
5 right?

6 A. Other than correcting or extrapolating the  
7 waste transferred out of Lake County to other  
8 transfer stations, I did not.

9 I used a good faith value, the data that  
10 was in the application.

11 Q. You used the data that CBI put together on  
12 behalf of Groot, correct?

13 A. Correct.

14 Q. Your report does not raise any criticism  
15 about the proposed service area as being defined as  
16 Lake County, correct?

17 A. That is correct.

18 Q. You'd agree that it's appropriate to  
19 acquire data on the population, number of  
20 households and employment from the U.S. Census  
21 Bureau, Chicago Metropolitan Agency for Planning,  
22 and the Illinois Department of Employment Security,  
23 correct?

24 A. I do.

1 Q. You do not have any criticisms of the  
2 estimates of CBI concerning current and future  
3 waste quantities, do you?

4 A. I did not look that deeply into it, I  
5 accepted it at face value.

6 Q. You would agree that it's appropriate to  
7 determine solid waste disposal quantities in  
8 landfill capacity by using annual reports of the  
9 Illinois Environmental Protection Agency as well as  
10 resources from the Indiana Department of  
11 Environmental Management, the Michigan Department  
12 of Environmental Quality, and the Wisconsin  
13 Department of Natural Resources, right?

14 MR. BLAZER: Mr. Hearing Officer, just for the  
15 sake of the court reporter, because I see smoke  
16 coming off her hands, I'd suggest that Mr. Porter  
17 might want to slow down a little bit.

18 MR. PORTER: Did you get all that?

19 THE COURT REPORTER: I was going to follow up  
20 on the last Department of --

21 BY MR. PORTER:

22 Q. All right. You would agree that it's  
23 appropriate to determine solid waste disposal  
24 quantities by utilizing the annual report of the

1 IEPA as well as resources from the Indiana  
2 Department of Environmental Management, the  
3 Michigan Department of Environmental Quality, and  
4 the Wisconsin Department of Natural Resources,  
5 correct?

6 A. I do.

7 Q. You do not have any criticisms of the  
8 population projection figures used by CBI, which  
9 are contained in appendix G1, is that correct?

10 A. I used them.

11 Q. So you obviously have no criticisms of  
12 them, right?

13 A. That is correct.

14 Q. That data shows 2010 -- strike that.

15 That data shows that in 2010, the total  
16 population of Lake County was 703,000 and was  
17 projected to grow at 35 percent to 953,674 by the  
18 year 2040, is that right?

19 A. If you say so.

20 Q. Well, you're the one offering the opinion  
21 here.

22 A. I don't have that. I don't have the  
23 application in front of me.

24 Q. Okay. If the application indicates that

1 the projected growth in Lake County between now and  
2 2040 was actually 36 percent, you would have no  
3 reason to dispute that, right?

4 A. That is correct.

5 Q. Likewise, the application indicates that  
6 the households in Lake County were projecting  
7 increase from 241,712 in 2010 up to 326,763 in 2040  
8 for a 40 -- I'm sorry -- a 35 percent increase.

9 Do you have any reason to dispute that?

10 A. No. But I don't see the relevance since  
11 everything is developed in terms of pounds per  
12 capita per day, not pounds per household per day.

13 Q. Let me parse that.

14 Are you indicating that it's irrelevant  
15 the amount of growth that Lake County is likely to  
16 see over the next 25 years?

17 A. Absolutely not.

18 Q. Well, how then is this data irrelevant?

19 A. I said the number of household growth,  
20 percent of household growth seems to be relatively  
21 irrelevant.

22 Q. Well, if we have more households, wouldn't  
23 you agree that it's highly likely that we're going  
24 to have more waste?

1 A. Not necessarily.

2 It was developed on a pounds-per-capita  
3 basis, which I used at face value.

4 If there was something that goes into that  
5 that included an increase in pounds per capita  
6 based on the number of households, I used that.

7 Q. Did you also use the fact that the  
8 employment figures are projecting an increase over  
9 45 percent in Lake County?

10 A. Sir, I told you I used the applicant's  
11 data.

12 Q. So you have no reason to dispute that  
13 figure, is that correct?

14 A. That is correct.

15 Q. Are you aware that the Illinois Local  
16 Solid Waste Disposal Act provides that when  
17 performing waste cleaning, units of local  
18 government most consider projected solid waste  
19 disposal needs for at least 20 years in the future?

20 A. Yes.

21 Q. Specifically, that act provides that a  
22 description of the origin, content, and weight or  
23 volume of municipal waste currently generated  
24 within the unit university of local government's

1 boundaries, an estimate of the origin, content, and  
2 weight or volume of municipal waste generated  
3 within the local government's boundaries during the  
4 next 20 years must be considered; right?

5 A. Correct.

6 Q. The act also provides that governments,  
7 such as village -- such as the Village of Round  
8 Lake Park, which had a plan, must include, quote, a  
9 description of the facilities and programs that are  
10 proposed for the management of municipal waste  
11 generated within the unit of local government's  
12 boundaries during the next 20 years?

13 MR. BLAZER: Object to the relevance. A local  
14 solid waste plant.

15 THE HEARING OFFICER: Objection overruled.

16 THE WITNESS: Please repeat.

17 BY MR. PORTER:

18 Q. Isn't it true that that same act,  
19 Section 10.3.3, provides that a description of the  
20 facilities and programs proposed for the management  
21 of municipal waste generated within the unit of  
22 local government's boundaries during the next  
23 20 years is to be considered?

24 A. Yes.

1 Q. Likewise, the act provides that every  
2 fifth year, the unit of local government is to  
3 include review of the 20-year solid waste plan, is  
4 that right?

5 A. Yes.

6 Q. And you were aware that the needs analysis  
7 that the group application employed considered  
8 waste projections through 2035, is that right?

9 A. I used those through 2027.

10 Q. Well, 2027 is only 12 years after this  
11 proposed transfer station is likely to be up and  
12 running, is that correct?

13 A. That is correct. However, I was just  
14 evaluating the need until there are no more  
15 landfills in the county, no more landfill capacity  
16 in the county, which was 2027.

17 I terminated my analysis at that point,  
18 when I saw that there was adequate capacity, I was  
19 done.

20 Q. So you did not perform an analysis of  
21 whether or not there is sufficient need for the  
22 next 20 years, correct?

23 MR. BLAZER: Objection. Asked and answered.

24 THE HEARING OFFICER: Objection overruled.

1 THE WITNESS: That is correct.

2 BY MR. PORTER:

3 Q. And isn't it true that the law requires  
4 that when one is doing a needs analysis, he or she  
5 do so for at least 20 years?

6 A. Not --

7 MR. BLAZER: Objection. Calls for a legal  
8 conclusion.

9 THE HEARING OFFICER: Objection sustained.

10 MR. PORTER: May I respond?

11 THE HEARING OFFICER: You may.

12 MR. PORTER: This witness is here purportedly  
13 as an expert in performing needs analyses and if  
14 indeed is one, he should certainly know that the  
15 law requires such analyses be done for at least  
16 20 years.

17 THE HEARING OFFICER: I think that's a legal  
18 conclusion for others to make, Mr. Porter. I think  
19 you've absolutely made your point, don't get me  
20 wrong, but getting a conclusion out of him doesn't  
21 really get us much further down the road. I assume  
22 in closing statements I'm going to hear about that  
23 again and in my findings of fact I'm going to hear  
24 the ones you proposed. Please, go ahead.

1 MR. PORTER: I understand that the objection is  
2 sustained.

3 BY MR. PORTER:

4 Q. If I understand your opinion correctly,  
5 you're not disputing that by year 2027, Lake County  
6 will have no landfill capacity, right?

7 A. I am accepting that, but there could be  
8 other expansion requests. I'm not including that  
9 as part of my analysis.

10 Q. And are you aware that it takes an average  
11 of nine years to site a landfill in Illinois?

12 A. I am.

13 Q. And let's talk about the ARF plan, though,  
14 for example.

15 When was that expansion that you worked on  
16 first contemplated?

17 A. Probably in 1984 or '85.

18 Q. And ultimately your proposed expansion was  
19 rejected, is that right?

20 A. That is correct.

21 Q. And when was it first rejected?

22 A. I don't know the exact date. I would  
23 guess 1989, but it is somewhat of a guess.

24 Q. It was rejected again after that, wasn't

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1 it?

2 A. It was not by ARF, I don't believe. I  
3 think it was Countryside at that point or owned by  
4 Waste Management if not named Countryside.

5 Q. Isn't it true that the ARF landfill  
6 expansion first attempt was denied and on  
7 March 24th, 1987?

8 A. That sounds about right.

9 Q. It was denied again on December 28th of  
10 1988, is that right?

11 A. Sounds right.

12 Q. That denial was upheld by the Pollution  
13 Control Board in May of 1989, is that correct?

14 A. That also sounds right.

15 Q. A third attempt was made by USA Waste at  
16 that time, which was finally permitted in 1995, is  
17 that correct?

18 A. I was not working onsite at that point in  
19 time, but that sounds right.

20 Q. So not surprising to you, the very project  
21 you worked on took ten years before it actually was  
22 permitted, is that right?

23 A. There were extenuating circumstances,  
24 including a change of ownership and other things.

1 Q. And extenuating circumstances of there  
2 being objectors and hearings and planning, correct?

3 A. Correct. And change of ownership. You  
4 know, it's a little bit more than the nine year  
5 average, so nine years is good. I don't dispute  
6 that.

7 Q. And it can certainly take longer than nine  
8 years for a landfill to be sited in Illinois, isn't  
9 that right?

10 A. It could.

11 Q. Are you -- well strike that.

12 You haven't worked on any other projects,  
13 though, is that right?

14 A. Please repeat.

15 Q. Have you worked on any other landfill  
16 siting projects?

17 A. I have not.

18 Q. You would agree that the analysis done by  
19 CBI proves that the 20 year capacity need is not  
20 met, correct?

21 A. I would.

22 Q. As a matter of fact, I've read your  
23 report. And no where in it does it come to a  
24 conclusion that Criterion No. 1 was not met, does

1 it?

2 A. I was not looking at Criterion No. 1,  
3 per se. I was looking at the need in the next  
4 12 years.

5 Q. So you do not have an opinion that this  
6 application fails to meet Criterion 1, do you?

7 A. It fails to meet the need for a  
8 landfill -- for a transfer station at this time.

9 Q. Well, you're aware that there are -- well.  
10 Strike that.

11 You're aware that the trend in Northern  
12 Illinois, particularly collar counties, is away  
13 from landfill and towards transfer stations, are  
14 you not?

15 A. I am.

16 Q. You certainly saw ample amount texts and  
17 study in Groot application about the trends in our  
18 area, is that right?

19 A. That's correct.

20 Q. And you certainly have no criticism of  
21 their conclusion that the trend is away from  
22 landfilling and toward transfer stations, correct?

23 A. That is correct.

24 Q. As a matter of fact, do you know how many

1 landfills were in Cook County 20 years ago?

2 A. 15 or so.

3 Q. Do you know how many landfills there are  
4 in Cook County today operating?

5 A. One. One.

6 Q. Do you know how many transfer stations  
7 there are in Cook County today?

8 A. I know there's arm load -- it's an arm's  
9 list -- arm's length list, I should say.

10 Q. It wouldn't surprise you to learn there  
11 are 44 transfer stations operating in Cook County  
12 today?

13 A. It does not.

14 Q. It's fair to say that transfer stations  
15 have replaced landfills in Cook County, right?

16 MR. BLAZER: Object to the form of the  
17 question.

18 THE HEARING OFFICER: Response, or what is  
19 wrong with the form?

20 BY MR. PORTER:

21 Q. Would you agree --

22 THE HEARING OFFICER: What was wrong with the  
23 form?

24 MR. BLAZER: Use of the word replaced,

1 considering the other testimony in this case.

2 THE HEARING OFFICER: I did kind of have a  
3 problem with that word. Why don't you rephrase it.

4 BY MR. PORTER:

5 Q. You would agree that in Cook County  
6 transfer stations are the preferred and  
7 overwhelming method used for waste management as  
8 opposed to landfilling, correct?

9 MR. BLAZER: I have to object, Mr. Hearing  
10 Officer. As Mr. Porter well knows, it is illegal  
11 in Cook County to site or expand a landfill, so  
12 both mischaracterizing both facts and the law.

13 THE HEARING OFFICER: Objection overruled.

14 BY MR. PORTER:

15 Q. Do you remember the question?

16 A. Please repeat.

17 Q. You would agree that the overwhelming  
18 method for waste management in Cook County now is  
19 transfer stations as opposed to landfill?

20 A. That is correct.

21 Q. Do you know how many landfills were in  
22 Kane County 20 years ago?

23 A. I think there were two or three.

24 Q. Do you know how many there are now?

1 A. I believe there are none.

2 Q. So you would agree that transfer -- strike  
3 that.

4 Do you know how many transfer stations  
5 there are in Kane County?

6 A. One or two.

7 Q. So you would agree transfer stations have  
8 now taken over as the land -- as the waste  
9 management option in Kane County?

10 A. Since they're not allowed in Kane County,  
11 landfills are not allowed in Kane County, that's  
12 about the only way they can handle it.

13 Q. Do you know how many landfills there were  
14 in DuPage County 20 years ago?

15 A. Oh, five or six large ones anyway.

16 Q. And how many are there operating now?

17 A. Zero.

18 Q. Do you know how many transfer stations  
19 have been proposed in DuPage County?

20 A. I do not.

21 Q. Would it surprise you to learn that there  
22 have been at least five proposed there?

23 A. No. Not based on population and the fact  
24 there are no landfills there.

1 Q. Do you know how many transfer stations  
2 have successfully been sited in DuPage County?

3 A. I do not.

4 Q. Would it surprise you to learn that  
5 there's only one?

6 A. No.

7 Q. Why doesn't that surprise you?

8 A. Because it is difficult to get a waste  
9 management facility sited in any county.

10 Q. Right. But your report presumes that in a  
11 matter of two years a waste company will be able to  
12 conceptualize, bring application, and get an  
13 approval; and, therefore, you don't think that we  
14 need to do anything about meeting our waste needs  
15 until the year 2025, right?

16 A. I disagree.

17 Q. Isn't that your opinion in your report?

18 A. No, it is not.

19 MR. BLAZER: Mr. Hearing Officer, I'd like the  
20 witness to be allowed to answer the question. I  
21 don't believe he had.

22 MR. PORTER: I definitely stepped on him, and I  
23 think he answered the question.

24 THE HEARING OFFICER: I think he did, but since

1 he is an expert, I would like to give him the  
2 opportunity to finish the answer if there is  
3 something you would like to say to I think it's  
4 probably now the prior question, but go ahead.

5 THE WITNESS: As part of the direct testimony  
6 indicated that the Applicant has done a great job  
7 doing conceptual planning and getting ready for a  
8 transfer station, and they have -- clearly have  
9 done this before, designed them before, built them  
10 before, and so the permitting process should only  
11 take two to three years.

12 BY MR. PORTER:

13 Q. I understand now. You're relying on the  
14 fact --

15 MR. BLAZER: He cut him off again, Mr. Hearing  
16 Officer.

17 THE HEARING OFFICER: Yes. Let him finish.

18 BY MR. PORTER:

19 Q. Was anything else you wanted to add?

20 A. No.

21 Q. So you're relying on the fact that Groot  
22 has already spent over five years on this project  
23 to come to your conclusion it only takes two to  
24 three to get a transfer station up and running, is

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1 that right?

2 A. That is not what I said.

3 Q. Well, it wouldn't surprise you to learn it  
4 can take seven to eight years to get a transfer  
5 station up and running, is that right?

6 A. I agree with that entirely. And we've  
7 spent five of those years now. So if you wait a  
8 few more years, it should only take a couple more  
9 years to get the permit. Right?

10 Q. Do you believe it's responsible  
11 engineering to wait until the capacity has been  
12 exhausted before you need any planning --

13 A. No.

14 Q. -- for future waste management?

15 A. I did not say that.

16 Q. As a matter of fact, isn't that exactly  
17 contrary to the dictates of the Lake County Solid  
18 Waste Management Plan?

19 MR. BLAZER: Objection. Beyond the scope. He  
20 didn't testify about the solid waste plan.

21 THE HEARING OFFICER: Overruled.

22 MR. GROSSMARK: Objection. Counsel is arguing  
23 with the witness.

24 THE HEARING OFFICER: Overruled.

1 BY MR. PORTER:

2 Q. Isn't it true that the Lake County Solid  
3 Waste Management Plan explicitly requires that  
4 future needs be planned for before the existing  
5 capacity is exhausted?

6 A. That is the County's responsibility. Yes.

7 Q. Did you see in the needs analysis in the  
8 Groot report the discussion about the proximity of  
9 the two existing landfills in Lake County to the  
10 waste centroid?

11 A. Yes.

12 Q. And isn't it true that the Countryside  
13 landfill is the closest one to the proposed  
14 transfer station site?

15 A. It is.

16 Q. And wouldn't you agree that the next  
17 transfer stations and/or land filling options are  
18 two to three times further from the waste centroid  
19 than the transfer station site?

20 A. If you would repeat that I'd appreciate  
21 it.

22 Q. Well, isn't it true -- strike that.

23 Let's go back to Countryside. Countryside  
24 is going to be at capacity within about five years

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1 at the time that this transfer station will be up  
2 and running, right?

3 MR. BLAZER: Object. Mischaracterizes facts in  
4 the case.

5 THE HEARING OFFICER: Overruled. You can ask  
6 what his understanding is, and that's what he's  
7 asking.

8 THE WITNESS: My understanding based on just  
9 looking at the 2012 capacity report and the last  
10 three years of land filling at Countryside that  
11 they've got ten years capacity left from January 1.

12 BY MR. PORTER:

13 Q. So from 2015 at most then they're going to  
14 have seven or eight years?

15 A. Correct.

16 Q. And after that landfill reaches capacity,  
17 the next nearest options for transfer stations or  
18 landfills are two to three times further from the  
19 waste centroid and this proposed landfill, is that  
20 correct?

21 A. Are you talking about --

22 Q. I'm sorry. The proposed --

23 A. -- Countryside to Zion?

24 Q. Zion and I believe the Willow -- I want to

1 say Willow Creek transfer station?

2 A. Yes. I agree.

3 Q. So once the Countryside landfill is  
4 closed, this is definitely going to be the closest  
5 option when looking at transportation, right?

6 A. Closest to the centroids that were in  
7 existence. Correct.

8 Q. Well, one of your concerns in your report  
9 is somehow that we're going to have less carbon  
10 emissions if we don't site this transfer station.  
11 Is that what I heard earlier?

12 A. If you don't site the transfer station  
13 until you're closer to reaching capacity of the  
14 in-county landfills.

15 Q. Well, you understand this transfer station  
16 is much closer than Zion, right?

17 MR. BLAZER: Object to the form of the  
18 question.

19 THE HEARING OFFICER: Objection sustained.

20 BY MR. PORTER:

21 Q. You understand that this proposed transfer  
22 station is closer to the centroid than Zion,  
23 correct?

24 A. That's correct.

1 Q. So the waste being hauled to the transfer  
2 station necessarily there is going to be less  
3 traffic on the road and carbon emissions, to use  
4 your words, than hauling it to Zion, correct?

5 A. I have not done that analysis, so I can't  
6 agree or disagree.

7 Q. Are you -- the only other landfill that  
8 Lake County has been sending its waste to is the  
9 Pheasant Run landfill. Are you aware of that?

10 A. I am.

11 Q. Are you also aware that Wisconsin began  
12 imposing a substantial approximately 10 dollar per  
13 ton surcharge at its landfills?

14 A. I am. That's why I did not include it in  
15 my analysis.

16 Q. So you would agree that shipping to  
17 Wisconsin, and particularly the Pheasant Run  
18 landfill no longer is an option?

19 A. No. I don't necessarily agree with that.  
20 It's up to the individual community waste haulers  
21 to determine if they are willing to pay that much  
22 money.

23 Q. Or they can build a transfer station to  
24 avoid paying substantially more money, correct?



1 correct?

2 MR. BLAZER: Object to the characterization.

3 Object to the form of the question.

4 HEARING OFFICER: Objection overruled.

5 THE WITNESS: Please repeat.

6 BY MR. PORTER:

7 Q. Well, since it's their plan to develop  
8 transfer stations within its corporate limits,  
9 wouldn't you agree that this proposal meets the  
10 needs of that plan?

11 MR. BLAZER: I'll also object to the relevance,  
12 Mr. Hearing Officer. The criterion is the needs of  
13 the service area, which is Lake County, not the  
14 needs of one individual community in the service  
15 area.

16 THE HEARING OFFICER: I do question the weight  
17 or the importance of this, but I think it is -- I'm  
18 going to, like I did with you, I'm going to let him  
19 answer the question, but I'll give it the  
20 appropriate weight as I'm sure the Board will.

21 MR. CLARK: I would object on the basis that  
22 the village plan is county. The village had a plan  
23 that they --

24 THE HEARING OFFICER: Mr. Clark, as to that,

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1 I'll let you redirect or recross to clarify, but I  
2 think that's probably not appropriate for this  
3 witness. He either knows or he doesn't.

4 THE WITNESS: Could you repeat again?

5 BY MR. PORTER:

6 Q. You would agree that this proposal meets  
7 the needs of that plan, correct?

8 A. At least partially. I'm not terribly  
9 familiar with the Village of Round Lake Park's  
10 plan.

11 Q. Well, you're aware that the Lake County  
12 plan allows for transfer stations, correct?

13 A. I am.

14 Q. And you would certainly agree that this  
15 proposal meets the needs reflected in that plan,  
16 right?

17 MR. BLAZER: Objection, Your Honor. He was not  
18 tendered.

19 THE HEARING OFFICER: Trust me, that's not even  
20 close.

21 MR. BLAZER: He has not been tendered, nor has  
22 he testified as a witness with respect to  
23 Criterion 8.

24 MR. PORTER: I'm not asking questions on

1 Criterion 8.

2 MR. BLAZER: I think that's exactly --

3 THE HEARING OFFICER: Let him finish his  
4 response, then you can go forward, Mr. Porter,  
5 please.

6 MR. PORTER: I am inquiring as whether waste  
7 needs of the county are being met, which are  
8 identified in their solid waste management plans.

9 MR. BLAZER: That wasn't the question he asked  
10 him.

11 THE HEARING OFFICER: Well, why don't you  
12 re-ask the question, Mr. Porter. Then we will do  
13 this all again in about 20 seconds.

14 BY MR. PORTER:

15 Q. Assuming that the Lake County Solid Waste  
16 Management plan allows for, provides procedures for  
17 siting of transfer stations within its  
18 jurisdiction, you would agree that this application  
19 meets the needs of that plan, correct?

20 MR. CLARK: Object. The plan doesn't have any  
21 needs.

22 THE HEARING OFFICER: Objection as to form  
23 sustained.

24

1 BY MR. PORTER:

2 Q. Would you agree that, as announced in the  
3 Lake County plan, that this proposal meets the  
4 waste disposal needs of Lake County?

5 MR. BLAZER: Objection as to form and beyond  
6 the scope of this witness's testimony.

7 THE HEARING OFFICER: I do think we're getting  
8 a little far afield, honestly. I think as long as  
9 the Board can read that sentence, it says that they  
10 are looking for waste transfer stations. I think  
11 that's really the point you are making, you are  
12 trying to make. I think we all have read that  
13 sentence a number of times and are aware of it. So  
14 please move on at that point.

15 MR. PORTER: May I take one last stab?

16 THE HEARING OFFICER: Yeah. I'm not going to  
17 deny you an opportunity. Mr. Blazer is already  
18 standing, waiting with bated breath, but go ahead.  
19 I'm sorry.

20 BY MR. PORTER:

21 Q. Given the language that was just referred  
22 to by the Hearing Officer, the Lake County plan,  
23 wouldn't you agree that there is a need that is met  
24 by this application in relation to meeting the

1 goals of that plan?

2 MR. BLAZER: Well, he turned the question  
3 inside out and backwards, but it's still the same  
4 question. I have the same objection.

5 THE HEARING OFFICER: I have to agree, and we  
6 will sustain the objection, Mr. Porter.

7 BY MR. PORTER:

8 Q. All right. You would agree that the 2011  
9 waste disposal rate 6.1 pounds per capita per day,  
10 which was used by CBI, correct?

11 A. Correct.

12 Q. And you don't have any criticisms of their  
13 conclusion that the average quantities using that  
14 disposal rate will increase from 2,899 tons per day  
15 in 2015 up to 3,550 tons per day in 2036, correct?

16 A. I believe those are the numbers, yes.

17 Q. And, furthermore, using historical data,  
18 you agree that the waste will go from 3,422 tons  
19 per day in 2015 all the way up to 4,491 pounds per  
20 day by 2035, right?

21 A. Correct.

22 Q. By the way, your Table 1 does not subtract  
23 the amount of Lake County landfill importation of  
24 waste, is that right?

1 A. That is correct.

2 Q. And if you were to subtract -- well strike  
3 it.

4 Isn't it true that the importation rate is  
5 about 34 percent in Lake County?

6 A. I don't know the answer to that.

7 Q. Do you know that if you were to subtract  
8 the amount of waste that is imported from your  
9 final column, you would actually end up immediately  
10 having a capacity need?

11 A. I don't follow you.

12 Q. If you subtract the amount of imported  
13 waste to the Lake County landfills, that will  
14 completely change results of your table, would it  
15 not?

16 MR. BLAZER: Object to the form of the  
17 question.

18 THE HEARING OFFICER: Objection overruled.

19 THE WITNESS: If you completely remove the  
20 imports, the average disposal in Lake County  
21 landfills would go down and the extra capacity  
22 would go up.

23 BY MR. PORTER:

24 Q. Well, your need would also change from a

1 negative to a positive, isn't that right?

2 A. The need is a positive. I'm looking in  
3 Column 2. Need of the service area. There is no  
4 negative value there.

5 Q. Well, the need, the final need in the  
6 service area is your last column?

7 A. Yes.

8 Q. And that's the basis of your opinion that  
9 there's a negative need, right?

10 A. Correct.

11 Q. Now, if you were to subtract the imported  
12 waste, that turns into a positive and all of a  
13 sudden today you have the need, correct?

14 A. There is no rationale for that.

15 If you're taking away waste, then there's  
16 less waste received at the landfill and there's  
17 more overcapacity. Not having done the  
18 calculation, just thinking about what you're  
19 saying, it makes no sense at all.

20 Q. Now, you're not denying, however, that  
21 your Table 1 fails to look through 2035, correct?

22 A. That was not the scope of my work.

23 Q. So who told you not to look at the 20-year  
24 need?

1           A.    No one.  I merely looked at the landfill  
2   capacity versus the need for a transfer station at  
3   this time.

4           Q.    Are you aware of any other application in  
5   Illinois where the landfill capacity need did not  
6   look at least 20 years?

7           A.    Sir, I was not hired to do a needs study.  
8   I was hired to evaluate the needs study done for  
9   this application.

10          Q.    And I appreciate you didn't do a needs  
11   study and that Groot did.  I understand that.

12                    What my question right now is, are you  
13   aware of any application where the question of  
14   whether or not there is sufficient need of the  
15   Criteria 1 did not at least look at the 20-year  
16   need?

17          A.    Well, that's what the statute requires,  
18   so -- and that's what you folks did, so I'm not  
19   sure what the question is.

20          Q.    But you did not look at the 20-year need,  
21   you stopped --

22          A.    I have --

23          Q.    -- at the year 2027, correct?

24          MR. BLAZER:  Objection.  Asked and answered

1 twice.

2 THE HEARING OFFICER: I'll sustain the  
3 objection.

4 MR. KARLOVICS: At this point, Mr. Hearing  
5 Officer, I want to have the record reflect the  
6 presence of Mayor Linda Lucassen at 4:45 p.m.

7 THE HEARING OFFICER: Welcome, Mayor.

8 BY MR. PORTER:

9 Q. So you're not disputing that there will  
10 indeed be a need. You're just disputing the timing  
11 when the application should be brought, right?

12 MR. BLAZER: Objection. Asked and answered.

13 THE HEARING OFFICER: I don't think that was  
14 asked. Objection overruled.

15 THE WITNESS: That is correct.

16 BY MR. PORTER:

17 Q. And so you're not denying that there's a  
18 20-year need now, you just believe we could bring  
19 the application later, right?

20 A. I believe there is sufficient capacity at  
21 this point in time to handle the service area waste  
22 through 2027.

23 Q. Now, you heard Ms. Seibert testify that  
24 that capacity could actually be reached before

1 2027, didn't you?

2 A. I did. And it could be reached after,  
3 also.

4 Q. You wouldn't -- you're not willing to  
5 guarantee that there will be capacity of landfill  
6 through 2027, are you?

7 A. No.

8 Q. You would agree that they could reach  
9 capacity much sooner than that, correct?

10 A. Possible.

11 MR. BLAZER: Object to the form of the question  
12 as to "much sooner."

13 HEARING OFFICER: Let's take out the word  
14 "much" and say "sooner."

15 BY MR. PORTER:

16 Q. You would agree that those -- the  
17 landfills in Lake County could reach capacity  
18 sooner than 2027, right?

19 A. Or later, yes, I'd agree.

20 Q. And that's because they could accept waste  
21 at different rates and from different communities,  
22 correct?

23 A. And for different internal reasons, also.

24 Q. So as a matter of engineering

1 reasonableness, wouldn't you agree that it would be  
2 unreasonable to begin planning your transfer  
3 station in 2025?

4 A. I do. However, you began your planning in  
5 2008, so I think you've done the bulk of the work  
6 that needs to be done.

7 Q. So when is it -- if you're acknowledging  
8 that the capacity could be reached any time before  
9 2027, when is it that you think the application  
10 should be filed?

11 MR. BLAZER: Object to the form of the question  
12 and the characterization, use of the words "any  
13 time." There is no evidence in this record that it  
14 could be achieved at any time.

15 THE HEARING OFFICER: Rephrase the question,  
16 please.

17 BY MR. PORTER:

18 Q. Since you're acknowledging capacity could  
19 be reached sooner than 2027, when do you suggest  
20 you file the application?

21 A. I'm not sure that that is in my  
22 wheelhouse, so to speak, because there are a lot of  
23 business decisions involved in that. And I believe  
24 that now is too early, but is 20 -- by 2027 is too

1 late. How's that for an answer?

2 Q. Okay. Let's talk a little bit about that.

3 Are you aware that there is a requirement  
4 of a 1,000-foot setback from residential areas and  
5 dwellings?

6 MR. BLAZER: Objection. Far beyond the scope  
7 of this witness's testimony.

8 HEARING OFFICER: I think it's kind of going  
9 into his question of the timing. And I deem it  
10 relevant. So objection overruled.

11 THE WITNESS: Yes.

12 BY MR. PORTER:

13 Q. And right now you know that the Groot  
14 application meets that setback requirement, right?

15 A. I believe it does.

16 Q. Do you know if there's -- well, strike it.

17 You also know that the population  
18 projection of an increase of 36 percent between now  
19 and 2040, right?

20 A. For the service area.

21 Q. And you also know that there is an --

22 MR. BLAZER: Objection.

23 BY MR. PORTER:

24 Q. -- household increase of a like amount,

1 right?

2 MR. BLAZER: Objection. Asked and answered.

3 THE HEARING OFFICER: I think it's preliminary  
4 for the next question. Objection overruled.

5 BY MR. PORTER:

6 Q. Right?

7 A. For the service area, correct.

8 Q. So do you know whether or not in Round  
9 Lake Park there will be any properties in 2025 that  
10 will meet that thousand-foot setback given the  
11 increase in population of households?

12 A. That is not within the scope of my work,  
13 nor is there any way I could know where the  
14 development is going to take place between now and  
15 2025.

16 Q. So wouldn't you agree that it's prudent to  
17 bring the application now when you know we can meet  
18 those setbacks?

19 A. No. I don't necessarily believe that to  
20 be the case.

21 Q. Why not?

22 A. Because there's adequate capacity in the  
23 county. There's plenty of open land in the county.  
24 And there are other places that a service -- I

1 understand it's been testified that Mr. Moose has  
2 looked at other places, but there's a lot of open  
3 land in the county.

4 Q. You don't have any reason to dispute the  
5 population household projections, right?

6 MR. BLAZER: Objection. Asked and answered.

7 HEARING OFFICER: Sustained.

8 BY MR. PORTER:

9 Q. If those population household projections  
10 come to fruition, there's going to be substantially  
11 less open space in Lake County, correct?

12 A. I don't know about the word substantially,  
13 but there will be less open space.

14 Q. You're aware, are you not, that planning,  
15 development, and construction of transfer stations  
16 is a significant capital expenditure, right?

17 A. Yes.

18 Q. And wouldn't you agree that Groot would  
19 never subject itself to such an expenditure if it  
20 didn't believe there was a need and --

21 MR. BLAZER: Objection.

22 BY MR. PORTER:

23 Q. -- and a demand for a transfer station?

24 THE HEARING OFFICER: I will sustain that

1 objection. We're kind of apples and oranges on the  
2 word "need," so the objection is sustained.

3 Why don't we take 5 minutes to give her an  
4 opportunity to rest. You can see what you have  
5 left to do, Mr. Porter, and then we will go from  
6 there.

7 (Recess.)

8 THE HEARING OFFICER: I just want to  
9 acknowledge that Brian Smith who we had a few  
10 questions of has today filed an appearance of  
11 public participation or public participant, I don't  
12 remember what it's called but to attend the forum.  
13 And those officially were supposed to be filed,  
14 obviously, by the first date of the hearing. I'm  
15 going to use my discretion to allow that to be  
16 filed today and take Mr. Smith's appearance and  
17 allow him to participate as if he had filed one on  
18 time, and unless I hear some very strenuous  
19 objection that changes my mind. Hearing none,  
20 that's what we're going to do.

21 Now, Mr. Porter, please proceed.

22 BY MR. PORTER:

23 Q. Isn't it true that the only remaining  
24 capacity guarantee for the county is at the Zion

1 landfill?

2 A. Say again.

3 Q. Isn't it true that the only remaining  
4 capacity guarantee with the county is with the Zion  
5 landfill?

6 A. That is correct.

7 Q. And that capacity guarantee only goes for  
8 the next six years, correct?

9 A. Yes.

10 Q. So after that sixth year, the landfill  
11 could simply close, if it elected to, right?

12 A. It could, but it's not likely to, given  
13 the capacity. It has revenues it earned in that  
14 capacity.

15 Q. The county has historically required that  
16 there be guarantees in place, however, is that  
17 right?

18 A. It has.

19 Q. The only guaranteed capacity is for the  
20 next six years, correct?

21 A. That is correct.

22 Q. Now, when the Lake County landfill is  
23 closed, you would agree, would you not, that there  
24 will be at least 3500 tons per day needed to be

1 filled, correct?

2 MR. BLAZER: Object to the form of the  
3 question.

4 MR. PORTER: I'll withdraw it.

5 BY MR. PORTER:

6 Q. You would agree that when the Lake County  
7 landfills close, there will be a capacity need or a  
8 need for waste disposal of about 3500 tons, is that  
9 right?

10 A. It looks like it would be about 3450 tons  
11 maybe.

12 Q. Okay. And this transfer station is going  
13 to provide how much capacity?

14 A. 750.

15 Q. And so if I understand correctly then,  
16 it's your opinion that in 2025, we will need three  
17 or four other transfer stations to get planned,  
18 found, cited, in that time period, right?

19 A. Well, not within the scope of my work.  
20 The math would show that that is the case, unless  
21 other landfill capacity is permitted.

22 Q. And you would agree that's completely  
23 unreasonable to think that they are going to be  
24 able to site five transfer stations in a matter of

1 two years, right?

2 A. I can't speak to the reasonableness of  
3 that.

4 Q. Because you have no experience regarding  
5 that, correct?

6 A. No. Because I have not engaged in looking  
7 for transfer stations in Lake County.

8 Q. And, finally, you again have absolutely no  
9 opinion that Criterion 1 was not met on this  
10 application, right?

11 MR. BLAZER: Objection. Mischaracterizes his  
12 testimony. It's completely inconsistent with his  
13 testimony. He's already stated his opinion.

14 THE HEARING OFFICER: Objection overruled.

15 THE WITNESS: Could you repeat the question?

16 BY MR. PORTER:

17 Q. You have no opinion that Criterion 1 was  
18 failed -- strike that.

19 You have no opinion that this application  
20 failed to meet Criterion 1, correct?

21 A. I do have an opinion. It failed to meet  
22 Criterion 1 because there is a need or there is a  
23 capacity through 2027, there is no current need.

24 Q. That opinion is not contained in your

1 report anywhere, is that right?

2 A. My conclusion might be slightly different  
3 than your question.

4 To read from my conclusion, "In my  
5 opinion, there is no need to plan for or propose a  
6 Lake County transfer station until 2025, at which  
7 time, barring any other change in circumstances,  
8 there may be a need for such a facility at that  
9 time."

10 Q. Right. You did not perform an actual  
11 needs analysis as would be required for someone who  
12 is trying to determine whether or not Criterion 1  
13 was met, correct?

14 MR. BLAZER: Objection. Asked and answered.

15 MR. PORTER: I never asked that question.

16 MR. BLAZER: Yes, he did. Several times.

17 THE HEARING OFFICER: I have notes that he did  
18 not perform a needs analysis for the next 20 years.

19 MR. PORTER: The question is slightly  
20 different, though. Can I ask that it be read back?

21 THE HEARING OFFICER: You can rephrase the  
22 question. Restate the question, if you wish.

23 BY MR. PORTER:

24 Q. Isn't it true that you did not perform a

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1 needs analysis which would be required to determine  
2 if indeed a Criterion 1 had been met or not met?

3 MR. BLAZER: Object to the characterization.

4 THE HEARING OFFICER: Objection overruled.

5 THE WITNESS: I would ask that you repeat it  
6 again. There were some nuances in there.

7 BY MR. PORTER:

8 Q. Isn't it true that you did not perform a  
9 needs analysis that is required to make a  
10 determination of whether or not Criterion 1 was  
11 met?

12 A. That was not within the scope of my work.

13 MR. PORTER: Nothing further. Thank you.

14 THE HEARING OFFICER: Mr. Grossmark.

15 CROSS EXAMINATION

16 BY MR. GROSSMARK:

17 Q. Mr. Thorsen, I'm going to read a section  
18 of the introduction to the application and ask if  
19 you remember this part of the application.

20 I'm going to paraphrase it, too. Counsel,  
21 make sure --

22 MR. KARLOVICS: Please speak up.

23 THE HEARING OFFICER: Yes. She's having a hard  
24 time.

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1 BY MR. GROSSMARK:

2 Q. Sure. Paraphrasing part of the  
3 application, the introduction to the application,  
4 it says that, the proposed transfer station is  
5 intended to located near the Groot north hauling  
6 facility and Groot ECO campus. And that this  
7 combination of facilities increases overall waste  
8 collection system efficiency but also reduces total  
9 vehicle miles over the road, reduces total air  
10 emission, emissions, conserves fuel and reduces the  
11 dependency on foreign oil.

12 Do you recall that being part of the  
13 application?

14 A. I believe it's part of the executive  
15 summary.

16 Q. Until the landfills in Lake County close,  
17 this proposed transfer station does not contribute  
18 to those listed benefits, is that correct, if you  
19 know?

20 And in particular will not reduce vehicle  
21 miles over the road, will not reduce total air  
22 emissions, will not conserve fuel, and will not  
23 reduce dependency on foreign oil?

24 A. I will generally agree with that.

1 Q. In fact, it would increase vehicle miles  
2 over the road, increase air emissions, increase use  
3 of fuel, and increase dependency on foreign oil?

4 A. What would do that?

5 Q. Building the transfer station now and  
6 using it while the landfills, two landfills in Lake  
7 County are still open?

8 MR. PORTER: I'm going to object to foundation.  
9 He hasn't done any study on any of those issues.

10 THE HEARING OFFICER: Objection overruled.

11 BY MR. GROSSMARK:

12 Q. If you can say.

13 A. Well, I could see the situation if the  
14 transfer station were put in that the waste would  
15 come from the centroid of Lake County to Round Lake  
16 Park and then go the other direction to the  
17 landfills, which would increase all of those things  
18 you said.

19 Q. We're assuming that the waste would go to  
20 Winnebago County or to some more distant landfill  
21 than Winnebago County, consistent with the  
22 testimony submitted?

23 A. Even if it went to in-county landfills, it  
24 would still increase the mileage.

1 Q. Are you familiar with the notion of  
2 sustainable development?

3 A. I am.

4 Q. There was some testimony yesterday that  
5 recycling over the last 20 years has been flat.

6 Do you know whether or do you have a  
7 feeling or any information as to whether going  
8 forward there is an interest, maybe there is a  
9 trend, to sustainable development to reusing  
10 material rather than using new found or sourced  
11 materials, recycling materials, sourcing materials  
12 closer rather than further away when using them?

13 A. I'll offer an opinion. I think there is a  
14 lot of good lip service that I support and programs  
15 that I would support but I don't think the average  
16 Joe is really doing it, i.e., recycling and going  
17 towards sustainable development. I believe we have  
18 kind of stagnated at the current rates we recycle  
19 and reuse.

20 Q. Would adopting the notion of stainable  
21 development and implementing them tend to increase  
22 the landfills?

23 A. I believe they would. And I would  
24 certainly be supportive of that.

1 MR. GROSSMARK: Thank you.

2 THE HEARING OFFICER: Mr. Clark.

3 MR. CLARK: No questions.

4 THE HEARING OFFICER: Mr. Sechen.

5 CROSS EXAMINATION

6 BY MR. SECHEN:

7 Q. Mr. Thorsen, my name is Glen Sechen. I  
8 represent the Village of Round Lake Park.

9 Thank you, Stephen.

10 How are you today?

11 A. Very good. Thank you.

12 Q. Now, you've already talked a little bit  
13 about the \$10 a ton that the State of Wisconsin has  
14 added to its tipping fees. Is that correct? Do  
15 you recall that?

16 A. Yes.

17 Q. Do you have any idea what the current gate  
18 rate is at Zion?

19 A. I do not.

20 Q. Do you have any idea what the current gate  
21 rate is in Grayslake?

22 A. I do not.

23 Q. Do you believe that market conditions  
24 would permit at some point Grayslake or Zion to

1 increase its fees due to the lack of other options?

2 A. I do.

3 MR. BLAZER: Objection. Beyond the scope.

4 Also relevance. And calls for speculation.

5 MR. SECHEN: Scope is his objection, not his.

6 MR. BLAZER: We object.

7 THE HEARING OFFICER: I'm sorry. Scope is not

8 Mr. Blazer's objection?

9 MR. SECHEN: Yes.

10 THE HEARING OFFICER: I don't know why. I'm at

11 a loss, maybe I'm not the brightest bulb in the

12 room, but --

13 MR. PORTER: I have no objection.

14 MR. SECHEN: That's the point.

15 MR. BLAZER: This is cross. Obviously, it's a

16 serial cross, but it's still cross.

17 THE HEARING OFFICER: Okay. Please restate the

18 question. I got lost with that.

19 MR. SECHEN: Read back the question, please.

20 (Record read as requested.)

21 THE HEARING OFFICER: And your objection,

22 Mr. Blazer?

23 MR. BLAZER: Number one, beyond the scope; two,

24 relevance; calls for speculation.

1 THE HEARING OFFICER: Objection overruled.

2 MR. SECHEN: Mr. Thorsen.

3 THE WITNESS: Could you repeat the question?

4 BY MR. SECHEN:

5 Q. Okay. Let me try it again, if I may.

6 Do you believe at some point, because of a  
7 lack of other options other than the two in-county  
8 landfills, that either of those two landfills or  
9 both of them possibly could increase their fees?

10 A. Well, it does call for some speculation,  
11 but as a business person seeing that there is a  
12 reduced capacity I could see the potential to  
13 increase fees to eek a little more out of my  
14 clientele, you'd have to do it carefully.

15 Q. Not only due to capacity issues but also  
16 due to simply a lack of competition?

17 A. That and diminishing the life of the  
18 landfill. I've seen landfills increase their  
19 tipping fees merely because they're coming close to  
20 being filled.

21 Q. Absolutely. That has been known to  
22 happen? You've seen that a lot?

23 A. Pardon me?

24 Q. Have you seen that a lot?

1           A.    I can't say that I have personally  
2    experienced it a lot, but I have seen that a lot.

3           Q.    Would you find it at all prudent for a  
4    municipality in Lake County and its hauler or  
5    either it or its hauler to find -- to find it  
6    prudent to develop transportation within its  
7    boundaries to serve its waste needs?

8           MR. BLAZER:  Objection.  Relevance.  This is  
9    not about the -- it's about the entire service  
10   area.

11          THE HEARING OFFICER:  Again, I'm going to  
12    overrule the objection, but I am going to look at  
13    it as a weight issue.

14          THE WITNESS:  I have testified regarding the  
15    current need for transfer stations to serve a  
16    service area.  I don't believe there is a need for  
17    that at this time.

18    BY MR. SECHEN:

19          Q.    You don't believe it's prudent then for  
20    any town in Lake County and its hauler to seek to  
21    develop a transfer station at this time?

22          MR. BLAZER:  Objection.  Relevance as to  
23    prudence.

24          THE HEARING OFFICER:  Objection overruled.

1 THE WITNESS: I have a degree in urban and  
2 regional planning. I believe planning is a good  
3 thing.

4 However, when you pull the trigger and  
5 implement the plan is the item in question. And if  
6 you determine that your waste management costs are  
7 going to be less than going to a transfer station  
8 than at the current in-county landfills, then I  
9 would move ahead with it.

10 But my belief currently is that the  
11 cheapest, let me say the least expensive way to  
12 manage your waste is to utilize the current  
13 in-county landfills rather than double-handling  
14 your waste.

15 BY MR. SECHEN:

16 Q. Or you might -- and you might find some  
17 advantage of protecting yourself against potential  
18 future price increases at the incoming landfills?

19 MR. BLAZER: We're really going far afield  
20 here, Mr. Hearing Officer.

21 THE HEARING OFFICER: Objection overruled.

22 BY MR. SECHEN:

23 Q. Mr. Thorsen?

24 A. Could you repeat that?

1 Q. Sure. You might also find some advantage  
2 in protecting yourself from future potential price  
3 increases from the remaining in-county landfills?

4 MR. BLAZER: Also object to the form of the  
5 question.

6 THE HEARING OFFICER: You may answer.

7 THE WITNESS: Look, these are all businesses.  
8 The Village needs to make business decisions. The  
9 hauler needs to make those business decisions. And  
10 the landfills do. And that's a very big dynamic,  
11 and people can choose to make those decisions at  
12 one point in time or another point in time.

13 BY MR. SECHEN:

14 Q. Well, that's the point.

15 MR. BLAZER: I don't believe he is done with  
16 the answer, Mr. Hearing Officer.

17 THE HEARING OFFICER: Mr. Thorsen, were you  
18 done with your answer? I thought you were as well,  
19 but --

20 THE WITNESS: I was going to finish with, I was  
21 hired to determine if there was a need in the  
22 service area at this time for a transfer station,  
23 and my opinion is there is no need at this time for  
24 a transfer station to serve the service area.

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1 BY MR. SECHEN:

2 Q. Mr. Thorsen, we're on a slightly different  
3 question now, slightly different.

4 You mention it's a business decision, and  
5 there may be some potential prudence involved in  
6 protecting yourself from potential future  
7 increases.

8 Do you have -- do you take issue with a  
9 business decision made to do exactly that, site  
10 transfer station?

11 MR. BLAZER: Objection. Asked and answered.  
12 He just answered that.

13 THE HEARING OFFICER: Objection is sustained.  
14 Also, I think we are starting to get a little far  
15 afield, Mr. Sechen.

16 BY MR. SECHEN:

17 Q. Mr. Thorsen, is it accurate to say that  
18 what you've testified to is sort of an overall  
19 picture of Lake County and the Lake County solid  
20 waste position, if you will, and the fact that  
21 there's some capacity remaining in Lake County to  
22 sometime in the future that's maybe a little bit  
23 less than definite, is that correct?

24 MR. BLAZER: Object to the form of the

1 question. It's also compound. Mischaracterizes.

2 THE HEARING OFFICER: I am going to sustain it  
3 as to form. I'm not sure what, "it was a little  
4 less than definite" meant, Mr. Sechen. I was with  
5 you until that part.

6 BY MR. SECHEN:

7 Q. Let me just simply ask this, do you take  
8 issue with some portion of Lake County finding it  
9 necessary or prudent, if you will, to make a  
10 business decision to site a landfill?

11 MR. BLAZER: Objection. Asked and answered and  
12 relevance. Some portion of Lake County?

13 MR. CLARK: I'm going to also join in that  
14 objection. The County isn't making any decisions  
15 here or any portion of the County. It's the  
16 Applicant that has an application before the  
17 Village for local siting.

18 MR. SECHEN: Exactly.

19 THE HEARING OFFICER: Well, and I guess I'm  
20 also lost what the siting of a landfill is at this  
21 point in the question.

22 MR. SECHEN: Did I say landfill? Oh, I'm  
23 sorry. I'm sorry.

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1 BY MR. SECHEN:

2 Q. Do you take issue with any portion of Lake  
3 County making a business decision to site a  
4 transfer station?

5 MR. BLAZER: Same objections, Mr. Hearing  
6 Officer.

7 THE HEARING OFFICER: You may answer but --

8 THE WITNESS: No. I do not.

9 BY MR. SECHEN:

10 Q. So then you would have no issue with Round  
11 Lake, the Village of Round Lake, my client -- Round  
12 Lake Park, I'm sorry, and it's hauler finding it  
13 prudent, if they do, to site a transfer station?

14 MR. BLAZER: Objection. Both relevance. And  
15 now it's been asked and answered three times.

16 THE HEARING OFFICER: Well, it hasn't been  
17 asked and answered, but we are -- we're getting  
18 away from Criteria 1, which is really where we're  
19 supposed to be, and I'm giving a pretty far field  
20 here and I'm trying to tie this in.

21 MR. SECHEN: I don't think we are.

22 THE HEARING OFFICER: I think we are. We have  
23 gone from need to prudence, and I'm not really sure  
24 those are the same thing. And if you could tell me

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1 how they are, Mr. Sechen, I'll let you proceed.

2 MR. SECHEN: I think the comment that common  
3 dictionary definition would lead you to believe  
4 prudent -- you're sustaining the objection because  
5 I used the word prudent instead of need?

6 THE HEARING OFFICER: Yes.

7 MR. SECHEN: I think that's completely wrong.

8 THE HEARING OFFICER: That's where we're at.

9 MR. SECHEN: If the objection is sustained,  
10 I'll move on.

11 THE HEARING OFFICER: Yes, it is.

12 BY MR. SECHEN:

13 Q. Okay. Not the same question, Mr. Thorsen,  
14 do you take issue with the Village of Round Lake  
15 Park and its hauler finding it necessary, if they  
16 do, to site a transfer station for whatever  
17 business reasons they may have?

18 MR. BLAZER: Objection. Relevance. It's not  
19 Criteria 1.

20 THE HEARING OFFICER: Objection overruled.

21 MR. CLARK: I'm going to object as well. I  
22 didn't know that the Village was an applicant in  
23 this case.

24 MR. SECHEN: Village isn't. Village is making

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1 the decisions.

2 MR. CLARK: That was the question. Village and  
3 Groot.

4 THE HEARING OFFICER: The objection is  
5 overruled. You may answer.

6 MR. BLAZER: Just for the record, Mr. Hearing  
7 Officer, I'm sorry.

8 THE HEARING OFFICER: Please.

9 MR. BLAZER: If Mr. Sechen is now saying that  
10 the Village and Groot have already decided to site  
11 this transfer station, then he had raised a  
12 dramatically different issue in this case.

13 MR. SECHEN: That's not what I said.

14 THE HEARING OFFICER: Let me respond,  
15 especially, because I heard -- I did not hear that  
16 they had decided. I heard "if they decide," that  
17 was the statement, that was the question I'm ruling  
18 on. And if they decide that it's necessary, the  
19 question is, if they decide it's necessary, do you  
20 disagree with them? That's what I heard, and  
21 that's the question that I think is prudent --  
22 proper. Now, you almost got me saying prudent.  
23 That's the proper question.

24 MR. SECHEN: I will keep this up.

1 THE HEARING OFFICER: That is the question I  
2 think is proper, and would you please answer it,  
3 Mr. Thorsen.

4 THE WITNESS: The Village and Groot have the  
5 power they see fit. However, I also opine that  
6 there is no current need in the service area for a  
7 transfer station at this time.

8 BY MR. SECHEN:

9 Q. So you take no issue with the Village  
10 doing just that, but you find there is no need  
11 because there's sufficient capacity numerically,  
12 it's simply a mathematical exercise in the county?

13 MR. BLAZER: Object to the form of the  
14 question. "Just that"? I have no idea what he's  
15 talking about. I'd be shocked that the witness  
16 does.

17 THE HEARING OFFICER: Does the witness  
18 understand the question?

19 THE WITNESS: No.

20 THE HEARING OFFICER: Okay. You want to  
21 rephrase it, Mr. Sechen?

22 BY MR. SECHEN:

23 Q. Well, you mention that these are all  
24 business decisions.

1           Would you explain how business enters into  
2 the picture?

3           A.   Policies, costs.  Primarily, costs.

4           Q.   So if it were determined by a Village that  
5 it were necessary to site a transfer station, any  
6 village within this community or this county, for  
7 costs reasons, would you take issue with that?

8           MR. BLAZER:  Mr. Hearing Officer, I know my  
9 brother Mr. Clark to the right here suggested that  
10 I let Mr. Sechen hang himself, but I can't really  
11 do that.  Either Mr. Sechen is suggesting the  
12 Village has already made that decision or he's  
13 asking a completely irrelevant question, now  
14 multiple times.  Either way, it's objected to.  If  
15 it's the first, like I said, we have a very  
16 different issue in this case.  If it's the latter,  
17 it's completely irrelevant.

18          THE HEARING OFFICER:  Mr. Sechen, I'll let you  
19 respond to that.

20          MR. SECHEN:  You know, if the witness himself  
21 mentioned the fact that this is really a business  
22 decision, I think I'm entitled to explore that.

23          THE HEARING OFFICER:  Well, I think what is  
24 important, first of all, that you answer the first

1 part of the two-part objection. That's the  
2 objection I want to hear the answer to first. And  
3 then we'll talk about the second part afterwards.

4 MR. SECHEN: But I -- at this point now, I've  
5 forgotten what the first part is.

6 THE HEARING OFFICER: Mr. Blazer is making the  
7 statement or the implication for lack of a better  
8 word, and I'm sure there's a better one, that the  
9 Village has already made the decision to site --

10 MR. SECHEN: Oh, that's ridiculous.

11 THE HEARING OFFICER: Well, that's I want you  
12 to respond to first.

13 MR. SECHEN: Neither have they nor have I  
14 suggested that they have.

15 THE HEARING OFFICER: Now, as to the business  
16 decision, I will overrule the objection at this  
17 point. Let's get it done. Move on. Because we  
18 are, as we keep going, it's getting less and less  
19 relevant in my mind.

20 BY MR. SECHEN:

21 Q. Do you recall what the question is,  
22 Mr. Thorsen?

23 A. In general. But I'd like you to repeat  
24 it.

1 MR. SECHEN: Could you read it back, please?

2 (Record read as requested.)

3 THE HEARING OFFICER: That question stands.

4 Please answer the question, Mr. Thorsen.

5 THE WITNESS: I personally would not take issue  
6 with it. However, I have determined there is no  
7 need at this time.

8 BY MR. SECHEN:

9 Q. No need, because mathematically there is  
10 some capacity in the landfills in this county?

11 A. Both mathematically, and I believe the  
12 cost would be less going to incoming landfills via  
13 direct haul.

14 MR. PORTER: Objection. Foundation. He hasn't  
15 done any analysis or study to justify such an  
16 opinion. Move to strike.

17 THE HEARING OFFICER: Objection overruled.

18 BY MR. SECHEN:

19 Q. Well, you haven't done any analysis of the  
20 cost, have you?

21 A. I qualified it by saying "I believe." I  
22 did not say that it would definitely cause --

23 Q. So there's a certain amount of conjecture  
24 involved?

1           A.    Because I haven't done any study on it,  
2   that's correct.

3           MR. SECHEN:  Fair enough.  Then we move to  
4   strike it.

5           THE HEARING OFFICER:  Motion to strike denied.  
6   I'll take it for the proper weight now that you've  
7   added on to your cross exam on it.

8           MR. PORTER:  May I make a quick record on that?

9           THE HEARING OFFICER:  Yes.

10          MR. PORTER:  I also move to strike.  This has  
11   been proffered as an expert witness.  He's here to  
12   provide opinions beyond the kin of the average  
13   individual.  Instead he's basing it on nothing and  
14   has no basis whatsoever.

15          THE HEARING OFFICER:  And I think the weight of  
16   that testimony has just been made very clear, and I  
17   will give it the weight that it properly deserves.

18          MR. PORTER:  Thank you.

19          THE HEARING OFFICER:  As I'm sure will the  
20   Board.

21   BY MR. SECHEN:

22          Q.    You mentioned barring out-of-county waste.  
23   Do you believe that's a possibility?

24          A.    I did not mention it, sir.

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1 Q. I'm sorry. I must have misheard you. I  
2 thought you had. Did you recall anyone mentioning  
3 that to you?

4 A. The Applicant asked me a question, I  
5 believe, the Applicant or one of the other  
6 attorneys about banning out-of-county waste.

7 Q. You don't propose that, though, do you?

8 A. I do not and never have.

9 Q. Do you know what the -- what type of  
10 mileage a Packard truck would get?

11 A. No.

12 Q. Do you have any idea what type of mileage  
13 a transfer trailer or transfer tractor would get  
14 while pulling a trailer?

15 A. No.

16 Q. Do you know how many loads of refuse, of  
17 garbage, if you will, waste, a transfer trailer can  
18 haul typically to a landfill?

19 A. Are you talking about direct haul?

20 Are you talking about transfer?

21 Q. No. A transfer trailer.

22 A. It depends on how far away the landfill  
23 is.

24 Q. Do you know what the capacity of a

1 transfer trailer is or what the range is?

2 A. They're usually about a 20-yard truck.

3 Q. And how large is a typical Packard?

4 A. I believe it's six or seven yards.

5 Q. Okay. You want to do the math?

6 A. No.

7 Let me put it this way, the Applicant has  
8 suggested that 111 Packard trucks will result in  
9 32 transfer trailers per day to move 750 tons of  
10 waste from a Lake -- transfer station to a landfill  
11 somewhere.

12 Q. Okay. So then you have no quarrel with  
13 Lake County and its municipality being held hostage  
14 should a -- due to price increases should a --  
15 should the landfills decide to hike their tipping  
16 fees?

17 MR. BLAZER: Objection, Mr. Hearing Officer. I  
18 could go on for an hour with the objections.

19 THE HEARING OFFICER: Objection sustained as to  
20 being held hostage.

21 MR. SECHEN: Perhaps not literally. In these  
22 times, you can't be really sure.

23 I have nothing further.

24 THE HEARING OFFICER: Mr. Smith, do you have

1 any questions of this witness?

2 MR. SMITH: No, because I didn't hear his  
3 testimony.

4 THE HEARING OFFICER: Okay. Fair enough.  
5 Mr. Blazer?

6 MR. BLAZER: No redirect.

7 THE HEARING OFFICER: Does anybody have any  
8 clarification?

9 MR. PORTER: I do, with the understanding I'm  
10 only doing so because it's procedure.

11 THE HEARING OFFICER: All right. You're not  
12 waiving your prior objection, Mr. Porter, if that's  
13 what you're asking.

14 MR. PORTER: Exactly what I was asking.

15 FURTHER EXAMINATION

16 BY MR. PORTER:

17 Q. Who limited the scope of your work to only  
18 looking at the need based on today's immediate  
19 waste generation rates and capacity?

20 MR. BLAZER: Objection. Beyond the scope.

21 THE HEARING OFFICER: I do think that that was  
22 something that came up in your cross-examination,  
23 if I remember correctly.

24 MR. PORTER: Well, actually, it just came up in  
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1 Mr. Sechen's when he said that's beyond the --

2 THE HEARING OFFICER: I think he said it a  
3 number of times during yours as well.

4 MR. PORTER: In both, yes.

5 THE HEARING OFFICER: So you've had the  
6 opportunity. I don't want to -- if you had the  
7 opportunity, it was raised in yours, I'm not going  
8 to let you redo it is my question. If you have any  
9 question or clarification, something that was said  
10 later that you want to follow up on you feel  
11 appropriate, that's acceptable.

12 BY MR. PORTER:

13 Q. You mentioned during Mr. Sechen's  
14 testimony your degree in planning, do you recall  
15 that? I'm sorry. You mentioned in Mr. Sechen's  
16 questioning your degree in planning, do you recall  
17 that?

18 A. No. I thought I mentioned it in my  
19 direct.

20 Oh, I did mention it in Mr. Sechen's.

21 Q. You would agree that reasonable planning  
22 require that a needs analysis not be limited to  
23 only the immediate waste generation rates and  
24 capacity, correct?

1 MR. BLAZER: Objection. Beyond the scope.

2 THE HEARING OFFICER: Objection overruled.

3 THE WITNESS: Let me put it this way. I was  
4 asked to determine if there was a need for a  
5 transfer station at this time. My determination  
6 was there was no need for a transfer station at  
7 this time. I was not asked to do a full-blown  
8 needs analysis in compliance with 39.2.

9 BY MR. PORTER:

10 Q. I understand that, and I appreciate your  
11 acknowledging it. But you are degreed in land  
12 planning. Wouldn't you agree that it is  
13 irresponsible and improper to do a needs analysis  
14 based only on immediate capacity and waste  
15 generation?

16 MR. BLAZER: Object to the form of the  
17 question. Object beyond the scope. And I will  
18 also object to the relevance. That's not Criterion  
19 1.

20 THE HEARING OFFICER: Objection overruled.

21 THE WITNESS: Good planning and planning is a  
22 good thing. As I said earlier, when you choose to  
23 implement the plan is where the decision-making  
24 comes. And at this point in time, I don't think

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1 there is a need for a transfer station in the  
2 service area at this time.

3 MR. PORTER: I have nothing further. Thank  
4 you.

5 THE HEARING OFFICER: Mr. Blazer.

6 MR. BLAZER: I have nothing further of the  
7 witness. Just a couple of --

8 THE HEARING OFFICER: Okay. Well, let's let  
9 the witness go first.

10 MR. BLAZER: Yes. Absolutely. I apologize. I  
11 don't want to leave him sitting up there.

12 THE HEARING OFFICER: And we are going to take  
13 a break. Do you want to have this conversation  
14 before the break or after, Mr. Blazer?

15 MR. BLAZER: I'm just going to move admission  
16 and make one other statement.

17 THE HEARING OFFICER: Okay. What would you  
18 like to move admission of?

19 MR. BLAZER: We will move the admission of TCH  
20 Exhibits 1, 2. 1 is Mr. Thorsen's resume. No. 2  
21 is his report. And TCH 22, which is the data, the  
22 2012 capacity data from the Illinois EPA.

23 THE HEARING OFFICER: Is there any objection  
24 to, let's start with Exhibit 1?

1 MR. PORTER: Exhibit 1 is the resume?

2 THE HEARING OFFICER: It's the CV. I assume  
3 there's no objection.

4 MR. PORTER: I have no objection to that.

5 THE HEARING OFFICER: Okay. TCH Exhibit 1 will  
6 be admitted without objection.

7 Exhibit 2, is there any objection to the  
8 admission of Exhibit 2?

9 MR. PORTER: Yes. I object. That exhibit  
10 purports to be a report concerning Criterion 1,  
11 however, ultimately, there is no opinion regarding  
12 Criterion 1. And this particular witness did not  
13 do an independent study or analysis to come to  
14 these conclusions regarding need. The report  
15 should not be admitted into evidence.

16 THE HEARING OFFICER: Mr. Blazer.

17 MR. BLAZER: The opinion which when Mr. Porter  
18 asked the witness the question, he read to him at  
19 the bottom of Page 4 under the section entitled  
20 Conclusion, as to what the witness did or did not  
21 do, that doesn't go to admissibility.

22 THE HEARING OFFICER: The report will go in  
23 over objection. Obviously, it has certain  
24 limitations that were brought out on

1 cross-examination, and those are, the report stands  
2 for what it is, not for what it may or may not  
3 purport to be. How about Exhibit 3, any objection?

4 MR. BLAZER: 22.

5 THE HEARING OFFICER: Sorry. Exhibit 22. The  
6 IEPA landfill capacity data from August 2013.

7 Hearing no objection, TCH Exhibit 22 will  
8 be admitted without objection.

9 Mr. Blazer, you said you had a statement?  
10 I'm not sure what that may be, but I guess we'll  
11 let you start.

12 MR. BLAZER: I'm saying this at this point,  
13 Mr. Hearing Officer, only because I believe we're  
14 required to do so, or I will waive this for appeal.

15 Based on Mr. Sechen's performance today,  
16 it is apparent to us that this application -- or I  
17 should say not Mr. Sechen, by the attorney for the  
18 Village of Round Lake Park, it is apparent to us  
19 that there has been a predetermining of this  
20 application, the rules of fundamental fairness have  
21 been violated. And I want to state that for the  
22 record.

23 THE HEARING OFFICER: Okay. And when you say  
24 the attorney for the Village of Round Lake Park, I  
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1 assume you're not talking about Mr. Karlovics?

2 MR. BLAZER: I absolutely am not talking about  
3 Mr. Karlovics.

4 THE HEARING OFFICER: Let's get that straight  
5 right now. Because he's done very little, if  
6 anything, accept help us with the program.

7 MR. BLAZER: No. I'm talking --

8 THE HEARING OFFICER: But let me respond to  
9 that, or I guess let me let Mr. Sechen respond  
10 first, and then we will --

11 MR. KARLOVICS: I want to respond, too.

12 MR. SECHEN: I don't think there's any response  
13 necessary, because it's ridiculous on its face.

14 THE HEARING OFFICER: Mr. Karlovics, if you  
15 wish to respond, I'll allow you to.

16 MR. KARLOVICS: All I want to say very briefly  
17 is that this Board has been committed to hear. And  
18 there's no evidence whatsoever of any type of  
19 predetermination whatsoever. What you have is  
20 board members showing, listening to all evidence.  
21 They have come here with no preconceived notions,  
22 so there's no evidence whatsoever that this Board  
23 has made any type of determination, and so we  
24 object to Mr. Blazer's motion.

1 THE HEARING OFFICER: Mr. Blazer, I'll give you  
2 a very quick reply to that.

3 MR. PORTER: Before he does so, may I make a  
4 comment?

5 THE HEARING OFFICER: Please, you may. I'm  
6 sorry, Mr. Porter, I apologize.

7 MR. PORTER: In addition to what Mr. Karlovics  
8 has indicated, I'd like to point out Mr. Sechen is  
9 not a decisionmaker. He's just an attorney. What  
10 he says is not evidence. You have already warned  
11 the decisionmaker of that fact. So this is just  
12 simply objectors grabbing at straws and trying to  
13 create issues which do not exist.

14 THE HEARING OFFICER: Anybody else wish to  
15 weigh in on this?

16 Mr. Blazer, I will have to say that Mr. --  
17 or excuse me Mr. Clark, Mr. Blazer has implied that  
18 you agree with him. I haven't heard you agree with  
19 him on the record, so I will let Mr. Blazer say his  
20 reply, and we'll go from there.

21 MR. BLAZER: I'll stand on my prior comments.

22 THE HEARING OFFICER: Okay. I think there was  
23 a motion in there somewhere.

24 MR. BLAZER: There actually was not.

1 THE HEARING OFFICER: You made the statement --

2 MR. BLAZER: I don't think you'd be authorized  
3 to grant any such motion anyway.

4 THE HEARING OFFICER: I don't think I would.

5 I will say that my observations of what  
6 I've seen do not -- I would not agree with your  
7 statement based on the observations I have seen.

8 I have seen Mr. Sechen make statements or  
9 questions based on ifs, on assumptions, if  
10 something were to occur, then what. I haven't  
11 heard him say anything that something is a given to  
12 occur that this Village Board, whatever decisions  
13 they're going to make. And I have -- and I was  
14 going to say this later, I may, but I will also say  
15 it today, what's been pretty obvious to me is that  
16 this Village Board has spent a lot of time here,  
17 and we've seen a lot of the members here over the  
18 past three days, at some probably inconvenient  
19 times for all of them, and they have been paying  
20 attention and asking for documents, in fact. So  
21 I'm not saying you're disagreeing with that,  
22 Mr. Blazer. That's just an observation from me. I  
23 don't know that it needs a response, but if you  
24 wish to, I'll give you a few seconds for a formal

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1 hearing.

2 MR. BLAZER: It's something that needs to be  
3 said here, Mr. Hearing Officer. With all due  
4 respect to the Village Board, I'm not attempting to  
5 cast dispersions, I'm not attempting to insult  
6 them. I think you recognize, and I assume even  
7 Mr. Porter may recognize, if Mr. Helsten were here,  
8 he certainly would, that there are things that a  
9 participant needs to do in order to preserve the  
10 record. I have done that. I have done that for  
11 that purpose. The issue if it needs to be  
12 addressed will have to be addressed in another  
13 forum. But I certainly do not intend by my  
14 comments to in any way cast dispersions on any  
15 member of this Board, that's not what I'm trying to  
16 do. But Mr. Sechen's conduct today and frankly  
17 leading up to today, in our view, goes way beyond  
18 that.

19 MR. PORTER: Well, if I may, how do you suggest  
20 that the decisionmaker has already reached a  
21 decision and the procedure is fundamentally unfair  
22 without casting dispersions on that decision?

23 THE HEARING OFFICER: We're going to let that  
24 go. We're going to proceed. Mr. Blazer made what

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1 he thought was necessary for his record. And if  
2 someone in the future has to rule on it, I'm sure  
3 they will. I've made my statements. And you  
4 making your record is not -- I'm not taking that  
5 personal. I'm assuming the Board will not either.  
6 The Board is going to rule based on -- not on  
7 personalities but on the evidence that  
8 Mr. Karlovics will advise them. And we will --  
9 before we do, I've got one more thing to say.

10 Mr. Smith, I understand you are not going  
11 to be able to be here later tonight, right?

12 THE WITNESS: I have a scheduled --

13 THE HEARING OFFICER: You have a schedule you  
14 can't change. We'll leave it at that. We're  
15 having public comment tonight at 8:00 o'clock. If  
16 you wish to make public community now, I will give  
17 you that opportunity because you're here. You're  
18 also, as you know, going to have a heck of a lot  
19 more opportunities. But if you want to tonight --

20 MR. SMITH: No. No.

21 THE HEARING OFFICER: Okay. Just for the  
22 record, I wanted to give that you opportunity.  
23 Let's try and get back here about 10 minutes to  
24 7:00 if we can, so we can get some -- we have one

1 more witness tonight, and I'll be honest, I forgot  
2 who it is, Mr. Blazer, so --

3 MR. BLAZER: We're done for tonight.

4 THE HEARING OFFICER: Oh, we are.

5 MR. BLAZER: Coulter is tomorrow. We just have  
6 to come back for public comment.

7 THE HEARING OFFICER: Okay. Good. We will  
8 come back. I guess we're back here at  
9 8:00 o'clock. We've got a couple hours. I  
10 apologize. That's kind of what we scheduled. We  
11 should be here to give the public the opportunity  
12 to speak, and if no one is here, we'll be done.

13 MR. SECHEN: When do you want us back then?

14 THE HEARING OFFICER: Tonight at 8:00 o'clock.  
15 Off the record.

16 (Discussion off the record.)

17 (Proceedings concluded at

18 5:44 p.m.)

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

5 JENNIFER CAMPBELL, as an Officer of the  
6 court, says that she is a shorthand reporter doing  
7 business in the State of Illinois; 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.

13 IN TESTIMONY WHEREOF: I have hereunto set  
14 my verified digital signature this 26th day of  
15 September, 2013.

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