

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)03-01
LAKE TRANSFER STATION,)

Transcript of proceedings at the hearing
of the above-entitled cause on the 2nd day of
October, 2013, at the hour of 3:00 p.m.

(Proceedings concluded at 5:52 p.m.)

REPORTED BY: SHELLY S. RUBAS

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2

3

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4

The Hearing Officer;

5

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On behalf of Groot Industries;

7

THE LAW OFFICES OF RUDOLPH F. MAGNA
MR. PETER S. KARLOVICS

8

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

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THE SECHEN LAW GROUP, P.C.

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MR. GLENN C. SECHEN

On behalf of Village of Round Lake Park;

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TRESSLER, LLP.

12

MR. STEPHEN T. GROSSMARK

On behalf of Village of Round Lake;

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JEEP & BLAZER, L.L.C.

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MR. MICHAEL S. BLAZER

On behalf of Timber Creek Homes, Inc.;

15

MR. LARRY M. CLARK

16

On behalf of The Solid Waste Agency of
Lake County, Illinois.

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NUMBER IDENTIFICATION
NO EXHIBITS MARKED

1 HEARING OFFICER: Let's reconvene the hearing.

2 Mr. Grossmark, you were saying something
3 before we broke.

4 MR. GROSSMARK: Mr. Hearing Officer, during
5 Mr. Blazer's questioning of the last --

15:22:23

6 THE HEARING OFFICER: We can't hear you. Just
7 a second. Get a microphone.

8 MR. GROSSMARK: During the questioning by
9 Mr. Blazer of the last witness, the witness was
10 asked whether he was familiar with the times of
11 operation, operations of the three transfer
12 stations that are referenced in the Poletti report
13 in testimony.

15:22:44

14 We ask that that information, the times of
15 operations of those three transfer stations, that
16 judicial notice be taken of that information in
17 addition to the testimony which is I believe that
18 is right as to the times of operation.

15:23:01

19 MR. BLAZER: What I can suggest, Mr. Hearing
20 Officer, rather than judicial notice, because there
21 may be a problem with that, that information comes
22 from what is in our overall submittal. It's TCH
23 -- yes, the overall submittal. It's TCH Exhibit
24 19, the 2009 IEPA capacity report. That's the last

15:23:19

4

1 one. Ms. Seibert testified about this. That is
2 the last one where the IEPA reported transfer
3 stations as well as landfills. That report is over
4 300 pages long.

5 What I can do and I can circulate -- I 15:23:52
6 don't have it here, but I can circulate it by
7 e-mail as soon as I get back to the office. I can
8 pull out those three pages which contain the
9 information for those three transfer stations,
10 Glenview, Bluff City, and Elburn, and call those 15:24:07
11 TCH Exhibit 19B because there is already a 19A that
12 I didn't move the admission for. I can circulate
13 that and then we don't have to have judicial notice
14 and we can just put it in the record.

15 THE HEARING OFFICER: Mr. Porter? 15:24:31

16 MR. PORTER: No foundation. I object.

17 MR. BLAZER: Well, Ms. Seibert already provided
18 the foundation for that capacity report. I asked
19 her questions regarding other data in that report.
20 She acknowledged that it is, in fact, the official 15:24:43
21 2009 IEPA capacity report which -- in part which
22 she relied on in her opinion.

23 So it is, among other things, an official
24 publication of a state agency and, therefore, among

1 other things, self-authenticating.

2 THE HEARING OFFICER: It would be if I had a
3 certified copy of it. Given the fact of where we
4 are at, I do kind of agree with Mr. Porter's
5 objection and kind of was wondering how we were
6 thinking we were going to get this in.

15:25:14

7 So, Mr. Grossmark, please proceed.

8 MR. GROSSMARK: I think judicial notice can be
9 taken of that.

10 THE HEARING OFFICER: You know what? I have to
11 disagree with that. Judicial notice are things
12 that are really within my knowledge and within the
13 knowledge of a state statute or something that I
14 can look up and be authenticated. The fact that
15 it's on a web site, given in and of itself, I don't
16 really feel comfortable with.

15:25:26

15:25:38

17 If you wish to submit I guess -- please
18 tell me if I'm wrong, everybody. I'm not -- if
19 somebody wishes to submit TCH Exhibit 19 as a
20 certified copy of that in the public comment
21 period, that may be appropriate. Tell me, someone,
22 if I am wrong. I mean, that is about the only way
23 I can see right now me getting this in today
24 without --

15:25:57

1 MR. BLAZER: I --

2 MR. PORTER: Well, I would say there is no
3 opportunity to object to public comment.

4 MR. GROSSMARK: I think that Mr. Porter
5 objected --

15:26:18

6 MR. PORTER: Right.

7 MR. GROSSMARK: -- to Mr. Blazer's suggestion.
8 I don't know whether there is an objection to
9 putting that into the record. If there is no
10 objection, judicial notice or otherwise --

15:26:28

11 THE HEARING OFFICER: I think he is objecting.
12 Are you objecting to -- Mr. Porter, it's your
13 objection. Obviously at this point, I happen to
14 agree with it, but --

15 MR. PORTER: I am objecting. There is no
16 foundation to it. You are absolutely right.
17 Anything in the public comment, there is no
18 opportunity for me to object and it affects the
19 weight.

15:26:39

20 THE HEARING OFFICER: Correct. And if someone
21 wants to provide a certified copy of that, you have
22 30 days to get it in. At that point, it is what it
23 is.

15:26:49

24 For me to sit here and guess as to the

7

1 foundation I just don't think is appropriate for me
2 or for any of the parties.

3 MR. GROSSMARK: Groot is objecting to your
4 taking judicial notice of that information. Am I
5 correct?

15:27:08

6 THE HEARING OFFICER: That's what I'm hearing.

7 MR. GROSSMARK: Is that right, Mr. Porter?

8 MR. PORTER: Yes. It would be inappropriate to
9 take judicial notice of a document he hasn't even
10 seen and it's buried in a 300-page document. That
11 is not what judicial notice is. I am with
12 Mr. Leutkehans that one.

15:27:17

13 THE HEARING OFFICER: I just don't feel it's
14 appropriate. It's not a way I have seen judicial
15 notice used for. And I understand you are trying
16 to make it easier on everybody, Mr. Grossmark, so
17 I'm not -- I just think that given the record, I am
18 not able to do that.

15:27:32

19 MR. BLAZER: We will get it as public comment,
20 Mr. Hearing Officer.

15:27:46

21 THE HEARING OFFICER: Mr. Sechen?

22 MR. SECHEN: Yes.

23 THE HEARING OFFICER: What I don't have a copy
24 of directly, and I have it in another document, but

8

1 if you could send to me what would be Round Lake
2 Park Exhibit 1. I know it's part of Round Lake
3 Park Exhibit 2, but just so I have a complete
4 record or unless you have copies.

5 MR. SECHEN: Well, I have more copies of the
6 same thing. We can just take the pages out.

15:28:07

7 THE HEARING OFFICER: That's probably -- just
8 so I can have it for my record.

9 MR. SECHEN: Sure. I have a ton of copies.

10 THE HEARING OFFICER: All right. I will mark
11 that as Round Lake Park Exhibit 1.

15:28:18

12 MR. SECHEN: Did he walk out with the originals
13 or do you have them?

14 THE HEARING OFFICER: I have no originals. All
15 I have are what is handed to me. I haven't had
16 originals throughout the hearing.

15:28:35

17 MR. SECHEN: Here they are.

18 MR. BLAZER: Question, Mr. Hearing Officer.

19 THE HEARING OFFICER: Yes.

20 MR. BLAZER: Someone asked me. I think you
21 indicated yesterday that there would be public
22 comment throughout the proceeding. Will there
23 still be some after closing?

15:28:47

24 THE HEARING OFFICER: My point is to do some

9

1 right now actually before we do closings, so if
2 anybody wishes to add anything now, they can
3 proceed and not have to sit through, you know, the
4 next whatever.

5 MR. BLAZER: Are you suggesting I am not going
6 to be entertaining?

15:29:09

7 THE HEARING OFFICER: I am not suggesting
8 anything one way, shape, or form.

9 Does someone have public comment?

10 MR. COHN: I will be sitting here anyway.

15:29:23

11 THE HEARING OFFICER: Do you want to do it at
12 the end?

13 MR. COHN: Yes.

14 THE HEARING OFFICER: I have no problem with
15 that.

16 Anybody else who wishes to make public
17 comment at this time?

18 Okay. Mr. Smith is not here. If he does
19 show up, I will give him the opportunity to close.

20 At this time, I would ask Mr. Porter to proceed
21 with his closing and you can do it from wherever
22 you feel comfortable as long as you have a mic,
23 Mr. Porter.

15:29:35

24 MR. PORTER: Before I commence, I want to be

10

1 sure that everybody is clear, that Groot is willing
2 to waive closing as long as all the other parties
3 are willing to waive closing. We are going to be
4 submitting this --

5 THE HEARING OFFICER: So is the Hearing
6 Officer, but I am not getting away with it.

7 MR. PORTER: I assume others still want to
8 close, so I will proceed.

9 CLOSING STATEMENT

10 BY MR. PORTER:

11 Good afternoon. As you know, my name is
12 Rick Porter. I am an attorney for the applicant,
13 Groot Industries.

14 First, Mr. Luetkehans, I want to thank you
15 for an exemplary hearing here. I think you did a
16 great job. It was refreshing, entertaining, and
17 well ruled upon.

18 I also want to thank the Round Lake Park
19 village trustees and all the personnel that came
20 out from Round Lake throughout this transfer
21 station siting hearing.

22 This hearing is a culmination of many
23 years of planning, study, analysis, and financial
24 expenditure on the part of Groot to find

15:29:59

15:30:13

15:30:23

15:30:35

11

1 appropriate location for a transfer station to
2 benefit Lake County, your community, and Groot's
3 own business interest. Fortunately, they were able
4 to find an ideal site which is right to the eco
5 campus off of Porter Drive and Route 120 in Round
6 Lake Park.

15:31:00

7 As Mr. Helsten promised at the beginning
8 of this proceeding, you have heard from the most
9 qualified, respected, and trustworthy experts in
10 the industry who were employed by Groot to address
11 each of the nine criterion of Section 39.2 which
12 you must consider.

15:31:12

13 Specifically, you heard from Mr. Devin
14 Moose of CBI. CBI planned and designed this
15 facility on behalf of Groot. He testified
16 concerning five of the nine criterion, specifically
17 criterion two, four, five, seven, and nine.

15:31:26

18 Mr. Moose's qualification and experience are
19 unparalleled by anyone in our area. He is the
20 national director of Solid Waste Consulting for
21 Shaw Environmental, a CBI company.

15:31:41

22 He is a professional engineer in nine
23 states including Illinois. He is a Diplomat of the
24 American Academy of Environmental Engineers and has

12

1 30 years of experience in all aspects of solid
2 waste planning, design, and consulting. He has
3 been lead engineer in relation to 17 Illinois
4 transfer station siting proceedings representing
5 both public and private sectors. He has been
6 reviewing engineer for nine Illinois transfer
7 stations and permitted 22 transfer stations in the
8 state of Illinois. There is nobody that has done
9 it more than Mr. Devin Moose.

15:32:06

10 You also heard from Ms. Christina Seibert
11 from CBI concerning criterion one. That's the need
12 criteria. Ms. Seibert prepared or assisted in
13 preparation of means assessments for 20 solid waste
14 management facilities in Illinois. She has been an
15 expert witness in eight local siting hearings and
16 worked on permit applications for more than ten
17 transfer stations in northern Illinois.

15:32:19

15:32:35

18 You also heard from Dr. Peter Poletti, who
19 is a PhD and a member of the appraisal institute,
20 concerning the issue of property values as well as
21 Mr. Christopher Lannert, president of Lannert
22 Group, who is a professional land planner and
23 member of the American Society of Landscape
24 Architects.

15:32:48

1 He has provided testimony to approximately
2 60 solid waste related projects. Mr. Lannert
3 testified concerning criterion three requiring to
4 locate the facility so as to minimize the
5 incompatibility with the surrounding area.

15:33:12

6 Finally, you heard from Michael
7 Werthmann, who is a professional traffic operations
8 engineer with 23 years of experience, and has
9 consulted and provided testimony on at least
10 21 solid waste related projects concerning
11 criterion six.

15:33:27

12 Obviously, you are here to decide whether
13 or not the nine criterion have been met, so I will
14 briefly address each of these criterion and remind
15 the village that all parties are going to be
16 presenting post hearing briefs in the form of post
17 finding of fact and conclusions of law which will
18 address each of these issues in even greater
19 detail.

15:33:40

20 Criterion number one. As I mentioned,
21 Ms. Seibert testified concerning the first
22 criterion which is that the facility is necessary
23 to accommodate the waste needs of the area it is
24 intended to serve. The intended service area is

15:33:50

14

1 Lake County, and no one has disputed that service
2 area.

3 The County has historically been sending
4 waste to landfills at the Zion landfill, the
5 Countryside landfill, and the Pheasant Run landfill 15:34:13
6 in Kenosha, Wisconsin. We learned from Ms. Seibert
7 that the disposal commitment to the Countryside
8 landfill has been exhausted. The commitment has
9 been exhausted as to Lake County as had the Zion
10 landfill, but it was recently -- an extension was 15:34:29
11 awarded to Zion and they are now promised to
12 provide a maximum of six years of guaranteed
13 disposal extension to 2017.

14 What Ms. Seibert explained to you is that
15 under the Solid Waste Planning and Recycling Act, 15:34:45
16 the County historically plans for 20 years disposal
17 capacity. The Countryside landfill will have less
18 than five years capacity remaining if this transfer
19 station begins operating in 2015.

20 Furthermore, the Zion landfill is 15:35:02
21 projected to close within 12 years of the Lake
22 Transfer Station. There is only a six-year
23 commitment to provide Lake County waste capacity,
24 but it is projected to close in 12 years.

1 Finally, the Pheasant Run recycling
2 disposal facility, which is in Kenosha, will not
3 provide any significant disposal capacity for Lake
4 County or Illinois in general because they proposed
5 a large \$10 tipping fee in Wisconsin now. It's
6 basically made it economically not feasible to send
7 waste there anymore.

15:35:27

8 Therefore, the evidence was clear this
9 transfer station would help meet the 20-year need
10 of Lake County. Ms. Seibert's study determined
11 that Lake County was suspected to have substantial
12 growth in both population and households. I think
13 it was 35 percent each until 2040.

15:35:41

14 The Lake County landfills will not provide
15 20 years' capacity. That evidence was absolutely
16 unrefuted. In general, new landfills are being
17 developed further and further away from Lake County
18 thereby necessitating the use of transfer stations.
19 Lake County itself has drafted a solid waste
20 management plan which is stated the need to develop
21 new facilities. One of those options is indeed
22 transfer stations as announced in that plan.

15:36:02

23 Furthermore, Ms. Seibert testified that
24 there is -- there are presently no transfer

15:36:20

1 stations currently operating in Lake County
2 resulting in a transfer capacity deficit in excess
3 of the proposed capacity of the Groot Lake Transfer
4 Station. In other words, even if this transfer
5 station is sited, there is still going to be a
6 substantial deficit three to four times the amount
7 that this transfer station can accept to meet the
8 20-year capacity need. That is what Ms. Seibert
9 testified to.

15:36:46

10 Finally, the transfer station will be
11 conveniently located near waste generators and
12 waste haulers thereby reducing transfer station
13 cost and increasing collection efficiency.

15:36:57

14 The only witness that was offered by the
15 objectors to testify regarding the need was
16 Mr. Thorsen who was called by Mr. Blazer. I
17 conducted a cross-examination of Mr. Thorsen myself
18 and it was abundantly clear and he admitted that he
19 did not perform a full blown needs analysis.

15:37:13

20 First, Mr. Thorsen has very little
21 experience or qualifications to even be offering
22 the opinions he offered here in relation to
23 criterion one. He admitted that he was only
24 personally involved in one needs analysis in his

15:37:29

1 entire career and that was over 20 years ago at the
2 ARF landfill when he thought he might have
3 testified at a 39.2 hearing concerning needs. I
4 remind you that Mr. Thorsen was also not a licensed
5 engineer in Illinois. He is a chemical engineer
6 from Minnesota --

15:37:59

7 MR. BLAZER: Objection.

8 THE HEARING OFFICER: Overruled.

9 MR. BLAZER: Mr. Thorsen?

10 THE HEARING OFFICER: Overruled.

15:38:07

11 MR. PORTER: I'm sorry. I meant Mr. McGinley.

12 I do need to strike that last part.

13 Mr. Thorsen had no experience performing a
14 need analysis of transfer station. He had never
15 taught a course on need and never attended a course
16 on need. He certainly has never presented or
17 testified at siting hearings concerning waste
18 transfer stations as witnesses called by Groot have
19 and ultimately admitted that he did not perform any
20 needs analysis concerning a Groot facility.

15:38:34

15:38:45

21 Mr. Thorsen admitted that he used all the
22 data and analysis that had been provided by CBI in
23 his determination concerning need. He had no
24 criticisms of the sources of that data nor the

18

1 compilation of it as provided by CBI. To
2 Mr. Thorsen's credit, he admitted that there was
3 not sufficient waste capacity in the next 20 years
4 in the landfills used by Lake County. I'm going to
5 repeat that. Mr. Thorsen admitted that there is
6 not sufficient 20-year capacity in Lake County.

15:39:13

7 He even admitted -- his testimony was at
8 the present time, landfills can meet the daily
9 tonnage -- cannot meet -- strike that.

10 His testimony was at the present time,
11 landfills can meet the daily tonnage requirements
12 of Lake County, however, he acknowledged that that
13 is not the standard in Illinois which requires one
14 to look at the 20-year need in the county.

15:39:26

15 Mr. Thorsen admitted that the population
16 is indeed predicted to grow 36 percent and that
17 households will grow a like amount in 2040. He
18 admitted that the Countryside landfill will be at
19 capacity within five to eight years of this
20 transfer station being sited and that Zion only has
21 a six-year commitment to Lake County. He further
22 admitted that landfills used by Lake County will be
23 at capacity within 12 years of this transfer
24 station being sited and it could be even sooner.

15:39:41

15:39:55

19

1 You may recall that when I asked him that
2 question, don't you agree that it could be sooner
3 the landfills will meet capacity, he agreed. Then
4 I asked him, well, then what is it -- when do you
5 propose this application be filed if you indeed
6 acknowledge that the landfills could reach capacity
7 well before 2027. There was this long, five-minute
8 perhaps pregnant pause at which time Mr. Thorsen
9 said, well, I wasn't hired to make that
10 determination, it's not in my wheelhouse. He just
11 said in his opinion, now is too soon, but it needs
12 to be sometime before I guess 2025.

15:40:21

15:40:39

13 What Mr. Thorsen acknowledged, however, is
14 that the average time to site a landfill in
15 Illinois is about nine years, and he had personal
16 experience with that. Furthermore, even the
17 transfer stations can take many, many years and
18 this one was started five years ago and it's likely
19 to take up to eight year before it actually gets
20 sited even with your approval. So Mr. Thorsen
21 acknowledged that it's a very lengthy process in
22 order to site a transfer station.

15:40:56

15:41:11

23 He was also a land planner and had
24 difficulty avoiding the questions when asked,

20

1 wouldn't you agree that it would be irresponsible
2 to wait until 2025 to site a transfer station.

3 As a matter of fact, as I mentioned
4 earlier, in order to meet all the capacities of
5 Lake County, eventually three or four more transfer
6 stations will need to be sited once the landfills
7 reach capacity. Given the fact that this could be
8 an eight-year process, it's a good idea to site
9 this one now, and clearly there is a need under
10 criterion one.

15:41:38

15:41:53

11 Most importantly, there was absolutely no
12 testimony contrary to Ms. Seibert's needs analysis.
13 Mr. Thorsen did not perform his own needs analysis.
14 Rather he limited his determination on a timing
15 issue which isn't the standard that is supposed to
16 be employed. The question is whether or not this
17 facility is necessary to accommodate the waste
18 needs of the area it is intended to serve. The
19 waste needs are supposed to be on a 20-year plan
20 and clearly this facility is necessary in criterion
21 one.

15:42:09

15:42:25

22 That brings us then to criterion two. As
23 to criterion two, Mr. Moose testified that this
24 facility is a relatively moderate size transfer

21

1 station accepting approximately 750 tons per day.
2 Mr. Moose explained that Groot owns much of the
3 land surrounding this proposed transfer station and
4 that the nearest residentially zoned property is
5 1,500 feet away and nearest dwelling is over
6 1,000 feet west of the proposed facility.

15:42:51

7 This facility will be made out of concrete
8 and steel -- concrete over a steel skeleton which
9 is designed to maintain the long life and utilize
10 and suppress noise from the building. He explained
11 that the facility utilized a reinforced concrete
12 tipping floor and is designed as a drivethrough
13 facility meaning that one door opens up, you drive
14 in, you drive out. This avoids multiple openings
15 in the facility and also avoids having to back up
16 too often.

15:43:09

15:43:24

17 The facility was oriented so that Route
18 -- along Route 120 such that there are no roads
19 facing that route on -- there are no doors on the
20 north side and it's strategically placed along
21 Porter Drive to obstruct views. Landscaping was
22 also utilized to obstruct those views. Even
23 without that landscaping, there will be no view
24 directly into that facility along one of the roads.

15:43:39

22

1 Mr. Moose testified that this Zion -- is
2 comparable to Glenview's transfer station which
3 received awards from the American Public Works
4 Association as well as the American Consulting
5 Council. It has skylights pointing towards the
6 south to let natural light filter in and minimize
7 energy use to keep the building well lit and it
8 utilizes, and this is important, utilizes an air
9 exchange that will be used four to six times a day.
10 That creates a negative air pressure within the
11 building.

15:44:06

15:44:23

12 You'll recall the testimony that if one
13 were standing outside the building and lit a match
14 in the doorway, you would actually see the smoke
15 enter the building. That negative air exchange is
16 important in that it helps assist in minimizing the
17 impacts from odor.

15:44:32

18 Mr. Moose explained that under criterion
19 two, one must determine the facility is designed,
20 located, and proposed to be operated such that
21 public health, safety, and welfare is protected.
22 Towards that end, CBI considered all of the
23 residential setbacks, the wetlands, the
24 archaeological and historic sites, endangered

15:44:50

1 species, wild and scenic rivers, proximity to
2 airports, floodplain, and regulated recharge.
3 Under the Environmental Protection Act of Illinois,
4 the transfer station may not be within 1,000 feet
5 of the nearest residential property or dwelling,
6 and that setback was expected.

15:45:16

7 Mr. Moose explained that any wetlands that
8 are disturbed will be mitigated pursuant to
9 Illinois laws. Furthermore, there are no nature
10 preserves in the area and the facility does not
11 pose any threat to Illinois natural areas. There
12 are no significant archeological or historic sites
13 on the facility.

15:45:29

14 Likewise the transfer station is more than
15 5,000 feet from the nearest airport compliant with
16 all FAA guidelines. Mr. Moose also explained that
17 the proposed facility has an operating plan that
18 assures that collection vehicles will be fully
19 enclosed and covered and that the facility will be
20 routinely controlled for litter control.

15:45:40

15:45:55

21 He explained as to odor, all waste
22 transfer operations will be conducted within the
23 building. The tipping floor will be cleared of
24 waste on a first in, first out basis and on a daily

1 basis. Waste materials will be then transferred to
2 the operating bay and incoming waste with an
3 unusually strong odor will be immediately
4 transferred from the station. If a customer is
5 found to be habitually bringing waste to the
6 facility that has a strong odorous component, they
7 will be asked not to use the facility. In
8 addition -- they will be denied access.

15:46:24

9 In addition, there is a misting system
10 throughout the facility that uses nontoxic odor
11 neutralizers. It's the same neutralizers that one
12 of Mr. Blazer's witnesses referenced in an
13 attachment to one of his reports that were used to
14 completely reverse or do away with the smell that
15 occurred in a car that had been left in a parking
16 lot with a dead body in it for several days. These
17 neutralizers are effective and there has been no
18 testimony to the contrary.

15:46:41

15:47:00

19 There will be no issue with pets because,
20 again, waste will be transferred on first in and
21 first out basis and waste cleared on a daily basis.

15:47:16

22 Any loaded transfer vehicles that are
23 stored overnight at the proposed facility will be
24 fully tarped and parked in the transfer station

25

1 building and removed at the beginning of the next
2 operating day.

3 As for noise, the station is located
4 within an industrial zoned area. All tipping and
5 transfer operations will be conducted inside the
6 building, and all on site equipment will be
7 equipped with mufflers and sound-suppressing
8 devices. Furthermore, this site is buffered by an
9 industrial area to the north and west and a forest
10 area to the east and by State Highway 120 and open
11 space to the south.

15:47:40

15:47:56

12 Finally, the transfer station will be
13 equipped with high performance rubber doors that
14 will automatically open and close as the collection
15 transfer vehicles enter and leave the building
16 between the hours of 4:00 and 8:00 a.m.

15:48:09

17 Mr. Moose explained that dust will be
18 controlled by gating all access drives, parking
19 areas, and storage areas and any mud or dust will
20 be removed with a street sweeper. Furthermore,
21 dust will be controlled by the misting system as
22 well.

15:48:21

23 All public roads and right of ways within
24 1,000 feet of the facility will also be swept at

26

1 least once per day and, again, this misting system
2 will be used to mitigate dust there as well
3 -- I'm sorry -- dust inside the building.

4 Ultimately, it is Mr. Moose's opinion that
5 the facility was designed and located and proposed
6 to be operated such that the public health, safety,
7 and welfare will be protected.

15:48:42

8 There actually are no witnesses that
9 countered any of Mr. Moose's testimony regarding
10 compliance with criterion two except on a very
11 minor issue concerning odor. Mr. McGinley

15:48:53

12 testified to after being called by Mr. Blazer.
13 There were no other qualified engineers regarding
14 the transfer station design who testified and,
15 therefore, the overwhelming evidence in this case
16 is that indeed the public health, safety, and
17 welfare is protected where criterion two is met.

15:49:09

18 As for Mr. McGinley, and I was mistaken
19 earlier, he was the engineer that was not licensed
20 in Illinois. As a matter of fact, he had never
21 designed a transfer station. He has never worked
22 in a transfer station nor has he operated a
23 transfer station. He was the chemical engineer
24 from Minnesota who admitted that he did not have

15:49:22

27

1 any specific study analysis or modeling or
2 otherwise.

3 Mr. McGinley had not even seen the
4 proposed facility nor any of the surrounding sites.
5 Let me repeat that. The individual that Mr. Blazer
6 called to testify concerning the odor issue had
7 never even been to the site nor any of the
8 surrounding properties.

15:49:44

9 It was clear Mr. McGinley did little to no
10 analysis whatsoever in regard to this application.
11 He did not even know the Illinois Pollution Control
12 Board passed regulations here in Illinois.

15:50:03

13 He admitted that he had done no analysis
14 or model that would suggest that this facility
15 would in any way violate any of the Illinois
16 Pollution Control Board regulations.

15:50:14

17 Though his report suggested that the
18 facility should use fast moving doors, if you read
19 his report, that seems to be the emphasis of his
20 report, that the facility should use fast moving
21 doors. But then on testimony, it changed and his
22 opinion apparently became that those doors should
23 be closed at all times when a vehicle is not coming
24 in or out. Well, if you take a look at the

15:50:26

1 application -- and I believe that testimony changed
2 because he admits now that Groot is going to indeed
3 be using fast-acting rubber doors and he has no
4 criticisms of those doors. The reference to those
5 doors is actually in the noise section of the
6 application. My suspicion is that Mr. McGinley
7 primarily, if not exclusively, read the odor
8 section which doesn't reference those doors. I
9 have a feeling he probably didn't know that they
10 were even going to be used at this site which is
11 why his report emphasizes that issue in several
12 places.

15:50:56

15:51:14

13 Regardless, they are going to be used at
14 this site and can be activated at any time by the
15 operator. If indeed odor ever were to become a
16 problem, they can be left down in that
17 circumstance. If the wind is there, a particularly
18 odorous flow, the operator is perfectly free to put
19 down those doors.

15:51:30

20 Furthermore, the operator, Groot, is
21 responsible under the host agreement to make sure
22 that there is no odor and, therefore, that
23 agreement can be enforced. There is no reason,
24 there is no basis whatsoever to the imposition of

15:51:42

29

1 any type of condition that would require the doors
2 to be closed at all times and vehicles coming in
3 and out. That would be an onerous burden upon the
4 employees and Groot in the operation of the
5 facility. There is just simply no reason for it.
6 There is no testimony that would have ever
7 suggested it.

15:52:07

8 Mr. McGinley did not form any analysis, no
9 scientific study whatsoever that would have
10 suggested that those doors be need to be closed at
11 all times. It was pure conjecture and it was based
12 upon, you'll recall, his experience at the HERC
13 facility. The HERC facility is an incinerator in
14 Minnesota. It's a municipal incinerator that
15 accepts 1,200 tons a day, 385,000 tons a year,
16 double or more than double of what the Groot
17 facility will be accepting. And it is in downtown
18 Minneapolis right next to the Twins baseball
19 stadium. There are 40,000 people that attend that
20 stadium, 3 million per year. The HERC facility is
21 an incinerator. It's not a transfer station.

15:52:18

15:52:37

15:52:58

22 Worse, that facility involves thousands of
23 tons of waste remaining on the tipping floor at all
24 times. The HERC facility is actually an

30

1 energy-producing facility and, therefore, has to be
2 fed at all times in order to continue producing
3 energy. Mr. McGinley admitted that on the floor,
4 there are thousands of tons of waste at all times.
5 Usually there is only about 40 tons of waste on the
6 floor of the Groot transfer station.

15:53:31

7 Furthermore, what we found out in
8 Minnesota, that waste can stay on the floor for up
9 to seven days. They use a first in and first out
10 as well, but it can be there for seven days before
11 it has to get out. There is always near that
12 amount on the floor, but old waste can stay there
13 for up to seven days. Here at the Groot facility,
14 the waste is going to be removed usually within a
15 matter of hours and always by the end of the
16 operating day. It's complete apples and oranges.

15:53:44

15:53:59

17 If the HERC facility is keeping its doors
18 closed at all times, it's because it has thousands
19 of tons of waste, they are a waste incinerator
20 burning the waste, they are a stone's throw from
21 40,000 people that are in the downtown municipal
22 area. None of that has been shown to be relevant to
23 this particular transfer station.

15:54:16

24 Overall, there was very little, if any,

31

1 testimony to refute anything Mr. Moose had said
2 regarding criterion two and that criterion was
3 clearly met.

4 As to criterion three, there's two issues
5 to that. The facility is located, so as to 15:54:47
6 minimize the incompatibility as to the character of
7 the surrounding area and minimize the effect on the
8 value of the surrounding area. Dr. Peter Poletti
9 testified concerning the minimization effect on the
10 surrounding property values and Mr. Christopher 15:55:04
11 Lannert testified as to how the facility was
12 located to minimize incompatibility to the
13 character of the surrounding area.

14 Specifically, Peter Poletti -- is a
15 certified appraiser and PhD and testified first and 15:55:16
16 foremost that there were design and operating
17 features which minimized the effects on the value
18 of the surrounding properties. Specifically, he
19 referred to the fact that the transfer station be
20 constructed out of concrete and steel thereby 15:55:30
21 reducing noise and that all activities would occur
22 inside the building.

23 Further, the facility uses berms and
24 landscaping which also reduce noise as well as the

1 visual site of the facility. It also uses rubber
2 doors in the morning hours, again, to reduce noise
3 and as we have learned, those fast moving doors may
4 also have an impact on reducing any odor.

5 There would be significant roadway
6 intersection improvements proposed and funded by
7 the applicant. The transfer station included a
8 comprehensive plan and detailed procedures which
9 control odor, dust, noise, or other potential
10 nuisances and off site street sweeping and litter
11 control will be conducted.

12 Furthermore the facility was proposed to
13 be located in an area that was buffered from
14 surrounding residential uses by distance,
15 intervening industrial open space, and vegetation.

16 Finally, there is no residential property
17 located within 1,000 feet of the facility and,
18 therefore, for all those factors, Mr. Poletti found
19 that there was design features that would protect
20 surrounding property values.

21 Mr. Poletti also conducted a regression
22 analysis and compared sales data of properties near
23 transfer stations to control areas and determined
24 that there was no significant reduction in property

15:55:58

15:56:12

15:56:23

15:56:40

1 values.

2 Round Lake Park staff hired its own
3 appraiser, Mr. Kleszynski who testified today and
4 submitted a report. He reviewed the report of
5 Mr. Poletti and determined the Poletti report was
6 appropriate and credible.

15:57:04

7 Mr. Kleszynski himself went further and
8 not only reviewed the reports, but also he did go
9 to the site of the proposed transfer station
10 property as well as the surrounding areas and
11 locations referenced in the Poletti case studies
12 and concluded himself that the transfer station was
13 indeed located to minimize the effect on the value
14 of the surrounding properties.

15:57:16

15 Mr. Blazer hired and submitted the
16 testimony of Michael MaRous in response to both
17 Mr. Poletti and Mr. Kleszynski, however, Mr. MaRous
18 did not himself conduct a regression analysis as
19 did Mr. Poletti. Instead Mr. MaRous simply
20 criticized various aspects of the Poletti report.

15:57:28

21 What I found interesting in regard to that, though,
22 is Mr. MaRous did not even review Mr. Poletti's
23 testimony, so it was interesting that he testified
24 against it.

15:57:46

1 Ultimately, MaRous admitted that the
2 design proposed minimized impacts and
3 incompatibility. Mr. MaRous had no opinion, this
4 is important, he actually had no opinion as to
5 whether criterion three was met or not met. He
6 didn't do any study in relation to that. All he
7 did was point out what he considered to be some
8 criticisms regarding the Poletti report.

15:58:15

9 So once again you are left in a situation
10 where all of the evidence is in support of finding
11 that criterion three was met as to the property
12 values.

15:58:29

13 Mr. Lannert testified concerning the first
14 part of criterion three which is that the facility
15 is located so as to minimize incompatibility with
16 the character of the surrounding area. As I
17 mentioned earlier, Mr. Lannert is an extremely well
18 qualified professional land planner and he's a
19 landscape architect whose opinions were not
20 rebutted by any other witness.

15:58:41

15:58:53

21 What he explained was that he was involved
22 in the design of the facility and that ultimately
23 it was his opinion that it was located so as to
24 minimize incompatibility with the character of the

35

1 surrounding area and, therefore, satisfied
2 criterion three. The basis of his opinion was that
3 the subject site was located in an industrial
4 district and that the immediate area surrounding
5 the site has been defined by industrial uses and
6 that the transfer station will not alter those
7 existing land use patterns.

15:59:16

8 He stated that the major land use area
9 continues to be open space. Furthermore, he notes
10 that Route 120 corridor was an appropriate land use
11 buffer along the south property line and that the
12 open space industrial land uses account for
13 100 percent of the area. Let me repeat that. The
14 open space industrial use account for 100 percent
15 of the area within 1,000 feet of the radius of the
16 proposed transfer site. Furthermore, open space
17 and industrial uses account for 59 percent of the
18 area within one mile of the facility.

15:59:29

15:59:41

19 It's highly unusual to have such an ideal
20 site as this one. Oftentimes you will see transfer
21 stations in and among commercial and retail uses.
22 Here the only surrounding uses will be open space
23 and industrial. Furthermore, as Mr. Lannert noted,
24 there are no residentially zoned properties within

15:59:57

1 1,000 feet of the proposed transfer station and
2 they would be blocked and buffered by the existing
3 structure on the north, the forest area on the
4 east, and by berms and plantings along the roadways
5 frontages.

16:00:25

6 Once again, his testimony was almost
7 completely un rebutted and, therefore, criterion
8 three has been met.

9 As to criterion four, there really was no
10 dispute in relation to that Mr. Moose testified
11 that the application provides that the facility is
12 located -- is not located within the 100 year
13 floodplain and, therefore, criterion four is met.

16:00:37

14 As to criterion five, again, there was
15 very little discussion or disagreement concerning
16 criterion five which provides plan operations to
17 the facility which is designed to minimize the
18 danger to the surrounding area for fire, spills, or
19 other operational accidents. Mr. Moose again
20 explained that the facility would be equipped with
21 sprinkler systems and hydrants and fire
22 extinguishers would be strategically located within
23 the facility.

16:00:50

16:01:07

24 Most importantly, he explained that there

37

1 had been a meeting with local fire protection
2 district and the fire protection district had
3 authored a publication stating that if the facility
4 was constructed as proposed, the fire district does
5 not anticipate any significant threat or risk to
6 the community.

16:01:31

7 Relating to the spill control issue,
8 Mr. Moose testified the facility will not accept
9 liquids or hazardous waste. He further testified
10 regarding the spill response training procedures
11 that will be employed in the safety training of all
12 personnel.

16:01:44

13 Again, there were no witnesses who
14 testified contrary to Mr. Moose's findings
15 regarding criterion five, therefore, that criterion
16 has been met.

16:01:53

17 As for criterion six, that criterion
18 provides the traffic patterns to and from the
19 facility are so designed as to minimize the impact
20 on the existing traffic flows.

16:02:06

21 Once again, Michael Werthmann is a
22 professional engineer as well as traffic operations
23 engineer with decades of experience who testified
24 and conducted a three phase study of the existing

38

1 road conditions, the facility traffic
2 characteristics, and made an evaluation and
3 recommendation. Ultimately, it was his
4 professional opinion that the traffic patterns to
5 and from the facility were designed to minimize the
6 impact on the existing traffic loads thereby
7 satisfying criterion six.

16:02:27

8 He explained that the facility was
9 designed, so there was only one access drive
10 located on Porter Drive which would minimize
11 impacts of the truck traffic -- the truck traffic
12 would travel to and from the facility via the
13 arterial roadway system and that pursuant to his
14 study, the facility traffic represented an
15 approximately 1.7 percent or less increase in
16 traffic at any of the study area intersections.

16:02:38

16:02:53

17 He explained proposed roadway improvements
18 including constructing a separate left turn lane at
19 120 and Porter Drive as well as widening Porter
20 Drive and resurfacing.

16:03:09

21 In addition, he testified that transfer
22 truck traffic would be prohibited from making a
23 left turn from Porter Drive to Illinois 120 from
24 7:00 a.m. to 9:00 a.m. and from 3:00 to 5:00 p.m.

39

1 Further more, truck traffic generated by the
2 transfer station would be directed to use the
3 Illinois 120/Porter Drive intersection when
4 accessing the arterial roadways. These traffic
5 patterns were designed to minimize the impact on
6 existing traffic flows.

16:03:31

7 Interestingly, the witness called by
8 Mr. Blazer, Mr. Coulter agreed with everything that
9 Mr. Werthmann did, but somehow he opined that
10 criterion six was not met because the traffic flow
11 and roadway impact analysis was not done all the
12 way to the Winnebago landfill. However, there is
13 no requirement that such an analysis be done.
14 Rather the only requirement is that the witness
15 testified concerning how the traffic patterns
16 minimize traffic flows at the facility.

16:03:43

16:03:56

17 Furthermore, it was acknowledged by
18 Mr. Coulter that many industrial uses could have
19 been sited at this location which would have far
20 greater impacts to traffic flows and patterns.

16:04:12

21 In addition, waste is already moving every
22 day in Lake County on the roadway system. Many of
23 the very trucks that are going to be on your
24 roadways are already housed at the Groot facility,

40

1 Groot North which has been in operation for the
2 past three years.

3 Mr. Werthmann has been testifying
4 concerning this criterion for many years perhaps
5 more than any person in Illinois and certainly
6 performed an appropriate analysis in this case.
7 Once again, criterion six was met.

16:04:38

8 As for criterion seven, the application
9 provides and Mr. Moose testified the facility will
10 not be treating, storing, or disposing of hazardous
11 waste and, therefore, criterion seven is met.

16:04:49

12 As to criterion eight, Mr. Moose testified
13 that the facility is consistent with the Lake
14 County Solid Waste Management Plan. Criterion
15 eight is consistent with the Lake County plan. It's
16 consistent because that plan explicitly provided
17 that Lake County needs to start seriously
18 considering long-term options for managing its
19 waste requiring disposal and it identifies three
20 options for doing so and one of which is transfer
21 stations.

16:05:03

22 The plan also provides that its primary
23 purpose in the planning process is to make sure
24 that new facilities and/or programs are in place

16:05:17

1 prior to existing facilities closing. The plan
2 explicitly stated that the transfer station, if
3 developed in accordance with certain
4 recommendations, would be considered consistent
5 with the plan and Mr. Moose explained to you how
6 this transfer station is consistent with all of
7 Lake County plans recommendations.

16:05:42

8 Finally, criterion nine. Under the
9 statute, criterion nine requires that if the
10 facility is located in a regulated recharge area
11 and that it be consistent with all requirements by
12 the Illinois Pollution Control Board. This
13 facility is not in a regulated recharged area.
14 That is only in Peoria.

16:05:54

15 Therefore, it's clear that all nine of
16 Section 39.2 criterion have been met because each
17 of these -- I'm sorry.

16:06:07

18 If indeed Mr. Blazer and the other
19 objectors get up here and try to argue to you that
20 additional conditions should be imposed, what you
21 need to consider is the fact that there has been no
22 evidence to support any such conditions.

16:06:30

23 In relation to the operating hour issue,
24 there has been no testimony that limiting operating

42

1 hours to a certain time could in any way help meet
2 any one of these criteria. There has been no
3 evidence at all that there is going to be any
4 imposition by noise, odor, et cetera from an
5 operating hour plan as presented in the application
6 itself. That plan is not to run 24/7. That is
7 going to be the operational situation when indeed
8 there will be 24 hours of use. Generally, there
9 will be less than that.

16:06:58

10 Furthermore, there is absolutely no
11 evidence to propose the addition of require closing
12 the doors at the facility.

16:07:16

13 I realize that took a while, but there an
14 are a lot of criterion and I wanted to make sure I
15 covered them all for the record.

16:07:28

16 Once again, I want to thank you all for
17 your attention and your dedication to your
18 community and we at Groot look forward to being a
19 member of that community.

20 THE HEARING OFFICER: Thank you, Mr. Porter.

16:07:46

21 Mr. Blazer?

22 CLOSING STATEMENT

23 BY MR. BLAZER:

24 I'd like to clear up one possibility right
43

1 now. We have no intention of proposing conditions
2 of this thing. You won't hear that from me today.
3 You won't see it in anything we file after today
4 because there is no way you could grant this
5 application unless that decision has already been
6 made.

16:08:38

7 THE HEARING OFFICER: Mike, I don't mean to
8 interrupt you, but I think I need to.

9 (Whereupon, a discussion was
10 had off the record.)

16:09:55

11 MR. BLAZER: I do want to thank you and I want
12 to thank the Hearing Officer. I have tried his
13 patience repeatedly over the last week and a half.

14 And I was going to apologize to you for
15 how long this has taken, but I can't do that
16 because I didn't do this to you, Timber Creek
17 didn't do it. Groot and its merry band of garbage
18 peddlers did this to you.

16:10:15

19 Mr. Porter just said that this was the
20 culmination of an effort and it was. Mr. Helsten
21 in his opening statement referred to it as a
22 deliberate design. That deliberate design started
23 with packaging the message to you. The package was
24 this thing, 1,200 plus pages of stuff. And

16:10:35

44

1 Mr. Mueller said that all they wanted to hear in
2 this proceeding, all that should go into the record
3 was testimony that is consistent with the contents
4 of the application.

5 You'll see that I'm reading. You know, it
6 was funny, I was accused several times of being
7 very good at reading things verbatim. There is a
8 reason for that. I am going to read a few things
9 to you now because what I am not going to ask you
10 to do, like Mr. Porter just did, is believe his
11 version of the facts or his version of the law.

12 I'd much rather you hear it directly from the
13 people who said it. Because frankly, what I say to
14 you isn't evidence. And I don't want you to rely
15 on what I say to you. I want you to rely on what
16 the law is and what the witnesses in this hearing
17 said.

18 So let's start right off the bat with
19 criterion one, need. And, yes, in the context of
20 that deliberate design right out of the gate, the
21 applicant has represented to you what the law is
22 with respect to need.

23 Here is the criterion: The facility is
24 necessary to accommodate the waste needs of the

16:11:20

16:11:37

16:11:54

16:12:13

45

1 area it is intended to serve. Waste needs, not
2 waste plans, not waste like-to-haves, not what we
3 think we might need 20 years from now. Waste
4 needs.

5 And you may remember early on in one of 16:12:50
6 the many disagreements that I had with Groot's
7 lawyers, Mr. Helsten gave you a piece of an
8 appellate court case. He didn't give you the whole
9 thing. That was part of the deliberate design. So
10 the very next day I gave you the whole case and I 16:13:13
11 said I would be talking to you about it in that
12 proceeding and today is the day I am going to talk
13 to you about that. That is the Fox Moraine case
14 that we have talked about God knows how many times
15 in this case. 16:13:28

16 You know, there is one interesting thing
17 about that case. It's a case that Chuck Helsten
18 and George Mueller lost. And Mr. Porter did it
19 again today. Here is what the Illinois appellate
20 court, the Second District, that is the district 16:13:46
21 that covers Lake County, this is what the Illinois
22 appellate court said that criterion one means.
23 Although an applicant need not show absolute
24 necessity, it must demonstrate an urgent need for

46

1 the new facility as well as the reasonable
2 convenience of establishing it.

3 Now, contrary to what Mr. Porter said to
4 you, and you'll notice he wasn't reading to you
5 from any cases and he wasn't reading to you from
6 any testimony, they are trying to confuse you by
7 saying need has something to do with what the
8 County is planning in its solid waste plan.

16:14:25

9 Well, there is a reason why consistency
10 with the solid waste plan is a completely different
11 criteria in this statute. It's criterion A. It's
12 not criterion one. Because need has nothing to do
13 with a solid waste plan. What does need have to do
14 with? What urgent necessity do we talk about, does
15 the court talk about when you talk about criterion
16 one? Consideration of the service area's waste
17 production and disposal capabilities. Not what the
18 County would like, not what the County would plan
19 for 20 years from now, not even what the County
20 would like to have guaranteed.

16:14:42

16:15:02

16:15:20

21 Because consider this. Guarantees have
22 expired. Guarantees will expire. Anybody run
23 across heaping piles of garbage waiting to go
24 somewhere in Lake County? Of course you haven't

47

1 because despite the fact that there may not be
2 guarantees, the garbage is still going to Zion and
3 it's still going to Grays Lake and it will continue
4 to go there until whatever day in the future may
5 come when they will close.

16:15:49

6 So when Porter and his merry men talk
7 about, well, we established need because the County
8 said we like to plan for 20 years, he's mixing
9 apples and oranges to confuse you because that is
10 not what the law is.

16:16:06

11 Now, what did Shaw, the merry band of
12 garbage peddlers, say in Lake County just three
13 years ago --

14 MR. PORTER: Mr. Luetkehans, do I have to
15 object to the personal attacks?

16:16:24

16 MR. BLAZER: You mean just like the personal
17 attacks he heaped on my witnesses?

18 THE HEARING OFFICER: You know, Mr. Blazer,
19 let's --

20 MR. BLAZER: I will refrain.

16:16:35

21 THE HEARING OFFICER: Yeah, please.

22 MR. BLAZER: Thank you. Okay. You guys know
23 that is hard for me to do, but I will try to
24 refrain.

48

1 So what did Shaw, the experts in the
2 field, say to Lake County just three years ago
3 about the Zion landfill? The expanded landfill
4 will provide solid waste disposal capacity to Lake
5 County and other communities in the service area
6 for years to come. That is TCH Exhibit 34A. I
7 didn't make that language up. That comes from the
8 application that Shaw wrote. There is a lot more
9 to it. It's in evidence. I ask you to read it.

16:17:03

10 There was a lot of talk in this case about
11 the Winnebago landfill. I am going to talk about
12 that a few times because there are a couple of
13 reasons why there was so much talk about the
14 Winnebago landfill.

16:17:27

15 And here I am, I am going to quote again
16 verbatim from the siting application. It's Page
17 6-10, Werthmann's report, last paragraph, second
18 sentence: The outbound waste is anticipated to be
19 transported from the transfer station to the
20 Winnebago landfill located in Winnebago County,
21 Illinois.

16:17:38

22 Now, I have to tell you I found it a
23 little strange when I first red this application, I
24 didn't see any mention of it in criterion one done

16:17:59

49

1 by a Shaw employee. I didn't see any mention of
2 criterion two, three, four, five, seven, eight, or
3 nine. I just saw one line in the traffic report
4 prepared by somebody who is not a Shaw employee,
5 Mike Werthmann.

16:18:34

6 Now, here is what Mr. Moose first said
7 about Winnebago. Again, I am going to quote from
8 the transcript. I am not going to tell you what I
9 think the transcript says. I am not going to tell
10 you what I'd like for you to believe what the
11 transcript says. I am going to tell you what he
12 actually testified to in the transcript.

16:18:53

13 Question: What's the basis for your
14 statement that they are going to a
15 landfill 100 to 120 miles away?

16:19:05

16 It talks about the majority of waste, it's
17 in the band width, et cetera.

18 Then I ask him: So when you said 100 to
19 120 miles away, you weren't talking about
20 a specific landfill, you were talking
21 about some landfill out there somewhere?

16:19:20

22 Some objections.

23 And then he says: So to say where we are
24 going to be going 20 years from now,

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1 30 years from now eight years after it
2 opens, I don't think anybody can say that
3 definitively, but I can say that is what
4 the capacity is today.

5 Then I asked him: How about 2015 when you
6 want to open, where is it going to go
7 then?

16:19:46

8 Answer, remember this answer: I don't
9 know. It's going to be in that bandwidth,
10 but to my knowledge, there has been no
11 contractual agreement with anybody to take
12 it anywhere in 2015.

16:20:01

13 Remember that comment because it came back
14 to haunt Mr. Moose and his client.

15 Here is what Werthmann said, question:

16:20:17

16 But somebody either from Shaw or from
17 Groot told you that all of the waste from
18 this facility will be transported outside
19 of Lake County, correct?

20 Answer: That's my understanding.

16:20:29

21 Now, remember something. You may not.
22 It's been a while. Seibert said some go to
23 Winnebago, some of it will go to the landfills in
24 Lake County. That is not what Werthmann said.

51

1 Question -- and the Hearing Officer
2 anticipated my next question since it's probably
3 obvious, Page 6-10 of your report, last paragraph,
4 second to the last sentence:

5 Are you there, Mr. Helsten? 16:20:56

6 Yes, Mr. Blazer.

7 Question: And you wrote in your report,
8 Mr. Werthmann, the outbound waste is
9 anticipated to be transported from the
10 transfer station to the Winnebago landfill
11 located in Winnebago County, Illinois.

16:21:07

12 Did I read that correctly?

13 Answer: I believe you did.

14 Question: And who gave you that
15 information? 16:21:16

16 Answer: I -- once again, I got it from
17 the development team.

18 It's a funny thing about stories. People
19 sometimes ask me do I do a lot of trial work. How
20 does somebody get on the stand and lie convincingly
21 and you catch them doing it? My answer is always
22 the same. When you are telling the truth, all you
23 are doing is telling the truth. You are just
24 saying what you remember, what actually happened.

16:21:34

52

1 You are not making anything up. If you don't
2 remember, you don't remember. But you are not
3 telling a story that you made up. It gets even
4 harder when your story involves a lot of moving
5 pieces and moving players. It's kind of like
6 herding cats. It's a very hard thing to do to keep
7 the story together.

16:22:07

8 I have cats and it sounds like you have,
9 too, and you can't heard cats, can you? No. I
10 have had a couple and they go wherever they felt
11 like going. It's the same thing with a group of
12 witnesses who are all told to tell the same story.
13 It's impossible to do.

16:22:23

14 So one of the exhibits in the record --
15 MR. KARLOVICS: Would the record please reflect
16 the presence of Mayor Linda Lucassen.

16:22:44

17 MR. BLAZER: You got here just in time. It's
18 the good part. I could start over.

19 You are going to see TCH Exhibit 10. This
20 was one of the first -- that is the Groot
21 Industries Lake Transfer Station energy and
22 emissions life cycle assessment. It was one of the
23 very first things that Groot shot out of the gates
24 at you folks telling you kind of what this facility

16:23:07

53

1 was about. It wasn't the first thing. The first
2 thing was that presentation they gave to people in
3 February of this year where they didn't tell
4 anybody that this facility was going to be open
5 24/7.

16:23:39

6 But the reason I mention this life cycle
7 assessment, and, again, I am not going to tell you
8 what it says, I am not going to give you my opinion
9 of what it says, I am going to read what it says.
10 Distances were calculated from the proposed Lake
11 Transfer Station to the following regional
12 landfills -- remember what Moose said a little
13 while ago. I will repeat it for you just so you
14 don't forget.

16:23:49

15 How about 2015 when you want it to open?

16:24:02

16 Where is it going to go then?

17 Answer: I don't know. It's going to be
18 in that bandwidth, but to my knowledge,
19 there has been no contractual agreement
20 with anybody to take it anywhere in 2015.

16:24:13

21 Here is what they said just a few months
22 ago. To the following regional landfills intended
23 to receive waste from the Lake Transfer Station. I
24 will give you three guesses and the first two don't

54

1 count about which landfill they identified.

2 There is an old saying that is attributed
3 to Ben Franklin. Three can keep a secret if two
4 are dead. It's that herding cats thing. You just
5 can't keep a false story together when you have
6 that many moving parts.

16:24:53

7 So let's talk specifically about that
8 urgent need. Remember I told you what the
9 appellate court said. They have to establish
10 urgent need. It has nothing to do with the solid
11 waste plan. Urgent need.

16:25:09

12 Now, Mr. Porter represented to you that
13 there was no witness who contradicted Ms. Seibert
14 on the issue of need. Well, actually, there was.
15 He wasn't here, but you heard his testimony. He's
16 her co-worker, Phil Kowalski who has done as much
17 of this as she has and he had agreed that criterion
18 one means urgent need. I didn't say that. He did.
19 It's in the record.

16:25:28

20 Now, here is what they say in terms of
21 existing capacity. Not my words, theirs. Page 1-8
22 of the application. With no additional expansion
23 of the in county landfills proposed, existing
24 capacity is projected to be exhausted not today or

16:25:50

55

1 next week or next year or even by 2020, by the end
2 of 2027, 14 years from now. Not my words, not even
3 Mr. Porter's words. Shaw's words.

4 What else did they tell you, Ms. Seibert
5 particularly because she is the one that wrote 16:26:36
6 this? Page 1-19 of the application. You know,
7 none of that stuff is in that series of PowerPoints
8 that I thought I had. You know, they gave you
9 those PowerPoints, that little binder. And what
10 they wanted you to do is you really don't need to 16:26:58
11 look at that 1,250 pages, just look at the
12 PowerPoints which, of course, don't mention any of
13 the things that I am talking about, the additional
14 things I am going to read.

15 So what do they say about these two 16:27:11
16 landfills in this county that provide the disposal
17 capacity that the law says you have to consider in
18 determining whether or not they met their
19 requirement of proving urgent need? Again, not
20 what the county plan says they would like. What is 16:27:30
21 the capacity? That is what you have to focus on.
22 That is what the law says.

23 Countryside landfill has a remaining
24 capacity of approximately nine years as of January

56

1 1, 2013. Up to 2022. The Zion landfill,
2 approximately 17 years of remaining capacity with a
3 proposed Groot Industries Lake Transfer Station
4 begins operating which they said if you let them do
5 this is two years from now.

16:28:09

6 So as of today, that one has 19 years of
7 capacity. By my simple math, 19 and 9 equals 28,
8 not today, not next year, not even 12 years.

9 Is there an urgent necessity? Is there an
10 urgent need based on an immediate lack of capacity?

16:28:37

11 I'll even -- I won't even say immediately because
12 the case where Phil Kowalski admitted that need
13 means urgent, the landfill that they were trying to
14 replace was closing in two years. Landfill
15 capacity was going to be exhausted in two years.

16:28:59

16 Are we talking here about two years? 19 and 9
17 doesn't equal 2 either.

18 Let's go to criterion two. Mr. Porter did
19 it again. They tried desperately, more than with
20 any other witness to keep McGinley from testifying.

16:29:25

21 Now, when I say he did it again, he once again
22 misrepresented the law to you. Remember that whole
23 argument about McGinley can't testify because he is
24 not licensed in Illinois? Except for one

57

1 inconvenient truth that Mr. Porter tried to get you
2 to ignore. The Supreme Court said, the Illinois
3 Supreme Court said seven years ago that doesn't
4 matter.

5 MR. KARLOVICS: Mr. Blazer, if I may. Would 16:29:57
6 the record please reflect the presence of Trustee
7 Candace Kenyon. The time is 4:31.

8 MR. BLAZER: Why did they try so desperately,
9 him specifically, to keep Mr. McGinley's testimony
10 out of this case? Well, it might have something to 16:30:18
11 do with the fact that he is the leading expert on
12 odor in the waste industry, has trained landfill
13 and transfer station operators all over the world
14 for every major waste company that exists, and
15 contrary to Mr. Moose's statement that we don't 16:30:39
16 need an odor expert to tell us how to deal with
17 odor management and odor determination, he's
18 trained a whole bunch of Shaw's employees.

19 Mr. Porter mentions that, at least
20 according to him, Mr. McGinley didn't know that 16:30:59
21 there was an IPCB regulation, Pollution Control
22 Board regulation about odor. There is only one
23 inconvenient truth about that. Mr. McGinley cited
24 and quoted the IPCB regulation in the report. Take

58

1 a look at it. It's there.

2 So let's talk about their evidence
3 regarding criterion two or I should say their
4 deliberate design in this case about criterion two
5 and specifically odor.

16:31:36

6 This is what Mr. Helsten told you in his
7 opening statement, that Mr. Moose will demonstrate
8 to you that no shortcuts were taken on this
9 facility. With other facilities -- excuse me. He
10 will testify that they will compare this facility
11 with other facilities to show you that this
12 incorporates, remember this phrase, all the most
13 current state-of-the-art amenities that need to be
14 included to provide these types of protections.
15 Mr. Porter told you a little while ago there is
16 nobody that has done it more than Moose.

16:31:55

16:32:12

17 This is TCH Exhibit 41. It's one of those
18 articles from MSW Management magazine, the trade
19 journal for the waste industry that Mr. Porter
20 wanted you to believe isn't relevant. This is
21 somebody who operates -- this is not today. This
22 is state-of-the-art as of seven years ago, 2006.
23 Somebody here is being interviewed about a transfer
24 station that they operate. This facility has high

16:32:38

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1 speed automatic doors that raise and lower within
2 40 seconds each. The dust and odor stay in, he
3 says, because of the limited time the doors are
4 open. The facility's ingress and egress are as
5 opposite as possible from the prevailing winds
6 thereby diminishing the chances that drafts of air
7 may push dust and odor outside the walls of the
8 transfer station. The Puente Hills facility has a
9 rooftop ventilation system with louvers that
10 automatically close when the lights are turned off
11 at the end of the workday. This seals the
12 facility, so no odors can escape. It also
13 conserves energy.

16:33:23

16:33:45

14 So that was the state-of-the-art seven
15 years ago. Let's talk about the state-of-the-art
16 today. Mr. Porter again today made a big point of
17 telling you how awful Mr. McGinley's testimony had
18 to have been because of this HERC facility in
19 Minneapolis next to his questionably beloved Twins
20 stadium. I have to admit I am not a Sox fan. I
21 grew up on the north side, so I've learned to
22 suffer for 56 years.

16:33:58

16:34:20

23 But Mr. Porter says to you today and a few
24 days ago what does one have to do with the other?

60

1 What does this facility, which is a garbage
2 incinerator, with hundreds and thousands more
3 garbage hanging around there every day, it has
4 nothing to do with this facility except for one
5 thing. The reason nobody can smell the odor of the
6 standing garbage from that facility is because they
7 keep the doors closed all the time. That is what
8 Mr. McGinley told you and that is what the industry
9 said the state-of-the-art was in 2006.

16:34:50

10 What did Mr. Moose say, the guy with all
11 this experience? Again, I am not going to tell you
12 what he said. I am going to you read what he said.

16:35:11

13 Question: Then why do the doors have to
14 remain open 20 hours a day when these
15 doors open and close automatically when a
16 truck approaches them?

16:35:27

17 Helsten objects, the objection is
18 overruled.

19 Moose: Doors are doors. I don't think
20 it's necessary to close each door after
21 each truck. Frankly, I like the
22 flexibility to leave them open some days
23 if I want.

16:35:38

24 He talked about the Glenview transfer

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1 station where they consciously override the system
2 sometimes and leave the doors open.

3 Then I ask him: So in response to my
4 question, it's because you don't think
5 they are necessary?

16:36:04

6 Answer: That is what I'm saying.

7 Otherwise, they would have been in the
8 application.

9 I've got to tell you, this may sound a
10 little strange, but I owe actually a very large
11 debt gratitude of to Mr. Porter. He did us a huge
12 favor. And he actually did you a big favor, too.
13 When he was assaulting Mr. McGinley, he was asking

16:36:17

14 McGinley about the attachments to McGinley's
15 report. You have those as well, the publication
16 from the U.S. Environmental Protection Agency.

16:36:41

17 And he refers to what the U.S. EPA has
18 generated as an authoritative treatise on the ways
19 to effectively combat odor at a transfer station.
20 State of the art today, no. What I'm about to read
21 to you was issued by the U.S. Environmental
22 Protection Agency in 2002. This is, please make a
23 note of this, U.S. EPA manual attached to
24 McGinley's report, Page 36. It's called transfer

16:37:04

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1 station design and operation. There is a section
2 on odors. I am going to read to you what the U.S.
3 EPA said you need to do for a transfer station and
4 then I am going to read to you what Moose said in
5 his vision of the state-of-the-art facility 11
6 years later.

16:37:42

7 Number one, remove all waste at the end of
8 each operating day. Do not allow any waste to
9 remain on site overnight.

10 I ask: And is the plan not to allow any
11 waste to not remain on any site overnight
12 at any point in time?

16:38:01

13 Answer: No.

14 Next recommendation. Install ventilation
15 systems. This isn't McGinley talking. This is the
16 U.S. EPA talking, the authoritative U.S. EPA.
17 Install ventilation systems with air filters or
18 scrubbers.

16:38:17

19 So I asked him: Is the plan to install
20 ventilation systems with air filters or
21 scrubbers?

16:38:33

22 Answer: No.

23 The next one, use odor vestibules on truck
24 entrances and exits. Odor vestibules are two door

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1 systems in which the outer door closes before the
2 inner door opens to prevent odors from escaping.

3 Question: Is the plan to use odor
4 vestibules on truck entrances and
5 exits?

16:39:03

6 Answer, you know what's coming: No.

7 Next one, install plastic curtains on
8 entrances and exits to contain odors when doors are
9 opened to allow vehicles to enter or exit.

10 So I asked him: Is the plan to install
11 plastic curtains on entrances and exits to
12 contain odors when doors are open to allow
13 vehicles to enter or exit?

16:39:21

14 You can tell I was reading from this
15 thing.

16:39:35

16 Answer: No.

17 Question, another question -- out of the
18 U.S. EPA manual, the authoritative document, use
19 bio filters. Do you remember how Porter assaulted
20 McGinley about biofilters? This is what the U.S.
21 EPA says. Use biofilters which pass mal odors,
22 malodorous air, stinky garbage air, through organic
23 matter such as wood chips, mulch, or soil to
24 capture odor molecules. Bacteria and biofilters

16:39:52

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1 consume and neutralize odor molecules.

2 Question: Mr. Moose, is the plan to use
3 biofilters which pass malodorous air
4 through organic matter such as wood chips,
5 mulch, or soil to capture odor molecules?

16:40:30

6 Answer: No.

7 Let's look at criterion three. You have
8 heard this 100 times. For Groot's lawyers, it
9 became a memory test. Here is what it says. The
10 facility is located so as to minimize
11 incompatibility with the character of the
12 surrounding area and to minimize the effect on the
13 value of the surrounding property.

16:40:54

14 Lannert tried to convince you that the
15 area surrounding the site has been defined by
16 industrial uses that have been established over the
17 past years. Even Poletti disagreed with him. He
18 describes your village as you know it to be, a
19 village of residential and commercial developments.
20 But he admits that industrial in his study area,
21 the area he needs to study to determine, as the
22 statute says, the character of the surrounding
23 area. Remember that. The character of the
24 surrounding area.

16:41:10

16:41:33

1 He says, he admits industrial impact is
2 only 4 percent and focuses on that rather than on
3 the fact that his one mile radius is 30 -- 37
4 percent residential. Yet he had to admit
5 ultimately that the existing zoning -- obviously
6 again I'm quoting. And the uses within a one mile
7 study radius of the subject site indicates that the
8 existing uses, not the ones he would like you to
9 believe exist, the ones that actually exist, have
10 been established for many years and continued
11 growth is anticipated as planned.

16:42:12

16:42:30

12 What are those uses? Lannert can't ignore
13 that either. Residential uses. Doesn't say
14 industrial. Residential uses have been
15 successfully integrated within the study area. So
16 the problem with Lannert telling you that impacts
17 on the character of the surrounding area have been
18 minimized is that he completely misses what the
19 character of the surrounding area actually is.

16:42:48

20 He never gets out of the gate on
21 minimizing because he has the wrong character in
22 more than one way. And Poletti himself disagrees
23 with him.

16:43:07

24 Now, Poletti, I could probably stop with

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1 Poletti by just reminding you that he relies on
2 Lannert on describing what the surrounding area is.
3 He testified to that. But he goes farther and
4 tries to use four reports from other cases where
5 witnesses just like him try to convince people just
6 like you that there is nothing wrong with taking
7 other people's garbage.

16:43:39

8 But his report just like Lannert's said
9 nothing about this thing being opened 24/7. He
10 didn't even know. It says nothing about these
11 doors open 24 hours a day because nobody told him.

16:43:59

12 Why didn't nobody tell him? He didn't say
13 in their February presentation, they didn't say in
14 their life cycle assessment. It's buried in one
15 line, one single sentence. It's about a line and a
16 half line in that sentence out of that 1,250 page
17 application you have sitting in front of you.

16:44:19

18 Mr. MaRous pointed out the many
19 assumptions in Poletti's report and they can't deny
20 those either. Now, remember something. It's a
21 procedural thing that is allowed in your ordinance.
22 Groot had a chance to put on a rebuttal case. They
23 had a chance to put witnesses on. They had a
24 chance to bring Poletti and Lannert back and say,

16:44:39

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1 no, MaRous was wrong, Blazer is wrong, but they are
2 not here.

3 What did they do or try to do to
4 Mr. MaRous, probably one of the, if not the most
5 respected real estate expert in the state of 16:45:14
6 Illinois? Well, he phoned up problems with
7 MaRous' analysis like that McCook landfill that he
8 says didn't exist. It does. Or a quarry operation
9 in Elgin that Mueller said doesn't exist except it
10 does. 16:45:39

11 As for Dale Kleszynski, you heard him
12 today. Unfortunately, Mary, you didn't. You will
13 probably have the opportunity to read a very long
14 cross-examination. You know I wasn't short. What
15 I can say right now about Dale is that he did the 16:45:58
16 job he was hired to do and it doesn't reflect well
17 on you.

18 Here, by the way, is Page 18 from that
19 February presentation, their first shot out of the
20 gate on their deliberate design. Hours of 16:46:22
21 operation. Anybody see 24/7 on there?

22 Let's talk about criterion six.
23 Mr. Porter pointed out correctly, I might add, that
24 Werthmann did a three phase study. What does

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1 criterion six say? The traffic patterns to or from
2 the facility are so designed as to minimize the
3 impact on existing traffic flows. You don't have
4 to memorize this stuff because actually one of the
5 few things in this application that is accurate is
6 very beginning, the executive summary, they quote
7 to you all of these criterion.

16:47:07

8 Like I said, Porter is right. Werthmann
9 did a three phase study. The only problem is he
10 artificially stopped at Cedar Lake road. He
11 completely ignored 36 transfer trailers going out
12 and back every day. You never heard an explanation
13 of why he did that. Even though he knows that all
14 of these transfer trailers will go to and come
15 from, the words of the statute, the Winnebago
16 landfill.

16:47:24

16:47:47

17 And what did he say about that? The
18 specific route I do not know. The exact route I do
19 not know at this time. Frankly, there is not much
20 more I need to say about that except for the
21 assault on Brian Coulter, a leading traffic
22 engineer, who happens to work out of a home office,
23 but I guess Groot people have some problem with
24 people working out of their home offices like that

16:48:08

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1 has some impact on what they have to say to you.

2 Well, fundamentally, Brian Coulter had no
3 problem at all with Werthmann's three phase
4 analysis, so far as it went. You may recall he
5 even said he agreed with virtually every 16:48:43
6 recommendation Werthmann made about improvements
7 right around the site. What was his problem? It's
8 the problem that they can't get over that is
9 created by this statute. They stopped at Cedar
10 Lake Road and we have no clue what is going on 16:49:01
11 after that.

12 Just like criterion one, two, and three,
13 there is no way for you to say yes on criterion six
14 unless that decision has already been made.

15 Let's go to criterion eight. Now we can 16:49:22
16 finally talk about the relevance of the county
17 solid waste plan which has absolutely nothing to do
18 with criterion one. This is what Werthmann said.

19 Question: So the transfer trailers will
20 go from the transfer station to the 16:49:43
21 Winnebago landfill; is that correct?

22 Answer: Initially, that is their
23 intention, but who knows after 20 years,
24 30 years.

1 It's kind of sort of what Moose had said
2 originally, if you remember, but that is 20 years
3 from now. He is not talking from today to 20 years
4 from now. We will find out why in a minute.

5 At least as a -- question: At least as
6 of today or as of the time this facility
7 opens, that is the intention as you
8 understand it, correct?

16:50:08

9 Answer: As I understand it.

10 Question: That is the information that
11 you have been provided by the development
12 team; is that correct?

16:50:20

13 Answer: It's my understanding of it.

14 Question -- and this will be the third
15 time I repeat this quote to you as I think it's
16 relevant right now.

16:50:43

17 Moose again, question: How about 2015
18 when you want it to open? Where is it
19 going to go then?

20 Answer: I don't know. It's going to be
21 in that bandwidth, but to my knowledge,
22 there has been no contractual agreement
23 with anybody to take it anywhere in 2015.
24 Here is what Werthmann is telling you.

16:50:53

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1 Question: That is the information that
2 you have been provided by the development
3 team; is that correct?

4 Answer: It's my understanding of it.

5 Question: And none of the transfer
6 trailers will come back from the Winnebago
7 landfill to the transfer station; is that
8 correct?

16:51:14

9 Answer: Correct.

10 Question: And all of the collection
11 trucks and transfer trailers will utilize the
12 arterial roadway system when traveling to and from
13 the transfer station, correct?

16:51:23

14 Answer: Yes.

15 Why am I saying this to you now since I
16 already said I was done talking about criterion six
17 and now I am talk about criterion eight? Well,
18 because Moose did it again.

16:51:35

19 Question: All right. Now that we know
20 -- remember he came back again and testified about
21 criterion eight after he testified about five other
22 ones and that was after Werthmann testified.

16:51:52

23 Question: All right. Now that we know
24 -- this is obviously me talking -- that the waste

72

1 of this facility, will be, in fact, going
2 to the Winnebago landfill to your
3 knowledge, has Winnebago landfill
4 initiated a host agreement with SWALCO?
5 Objects, we go back and forth.

16:52:18

6 Ultimately, Mr. Luetkehans overrules the objection
7 and he answers it.

8 Answer: As I recall it, we are not going
9 through the Winnebago landfill.

10 Here is your solid waste plan. They will
11 recognize it as their solid waste plan. He miles.

16:52:41

12 He might be smiling because you know it's
13 an odd thing in that 1,215 pages of stuff that they
14 gave you, they didn't give you this. I did. This
15 is TCH Exhibit 27. I have to tell you this is the
16 first siting application I have ever seen where in
17 talking about criterion eight, they didn't give you
18 the solid waste plan. Part of the deliberate
19 design.

16:53:04

20 Make note of this, please. It's Page 4-9
21 of this exhibit. And I will tell you again in all
22 the years I have been doing this, I've got to give
23 Mr. Willis credit for thinking out of the box
24 because I have never seen something like this

16:53:22

1 before. SWALCO will consider expanding the list of
2 landfills located outside of Lake County.

3 I want to stop there for a second.

4 Because one of the things that Groot's lawyers did
5 when I pointed this out was try to say, well, that
6 is about a landfill, that is not about a transfer
7 station. Well, here is the thing. Lake County has
8 no siting authority over a landfill located outside
9 of Lake County. This has nothing to do with siting
10 authority. It has to do with how a landfill

16:53:55

11 outside of the county can be considered as
12 providing capacity for the county.

16:54:14

13 And here is what it says. SWALCO will
14 consider expanding the list of landfills located
15 outside of Lake County deemed to be serving Lake
16 County if the owner of the landfill proposed for
17 inclusion first negotiates a host agreement with
18 SWALCO. The host agreement must provide for a
19 capacity guarantee and payment of a host fee for
20 each time that Lake County waste taken to the
21 landfill. Walter, getting Winnebago to do that.

16:54:32

22 And here is the reason why, apart from the
23 traffic plan, why Winnebago is relevant to this
24 proceeding. It's finally after several attempts,

16:54:51

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1 after repeatedly denying that the waste from this
2 facility was going to Winnebago, Moose finally made
3 a mistake and told the truth.

4 Question: All right. Well, you are aware
5 that Groot currently has an agreement with
6 the Winnebago landfill?

16:55:40

7 Do you remember he said he wasn't aware of
8 any such agreement?

9 You are aware that Groot currently has an
10 agreement with the Winnebago landfill
11 providing for the Winnebago landfill to
12 accept all waste generated through
13 transfer stations owned and/or operated by
14 Groot industries and disposed of in the
15 Winnebago landfill, correct?

16:55:49

16:56:01

16 And here is what Groot says finally, and I
17 am going to read this for the fourth time.

18 Question: How about 2015 when you wanted
19 to open? Where is it going to go then?

20 Answer: I don't know. It's going to be
21 in that bandwidth, but to my knowledge, there has
22 been no contractual agreement with anybody to take
23 it anywhere in 2015.

16:56:15

24 What did he say this time? I am going to

75

1 read you my question again.

2 Question: All right. You are aware that
3 Groot currently has an agreement with the
4 Winnebago landfill providing for the
5 Winnebago landfill to accept all waste 16:56:41
6 generated through transfer station owned
7 and/or operated by Groot Industries and
8 disposed of at the Winnebago landfill,
9 correct?

10 And here is what Mr. Moose said this time 16:56:51
11 finally when he made a mistake: Yes, that's why I
12 instructed him, Werthmann, to use that as a
13 destination to do the analysis.

14 Mr. Moose deserves the reputation he's had
15 since 1997. 16:57:16

16 So then I go back finally when even he has
17 admitted it and I ask him those questions out of
18 the county's solid waste plan.

19 Has the Winnebago landfill, not you, not
20 Shaw, not Groot, not anybody else other 16:57:36
21 than the Winnebago landfill negotiated a
22 host agreement with SWALCO to your
23 knowledge?

24 Requirement number one out of Mr. Willis'

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1 solid waste plan. Objection is overruled.

2 Moose: Not to my knowledge.

3 Question: Has the Winnebago landfill
4 provided a capacity guarantee to SWALCO
5 for Lake County waste? Requirement number
6 two out of the solid waste plan.

16:58:01

7 Objection overruled. Helsten really
8 didn't want to hear these questions.

9 Answer: Not to my knowledge.

10 Question: Had the Winnebago landfill
11 agreed to pay a host fee to SWALCO for
12 every ton of Lake County garbage that it
13 takes?

16:58:14

14 Requirement number three out of the solid
15 waste plan.

16:58:28

16 Answer: Not to my knowledge.

17 The only way you can say yes on criterion
18 eight is if that decision has already been made.

19 How long are you going to have to live
20 with this thing if you say yes? 20 years, 30
21 years, 40 years? What did Mr. Moose tell you about
22 operations about 24/7, about operating whenever
23 they feel like it?

16:58:51

24 Question: In response to some of

77

1 Mr. Grossmark's questions regarding,
2 again, overnight operations 24/7
3 operations, you were mainly, it sounded
4 like, focusing on circumstances,
5 snowstorms, things like that, correct?

16:59:25

6 Answer: Yes, and as well as to serve
7 commercial clients.

8 Question: Right. But servicing
9 commercial clients are not emergency
10 situations, right?

16:59:36

11 Answer: But I also testified that
12 24 hours is necessary to service certain
13 commercial clients.

14 Do you really think they are going to
15 close once you let them in?

16:59:48

16 So let's go back to who you really need
17 -- boy I know how you need the money. I've known
18 you need the money. You've needed the money for
19 years since we got the Attorney General off your
20 back about resources. We remember that. We've
21 talked about that before. I knew how desperately
22 you needed money then. It hasn't gotten any better
23 since the recession. I know that.

17:00:13

24 And I have to think it must have seemed a

78

1 deal too good to be true when Groot shows up at
2 your doorstep and says I am going to give you free
3 money, just let us bring in waste from all over the
4 county. 240 some odd thousand dollars a year would
5 fix an enormous number of problems in your
6 community. I know that.

17:00:48

7 The problem with things that seem too good
8 to be true is that usually they are too good to be
9 true. Because quick fixes rarely lead to permanent
10 solutions. They usually lead to permanent
11 problems.

17:01:07

12 Now, you both have been here a long time
13 and I don't mean to exclude you, Trustee Cerretti.
14 But Trustee McCue and the Mayor have been here a
15 long time. They were here when we were here. You
16 know, Trustee McCue, you've said the reason you
17 came back as a trustee after you stopped being
18 mayor is because you wanted to see through the
19 completion of projects that you started when you
20 were mayor and what a great thing to do after
21 having been in a thankless job.

17:01:24

22 You know, folks like you don't do this for
23 the money, you don't do it for the praise. It's
24 not like you look forward to every Village Board

17:01:38

79

1 meeting of people complaining about the streets or
2 the sewers or 1,000 other things. You do it
3 because you love your community just like the
4 person you took over for.

5 Now, ask yourselves this because you both
6 knew her well. You knew her a lot better than I
7 did. If you had gone to Ila Bauer and said we can
8 get 240 some odd thousand dollars a year and all
9 we have to do is let everybody send their garbage
10 here, what do you think she would have said? Do
11 you think she would have said yes? Or do you think
12 she might have said we can't do this in this place,
13 we love this place, there's got to be another way.
14 I don't know what it is. We've had problems, but
15 there has to be a better way. We can't do this in
16 this community. I think you know that is what she
17 would have said.

18 Here is the permanent problem that you
19 create for yourselves when you invite Groot in with
20 a host agreement. Waukegan is the county seat of
21 Lake County's government. You will be the county
22 seat of Lake County's garbage. North Chicago has a
23 navy base. You will be Lake County's garbage base.
24 Gurnee has the Great America amusement park. We

80

17:02:09

17:02:34

17:02:54

17:03:17

1 call it the echo park, but what you will have
2 around here is Groot's garbage park.

3 Communities like Bannockburn and
4 Barrington and Lake Forest and Highland Park, all
5 of those places that have stayed residential have
6 lots of wealthy people with mansions. You will get
7 their garbage.

17:03:57

8 Like I said -- oh, there's one thing, by
9 the way, that I forgot to mention. I had a note
10 here to myself that says 1,000 on that little
11 yellow sticky. I wanted to remind myself, so I
12 could remind you that your host agreement stops at
13 1,000. Anything above that, and you know it will
14 go above that, Groot has to agree to pay you. Will
15 they throw you a couple of nickels per ton? They
16 might. Because at the end of the day when you
17 compare the millions and millions of dollars that
18 they will make off of this facility, from their
19 perspective, a couple of nickels is all you're
20 worth.

17:04:21

17:04:45

17:05:02

21 So when you enter into this host
22 agreement, like I said, you invited Groot in to
23 this community. It's what you asked for. And as
24 the old saying goes, be careful what you ask for

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1 because you might get it.

2 THE HEARING OFFICER: Thank you, Mr. Blazer.

3 Mr. Grossmark or Mr. Clark, has that
4 changed your desire to close this evening?

5 MR. CLARK: We will waive the right to make
6 closing statement. Thank you.

17:05:35

7 THE HEARING OFFICER: Mr. Grossmark?

8 MR. GROSSMARK: We are foreclosing statement.

9 THE HEARING OFFICER: Mr. Sechen?

10 MR. SECHEN: Just briefly, if I may.

17:05:45

11 CLOSING STATEMENT

12 BY MR. SECHEN:

13 I would like to thank you in advance for
14 what you are about to embark on. It's one heck of
15 an adventure in deciding what in the world to do
16 with this. And you are probably wondering about
17 some of the things that happened, maybe why I have
18 done some of the things that I have done.

17:06:13

19 But before I lose the battery on this
20 computer, I want to talk a little bit about need.
21 It kind of works out that that's the first
22 criterion in 39.2.

17:06:27

23 Mr. Blazer would like to emphasize the
24 urgency that there has to be to define need and we

82

1 are going to talk a lot more about need in a
2 minute. Well, not a lot more. I don't hope to be
3 here that long talking to you.

4 But there is a number of cases and you
5 have the benefit of -- you may want to start with
6 looking to him and he may want to start by looking
7 at an old case, Industrial Fuels and Resources vs.
8 Illinois Pollution Control Board can be found at
9 227 Ill. App. 3rd 533, 592 N.E. 2nd, 148, First
10 District, 1982. Old case.

11 But what it does -- and it's a First
12 District case, by the way. Not that that should
13 mean anything to you since you are not in the First
14 District, but I just thought that I would point
15 that out.

16 It does take all of the cases up until
17 that point kind of into consideration and talks
18 about the more important ones and what need means.
19 And it starts with perhaps the granddaddy of siting
20 cases Koth vs. Beasley. Urgent isn't so urgent is
21 what I'm telling you.

22 But don't take my word for it. Talk to
23 your attorney. He can look this up. Reasonably
24 necessary, element of urgency, reasonably

17:07:01

17:07:29

17:07:46

17:08:03

1 convenient, that is what is required. Not urgency
2 like you are going to be looking for a place to
3 empty that trash can out from under your sink in
4 the morning, not like that. It's a lot more
5 practical.

17:08:42

6 This whole process is a lot more practical
7 than what Mr. Blazer would like to see it be. What
8 I think we really need to start with, and I want to
9 run through this quickly, is some of the things
10 that have gone on in this room. We have a couple
11 of liars who were sitting at that table over there,
12 I'm a liar, even Walter Willis is a liar. I am a
13 disreputable lawyer and apparently you are
14 disreputable as well because you have already
15 decided this case. All of that is in Mr. Blazer's
16 mind.

17:09:08

17:09:27

17 But what you are looking at is smoke and
18 mirrors. And I frankly don't care what you do in
19 this sitting case. It's out of my hands. But what
20 I attempted to do was point to areas that maybe you
21 want to take a better look at. And I did that in
22 two ways, cross-examination of the various
23 witnesses, and by calling Dale Kleszynski.

17:09:40

24 We talked about at close here 750 tons a

84

1 day and they might throw you a couple cents. Host
2 agreement goes up to 1,000. They go up to 750, you
3 have to resite this facility. The whole thing
4 starts again. They are not going to go over
5 750 for a while.

17:10:29

6 That is my guess. But my guesses don't
7 count. Your guesses count. Your judgments are the
8 collective judgments that controls what happens
9 here.

10 Beware of certain things, certain
11 testimony, things that seem too simple, things that
12 don't have any back up, things like Mr. Thorsen
13 from my alma mater, if you will. Kind of
14 embarrassing.

17:10:43

15 Beyond the calculation, adds up a bunch of
16 numbers, how much waste is generated. My gosh, you
17 don't have to worry about waste disposal for a
18 couple of decades. Well, I think we just talked
19 about it. While in one breath saying that and the
20 next breath he says, no, I didn't do a needs
21 analysis. Way too easy. Why did he do that?
22 Because he didn't want to be cross-examined on it.
23 He's done essentially nothing.

17:11:02

17:11:24

24 So speaking of having done essentially

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1 nothing, let's jump ahead to Mr. MaRous who did a
2 few more pages of essentially nothing. And you
3 heard about it potentially ad nauseam on cross,
4 mine, and more importantly, I think Mr. Mueller's.
5 I think Mr. MaRous was fortunate in his own mind to
6 get out of here alive because he realized he did
7 essentially nothing yet what he did after doing
8 nothing was say what Poletti did was wrong. I
9 don't know what it was that was wrong, it's an open
10 question, but he didn't do anything to disprove it,
11 he just doesn't like it.

17:12:01

17:12:25

12 I guess that problem was solved when
13 Mr. Kleszynski testified and explained what the
14 requirements of his profession are and what
15 Mr. MaRous should have done and certainly it was a
16 lot more that he did because Mr. Kleszynski did
17 multiple times what MaRous did and verified what
18 Mr. Poletti did. This isn't earth science. This
19 is not the first of these facilities to be
20 operating. These things are getting to be fairly
21 common. This is not something that you have to
22 reinvent the wheel on.

17:12:45

17:13:06

23 You may have a hard time getting your arms
24 around many of these issues because you are

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1 unfamiliar with them, so just take your time, try
2 to decide it within the statutory required time
3 which you will have an attorney to talk to you
4 about. But you certainly want to consider these
5 things and realize this stuff is done every day
6 while the next logical point that I was about to
7 say was really Groot and their operations open
8 doors, close doors, odors, et cetera, et cetera,
9 but I think maybe you need to take a look at why
10 things were done the way they were done.

17:13:39

17:14:09

11 I mentioned Mr. Thorsen, I mentioned
12 Mr. MaRous, and I mentioned Dale Kleszynski as
13 well. In the ideal world, Mr. Kleszynski's report
14 would have been on the web site and perhaps it
15 would have eased some of the concerns that some of
16 the homeowners in the area had. It was
17 essentially a fancy peer review. It would be nice
18 just to know that the guy sitting there and being
19 paid for by the applicant is doing a straight up
20 job.

17:14:32

17:14:56

21 If nothing else comes out of
22 Mr. Kleszynski's testimony, that is what should
23 come out of it. Nobody is a liar over there,
24 nobody is a liar over there, but there is an awful

87

1 lot of smoke blowing around this room and there are
2 a few mirrors, too.

3 I'll go through my notes here kind of
4 briefly. Let's talk about operations,
5 Mr. McGinley. U.S. EPA says, well, guess what, 17:15:31
6 Mr. MaRous testified that there are no transfer
7 stations in Illinois using activated charcoal. He
8 pointed out something really important when you
9 think about it. The transfer station sometimes
10 called Glenview now apparently, it was Wheeling, 17:15:53
11 but not like Mr. MaRous said Wheeling as in the
12 village. You can acknowledge the transfer station,
13 what is the full name of that facility.

14 That is a larger version of what Groot
15 intends to build, hopes to build here. Why is that 17:16:09
16 important? That is important because you heard the
17 testimony about the doors being open at Wheeling
18 and the doors being open here and all the noise and
19 all of the odor that is going to occur. Like I
20 said, this isn't the only transfer station or won't 17:16:31
21 be if you guys allow it to be built and they
22 actually do proceed with building it, if it becomes
23 operational, it will be one of many.

24 But this is what they do. It's the way

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1 they operate a transfer station in the state of
2 Illinois. And Groot, Waste Management, Allied
3 Republic, any of these companies run these
4 stations, they all know how to operate them. If
5 there were violations because of open doors or any
6 other reason, you would have heard about it
7 probably ad nauseam, but you heard nothing. Think
8 about that a minute.

17:17:03

9 You can close the doors if you think it's
10 important like wind conditions require it, like
11 there is noise for some reason being in excess of
12 what you would like, or odors, although, I doubt
13 they will be closed because of odors. Because
14 Mr. Thorsen -- strike that. It's not Mr. Thorsen.
15 It's Mr. McGinley.

17:17:24

17:17:43

16 There is a gentleman that would really
17 like to have a part of designing and spending a ton
18 of money on consulting at transfer stations. But I
19 asked him a question and the last time I mentioned
20 this, Mr. Blazer decided that this wasn't said, so
21 take a look at Page 188 of the transcript because
22 it was said.

17:18:06

23 Search your recollection. Mr. McGinley
24 testified that he couldn't tell you that there was

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1 going to be a perceptible odor at Timber Creek, at
2 the residential area. He couldn't tell you that
3 there is going to be a perceptible area -- strike
4 that. Perceptible odor of any kind in any of the
5 industrial property in between. I guess that kind
6 of puts the odor issue to bed, doesn't it? You
7 would think so.

17:18:47

8 But just in case it doesn't, just because
9 there is some truth to what else is in the record
10 and you can choose to believe what you want, find
11 what was said in closing by me or what any of the
12 witnesses said, you can choose not to believe it
13 and I urge you if you don't believe it, please note
14 accordingly.

17:19:05

15 But I suggest that you may want to
16 consider certain special conditions and I know that
17 you are going to see a bunch of those when you get
18 our suggested findings and conclusions. And I
19 mention the word recommendations. I suspect I will
20 be offering a few of them.

17:19:23

17:19:45

21 But I suspect what you are going to see,
22 at least from me, are things like you can bring
23 -- rather than having to go to court and enforce a
24 host agreement, they are going to pay for an odor

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1 study, maybe a noise study. You can tell them to
2 close the doors. But I don't suggest you try to
3 help these guys who have run a transfer station
4 forever without a single violation being brought to
5 your attention how to run a transfer station.

17:20:15

6 But if you have a problem, you need to
7 clamp down on it because you don't want to subject
8 anybody in the area to issues like that. That is
9 not appropriate. I don't suspect you are going to
10 see them based on what I've heard, but what I've
11 heard isn't important. It's what you have heard
12 and what you decide is important.

17:20:35

13 We have heard a lot of talk about
14 comprehensive plans. Well, I don't need to tell
15 you about comprehensive plans. But what is really
16 significant is what appears in the exhibits. Oh,
17 yeah, there's a bunch of residential property north
18 of the transfer station, but as you move closer to
19 the industrial park, surprise, the area becomes
20 more industrial. You can take a look at the zoning
21 which to my knowledge is much more important than
22 the comprehensive plan. You can have a plan on a
23 piece of property and any one of a number of
24 villages and all of them would be different. You

17:20:59

17:21:26

91

1 have probably seen that happen. So let's not worry
2 about what could happen. Let's worry about what is
3 most likely to happen and in accordance with the
4 applicable zoning.

5 Noise. Yeah, everybody is worried about 17:22:06
6 noise. I don't know if somebody has mentioned the
7 word decibel to you. There's a whole lot of real
8 evidence on it, is there?

9 And, again, you can't worry or can't blame
10 the citizens in the community for worrying about it 17:22:33
11 because that's likely many of their single largest
12 asset, their home. They are worried about it.

13 They are worried about its value, they are worried
14 about it being subjected to any sort of impact.
15 Trucks, three transfer trailers an hour. And try 17:22:51
16 to separate the three transfer trailers an hour for
17 all of the other trucks in the area even from other
18 trucks than Groot's just down 120.

19 You probably recall a couple of questions
20 about what about the trucks from Groot North. What 17:23:15
21 about the trucks from the eco park? How do you
22 separate the impacts? Good luck. It's all
23 background. All background and you can't -- I
24 don't think in good conscious really point to one

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1 source and say that is a huge problem. If you want
2 to live somewhere and control the land, you need to
3 buy the land.

4 Traffic. Here we go. I can't let
5 Mr. Coulter off the hook that easily. The man who 17:24:02
6 stood right there at that podium and made up
7 something to add to criterion six and he got called
8 on it. He didn't answer the question. Take a look
9 at your recollection. Run through that. Run
10 through the transcript. Then read the criterion, 17:24:18
11 the traffic criterion.

12 Well, if you have three, four, five
13 landfills that you might use, how many landfills do
14 you put in the traffic plan? He decided to put a
15 number on it. That was a mistake. Because it 17:24:39
16 doesn't say.

17 Do you feel comfortable, you have to
18 answer this for yourself, developing anything to do
19 with traffic in another township, another town,
20 another county or maybe if there is waste that were 17:24:58
21 to go to Wisconsin in another state? Good luck in
22 making that work.

23 Like I say, this isn't the first rodeo,
24 but much of what you heard has been presented to

1 you like it's the first and only transfer station.

2 So above all just consider the
3 practicality of the situation. Each of you is a
4 very intelligent person, you have great experience
5 and background and municipal background is 17:25:33
6 particularly important. View the evidence, all of
7 it, and see is this practical, does it make sense,
8 do I believe this and if you do, vote one way. If
9 you don't, vote the other way.

10 Thank you very much for your time and good 17:25:58
11 luck.

12 THE HEARING OFFICER: Mr. Smith, we are doing
13 closing arguments. You have filed an appearance of
14 a public participant. If you wish to provide a
15 closing statement, you may. If not, you don't have 17:26:11
16 to or you could submit something in writing as
17 well.

18 MR. SMITH: I have, what, 30 days to submit
19 something in writing?

20 THE HEARING OFFICER: You have -- yes, there's 17:26:21
21 -- we will talk about it again, but there will be
22 time to submit.

23 MR. SMITH: That is what I will do then.

24 THE HEARING OFFICER: There was one other

1 person who had public comment -- excuse me,
2 Mr. Porter, did you have anything you wish to do in
3 rebuttal shortly?

4 MR. PORTER: Very short. Less than a minute.

5 Rebuttal

6 BY MR. PORTER:

7 Evening. I just want to remind you that
8 not one of Mr. Blazer's witnesses did their own
9 study as to whether the specific criterion had been
10 met. Mr. McGinley, Mr. Thorsen, Mr. MaRous,
11 Mr. Coulter, not one of them did a complete study
12 of the criterion that they were called here to
13 testify about.

17:27:07

14 The evidence is clear that all the
15 criterion have been met.

17:27:19

16 Mr. Blazer brought up U.S. EPA publication
17 that I laid a foundation for being an authoritative
18 treatise. The problem is he cited the wrong
19 section, the wrong document actually. The one that
20 I was using was Waste Transfer Stations: Involved
21 Citizens Make the Difference. And that section,
22 that document that his own expert utilized had a
23 section on odor that was provided various operating
24 procedures. There were four bullet points, first

17:27:35

95

1 in first out, waste handling practices to keep
2 waste on site only for short periods of time. That
3 was one of the one things that he admitted our
4 Groot is going to do. There were four total bullet
5 points.

17:28:07

6 The next one was moving all waste to the
7 tipping floor leaving all to the operating floor.
8 Again, he admitted Groot is going to do that.

9 Good housekeeping measures including
10 regular cleaning disinfecting services, again, he
11 admitted Groot is going to do that.

17:28:15

12 Water deodorizing systems, again, he
13 admitted that is one of the operating systems of
14 Groot.

15 So what he admitted is those four
16 operating procedures that the U.S. EPA recommended
17 be employed in order to keep odor mitigated are
18 being done by Groot at this proposed facility.

17:28:26

19 So once again, I just want to thank you
20 for your time. It's getting late and I assure you
21 that we appreciate all your efforts and hopefully
22 you will agree. Thank you.

17:28:40

23 THE HEARING OFFICER: Public comment, sir?

24 When you start, state your name for the

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1 record and give us your address.

2 MR. COHN: My name is Larry Cohn, C-o-h-n.

3 24632 North Elm Road, Lake Forest, Illinois.

4 I am directing these remarks to each
5 member of the Village Board of Trustees of Round
6 Lake Park as well as to the people who live and own
7 businesses in Round Lake Park as well as to the
8 people who live and work in the joining towns of
9 Round Lake and Hainesville.

17:29:28

10 I am speaking today to express my opinion
11 about the Groot garbage company's attempts to place
12 a garbage transfer station in Round Lake Park.

17:29:43

13 First let us be clear about what it would
14 mean if Groot were to succeed. They would be
15 bringing in smelly garbage in the amount of a
16 minimum of 750 tons per day. I do not think in
17 terms of tons, so I converted that to pounds. They
18 would be dumping one and a half million pounds per
19 day in Round Lake Park. That is over 450 million
20 pounds per year.

17:30:01

21 Try to grasp what 450 million pounds of
22 garbage looks like. I doubt that you can. I know
23 that I can't. That much garbage is beyond
24 comprehension and that is the minimum amount. They

17:30:22

1 admit they could process even more and you can
2 count on the fact that they will indeed be more,
3 much more.

4 In all of Lake County, there does not
5 exist even one garbage transfer station. Why is 17:30:53
6 that? One reason is that no town in Lake County
7 would want to allow such an undesirable use in
8 their town, for sure not anywhere where people
9 live. We will never see a garbage transfer station
10 in Kenilworth or Bannockburn or Barrington or any 17:31:09
11 town where there are residents with plenty of money
12 to fight it.

13 In fact, there are other locations in Lake
14 County that are suitable for this use. Groot's
15 head engineer testified that there are a handful of 17:31:25
16 locations that are properly suitable and are
17 probably many more that he would not want to admit
18 to. There are large areas of open land far enough
19 away from people that they would not have their
20 life disturbed by the presence of a garbage 17:31:41
21 station.

22 More importantly, no other garbage
23 stations that exist or proposed because none are
24 needed at this time. Within the boundaries of Lake

1 County, there are two existing landfills. Even if
2 there were not a future expansion of either or both
3 of the landfills, there is no need for a garbage
4 station anywhere in the county for at least 14
5 years and maybe longer which Groot's own witnesses
6 testify to. Illinois State law specifies that the
7 siting of a garbage transfer station can be done
8 only if there is an immediate necessity. Obviously
9 there is no such need at this time or for many
10 years into the future.

17:32:07

17:32:24

11 So since you know that no application for
12 a garbage station can meet the legal requirements
13 of it being necessary now and since Groot's
14 attorneys and engineers know that their application
15 could not meet the legal requirements, why would
16 they even bother going through all the time,
17 effort, and expense to make an application for this
18 village?

17:32:37

19 On the surface, it seems very strange that
20 they would either attempt something that they know
21 does not meet the legal requirements. But there is
22 a very good reason. Here it is. Groot figured if
23 they go to a small town that had economic problems
24 like so many towns are having these days and

17:32:50

1 offered the town a lot of money to cooperate with
2 them by accepting a garbage transfer station in
3 their town, that the people in that town would be
4 so busy with their own lives working hard to try to
5 make a living, no one would have enough money to
6 fight them to enforce the law which was meant to
7 protect them, that Groot would get their garbage
8 transfer station by default.

17:33:17

9 Groot would not even attempt to do this in
10 a town where there were citizens who have plenty of
11 money because Groot knows that those people could
12 afford to hire attorneys to see to it that Groot
13 could not break the law.

17:33:31

14 So Groot picks Round Lake Park because if
15 nobody stood up against them and the village
16 approved it even though it was not proper, they
17 would have the garbage transfer station. They did
18 not figure on anyone stepping up to protect the
19 town and it's people from this horrible plight that
20 would descend on you if Groot had its way. But
21 someone has shown up to fight all this destructive
22 Goliath. Be very clear this is another situation
23 where a very rich, very big business stands to make
24 millions of dollars at the expense of human beings.

17:33:47

17:34:04

100

1 They do not care at all what effect their
2 business will have on people. They made a design
3 to plan and operate their building to make at least
4 some attempt to reduce some of the terrible effects
5 that they would be creating with their garbage
6 operation.

17:34:34

7 For example, their plan provides doors
8 that can open and close very rapidly each time a
9 garbage truck pulls in and out of their building to
10 keep all of the 20 foot high by 20 foot wide
11 doorways closed for the maximum amount of time in
12 order to reduce the time that the horrible noxious
13 garbage odors could escape from the building and go
14 into the atmosphere and travel to the homes and
15 businesses in your village and nearby villages.

17:34:47

17:35:01

16 Groot admitted in testimony that they do
17 not even intend to close their doors at all for
18 20 hours of each day. Are these the kind of
19 people, heartless people that you want to invite
20 into your village?

17:35:18

21 And speaking of the kind of people that
22 you are dealing with here with this application,
23 the testimony of the hearing showed that they lied.
24 The engineering team that has worked together for

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1 Groot on this project for a very long time, perhaps
2 years, gave testimony that was inconsistent with
3 and contradictory to other members of their own
4 team and with their own expert witnesses. Having
5 worked together for so much time, they must have
6 known what the truth was, yet they said different
7 things in an attempt to make Groot's case look
8 better. In other words, they lied.

17:35:44

9 But the truth finally came out and, in
10 fact, Groot's own attorney had stated on the record
11 in the past hearing that the engineer who heads
12 Groot's team in this matter was a liar and you
13 could not trust anything he says.

17:35:58

14 So you know that in dealings -- in any
15 dealing -- excuse me. So you know that in any
16 dealings that the village has had with Groot or
17 their representatives in the past or that the
18 village might have with them in the future, those
19 dealings are not something that you consider to be
20 forthright and honest because they have shown that
21 they have lied to get what they want.

17:36:13

17:36:28

22 Now, let us once again examine the fact
23 that Groot has dangled a bunch of money in front of
24 the village board and lead unto temptation. You

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1 know that there are times when no amount of
2 temptation should cause you to do the wrong thing.
3 It is important to maintain your personal integrity
4 and resist that temptation. Do not sell out the
5 soul of this town for money. Some things are more
6 important than money. Let us examine the issue of
7 money.

17:36:56

8 Under any other circumstance, if a
9 business came to your town and offered it a lot of
10 money to approve a project, you and everyone else
11 would call that attempted bribery which you know is
12 criminal. If you read the newspapers, you know
13 that there are many people who have been sent to
14 jail for bribery. However, in this very strange
15 instance, the offer of money to the village is
16 legal under the law that applies to garbage
17 transfer stations. A rose by any other name is
18 still a rose and I call this legalized bribery.

17:37:11

19 But ask yourself this question. If any
20 garbage company came to your village and did not
21 offer you any money, not one cent, would you even
22 consider for one second allowing hundreds of
23 millions of pounds of garbage to be imported into
24 and dumped into your village? Of course not. No

17:37:25

17:37:41

103

1 one wants to allow such a horrible project in your
2 town. Do not let the attempt at legalized bribe
3 cause you to make a bad decision.

4 When you were elected to office in this
5 village, the people put their trust in you to 17:38:15
6 represent and protect them and to do the right
7 thing. Allowing at least 450 million pounds of
8 garbage each and every year to be brought into your
9 village, especially when it is not even allowed by
10 the law due to the fact that there is no present 17:38:32
11 need for it, would be the wrong thing to do.

12 Fulfill not only your official
13 responsibility as part of an official of Round Lake
14 Park, but also your moral duty to the citizens of
15 your town. 17:38:46

16 Groot has testified that it is buying or
17 already has brought larger parts of land right next
18 to the proposed site. What do you think is likely
19 to happen to that extra property if they actually
20 were to build the garbage station that they are 17:39:00
21 asking for? I think that their intention is to
22 extend and increase the amount of garbage that they
23 will process from 450 pounds a year to much, much
24 more, maybe 650 million or maybe 750 million or

1 maybe even a billion pounds of garbage every year.

2 Indeed if they had their way with you,
3 they would want every single ounce of garbage to be
4 brought directly to your village because they made
5 an extremely great amount of money from this kind
6 of operation.

17:39:30

7 You need to consider what the future would
8 bring if Groot were to operate a transfer station
9 in your village if they brought in even more than
10 the amount that they presently are claiming that
11 would be brought in.

17:39:43

12 There would be many more garbage vehicles
13 than they are telling you about more causing more
14 traffic congestion. Have you ever had the
15 misfortune of having to wait for a traffic signal
16 to turn green while being directly behind a garbage
17 truck? I have and I can tell you it stinks really
18 bad. A large facility processing even more garbage
19 would cause even more horrible odors to drift over
20 your entire village as well as over the nearby
21 villages and there will be many, many more garbage
22 vehicles, not only garbage trucks, but also huge
23 traffic trailers emitting noxious fumes that will
24 harm your health and the health of your loved ones

17:39:56

17:40:15

1 and neighbors. If somebody has asthma, heaven help
2 them.

3 Once they get into the first garbage
4 operation, it will be virtually impossible from
5 stopping them from expanding on adjoining land. It
6 is a fast growing cancer that will kill your
7 village. Property values will drop and the tax
8 rates will drop significantly. Your neighbors and
9 neighboring village people will not be happy with
10 you if you cause this to happen.

17:40:43

17:40:59

11 In addition to the people who live here,
12 what about the businesses along Main Street? I
13 know if I were -- went to a business to get my car
14 repaired or to buy something and it smelled
15 horrible, I would find some other place to take my
16 business in the future that was not so unpleasant
17 to go to.

17:41:13

18 And what would happen after this village
19 got the reputation of being the garbage town? When
20 a real estate broker had a buyer who wanted new
21 houses, don't you think they would steer their
22 client away from looking at a home in the town
23 where all the garbage is? What do you think that
24 the people in your town will feel about you if you

17:41:27

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1 vote yes on this matter and cause their house to be
2 worth less money. You may move far away to avoid
3 these people, but you can never get away from
4 yourself knowing the harm that you have done.

5 You the trustees of the village may have
6 been informed by the Village Board -- I'm sorry
7 -- you as the trustees of the village may have been
8 informed by the Village Board's attorney, Peter
9 Karlovics about a situation that has been occurring
10 during these hearings. The attorney, Mr. Sechen,
11 who was hired by the village in order to obtain and
12 clarify information, so that the village can make
13 an unbiased and well considered decision about how
14 to vote in this matter appeared to be acting on
15 Groot's behalf.

16 By that I mean, he questioned witnesses in
17 such a manner as to try to justify Groot's petition
18 which might indicate that the Village Board had
19 instructed him to do whatever was necessary to get
20 the petition approved.

21 As a result of those actions, Mr. Sechen,
22 if the Village Board votes yes and approves the
23 petition, that decision will be appealed and it
24 will be appropriate and necessary as part of the

17:41:51

17:42:07

17:42:26

17:42:41

107

1 appeal process for every member of the present
2 board of trustees to be required to appear and
3 testify in a deposition to ascertain the facts of
4 what has been taking place in your village with
5 regard to this matter.

17:43:11

6 THE HEARING OFFICER: Mr. Cohn, I would ask
7 that you limit your comments to the criteria of
8 Section 39.2. That is what we are here for and I
9 ask that you -- we have let you go now for about
10 15 minutes.

17:43:26

11 MR. COHN: Okay. I have been listening to
12 hours.

13 THE HEARING OFFICER: Well, please wrap it up
14 and please stay on Section 39.2 Thank you.

15 MR. COHN: Understand that if the trustees vote
16 yes, this matter will be brought up on appeal to
17 the Illinois Pollution Control Board. That body of
18 decision makers will not be affected by the money
19 offered to the village. They will make a decision
20 based on the law and the law does not support the
21 petition.

17:43:44

22 The Village of Round Lake Park has existed
23 since 1947 and the Timber Creek community has been
24 in the village for over 40 of those 66 years. The

108

1 village has never been a rich village and it has
2 always survived. If Groot had never approached the
3 village with an offer of a lot of money, this
4 village would continue to survive.

5 This is not just a matter of the effect on 17:44:07
6 closest homes to the site which happens to be in
7 the Timber Creek community. Directly next door to
8 Timber Creek are townhomes and apartments in the
9 Village of Round Lake and there is a 55 and over
10 development close by and just west of the site on 17:44:24
11 Route 120 which will be greatly adversely affected
12 if a garbage station were to happen and you know
13 that Round Lake -- garbage station in an attempt to
14 perfect its citizens.

15 In addition to all of these locations, 17:44:39
16 there are houses in your village that are north of
17 Main Street that are going to get the noxious
18 smelling garbage pouring into them. There is no
19 invisible wall or force field exactly 1,000 feet
20 from the proposed garbage site that will stop the 17:44:57
21 wind blowing odor from going past 1,000 feet.

22 I am not an expert on prevailing winds,
23 but I have been living on the surface of the earth
24 for a long time and I know that wind can blow in

1 all different directions. I have seen leaves float
2 across the ground in one direction and then be
3 blown in the opposite direction just moments later.

4 No one in the entire area will be immune
5 from the wind blowing the stench of garbage in 17:45:23
6 their direction and not just 1,000 feet, but 2,000,
7 3,000, who knows how far an ill wind could blow the
8 garbage air. Wind can lift the smelly air up and
9 over one area and then have an inversion and drop
10 the smelly air right down on top of you far from 17:45:43
11 its source.

12 I went to the Groot garbage station on
13 River Road in Glenview. At first I drove right
14 past it because all along the east side of River
15 Road is a continuous area of dense woods that I 17:45:58
16 think is a large forest preserve. The Groot site
17 seems to be carved out of the woods. It is
18 surrounded by trees and set back a considerable
19 distance off of the road which is why I didn't see
20 it at first and drove right past it. 17:46:11

21 I brought a small bag of garbage from my
22 home and drove in to the very large doorway. The
23 very large doorway -- both the entrance and exit
24 remained open the entire time that I was there.

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1 I got out of my car, took the garbage out
2 of my trunk, placed it in a pile of garbage. It
3 took at most a few minutes. I could not wait to
4 get out of there. I was sick to my stomach from
5 the odor.

17:46:38

6 I do not know how the people that work
7 there every day can stand it. My guess is that the
8 noise experiences the stench constantly and they
9 simply lose their sense of smell.

10 You will not have that same continuous
11 experience when you become oblivious to the odor.
12 You will experience it occasionally no matter which
13 direction you live from the site and your sense of
14 smell will remain keen and you will suffer from the
15 inclusion.

17:46:50

17:47:06

16 When I left the site, I drove north on
17 River Road and turned west onto a street and pulled
18 up in front of a house and knocked on the door and
19 a lady responded. I asked her if she ever smelled
20 any garbage odors at her home. She gave me an
21 example of when she and her friend --

17:47:18

22 THE HEARING OFFICER: Mr. Cohn, you are now
23 presenting evidence. You are not sworn. This is
24 public comment.

111

1 My understanding is that you were present
2 for Timber Creek that is being represented by
3 Mr. Blazer and he has had a number of days to
4 testify and we have now given you about 20 minutes.

5 It's time to wrap it up and not talk about
6 things that happened outside of this record. We
7 are here to talk about what occurred on this record
8 and what decision will be based on the record.

17:47:40

9 They can't make a decision on things that are not
10 in the record.

17:47:52

11 MR. COHN: Well, I thought it was public
12 comment, so --

13 THE HEARING OFFICER: It is, but you have been
14 given 20 minutes for it and --

15 MR. COHN: I have half a page.

17:47:57

16 THE HEARING OFFICER: Finish up. And you have
17 also been with Mr. Blazer seven or eight days here.

18 MR. COHN: I just want to get my say in.

19 This is not just about the people located
20 close to the proposed garbage site. If Groot had
21 proposed a site much farther from the town where
22 there is a lot of open land nearby, would you say
23 the heck with those people and that garbage
24 facility so far from me that I won't be affected,

17:48:08

112

1 so why should I care? I sure hope not.

2 You need to protect all the citizens in
3 your village and in the nearby villages no matter
4 where they live, no matter who they are.

5 Keep in mind that money is the root of all
6 evil. Do not sell out yourself for money. Money
7 is always tempting, but getting the money that
8 Groot is offering is not necessary for the village
9 to survive, just as it is not necessary at this
10 time as stated by law for there to be a garbage
11 transfer station anywhere in all of Lake County.

17:48:32

17:48:48

12 There is a saying that everybody has his
13 or her price which means that someone can get
14 whatever they want once it is determined how much
15 money it will take to get someone to sell out.

17:49:04

16 Large corporations use this tactic to get whatever
17 they want because they have bundles of money.

18 Well, it is time to stand up to this big
19 corporation and tell them that you are not a person
20 who has a price to sell yourself out or to sell out
21 your village and the people who live and work in
22 your village. Your duty as an elected official of
23 this village is to protect human beings who you
24 represent and who rely on you.

17:49:15

1 You have no obligation to help Groot make
2 millions of dollars at the expense of Round Lake
3 Park. Groot can make their millions on garbage
4 stations in a proper and suitable location in the
5 county at the time when there is an actual need for
6 garbage transfer station that is provided in the
7 law.

17:49:39

8 One last thing, your lawyer said that
9 Groot does something wrong, you can sue them, but
10 he didn't tell you one thing. Groot's pot of money
11 ends today with this hearing. So it will be at
12 your expense to pay for all of the costs for
13 fighting in court against a multi million dollar
14 company. Who do you think will win that? Stand up
15 and be counted. Vote with your heart, vote with
16 your conscience.

17:49:54

17:50:12

17 Do what you know is right. Do not support
18 Groot and their attempt to bring this travesty to
19 your village. Vote no. Thank you.

20 THE HEARING OFFICER: Thank you, Mr. Cohn.

17:50:25

21 Any further public comment?

22 Hearing none, this hearing is now closed.

23 The remainder -- just so everybody is
24 clear about the schedule, and please tell me if you

114

1 disagree, what we've set up is I've set up
2 simultaneous briefs to be filed with the clerk on
3 October 21st with a Word version being e-mailed to
4 me or sent to me electronically at that time.

5 Public comment is through November 1st,
6 2013. And seven days after public comment, which
7 would be November 8th, supplemental briefs
8 regarding public comment issues only are due.

17:50:54

9 I would like to take this opportunity
10 before I leave the mic and let everybody go home to
11 thank and commend the attorneys. Everybody was
12 very professional. I appreciate that. I know the
13 Village Board does and I appreciate the attempt at
14 brevity and sometimes lightheartedness. It did
15 make it a lot easier I think for everyone.

17:51:15

17:51:32

16 I do want to thank the public for
17 attending and your attendance being polite,
18 professional, and making this hearing about the
19 facts and not about the extracurricular stuff that
20 may or may not occur.

17:51:51

21 And finally, I do wish to really thank the
22 Village Board. We have had a large number of the
23 Village Board members here on a daily basis. I
24 don't think we have ever had less than two or three

115

1 at some very -- not the easiest times for everyone
2 to show up. You have been very attentive and I
3 think all parties I think mentioned it in their
4 closings and they are all very true, the
5 attentiveness of this Village Board has been
6 exemplary and you should be proud of yourselves and
7 the people who you represent should be proud of
8 yourselves as well.

17:52:16

9 Thank you very much everyone and have a
10 great evening.

17:52:28

11 Thank you.

12 (Whereupon, proceedings
13 concluded at 5:52.)

14

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116

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

4
5 SHELLY S. RUBAS, being first duly sworn,
6 on oath says that she is a court reporter doing
7 business in the City of Chicago; and that she
8 reported in shorthand the proceedings of said
9 hearing, and that the foregoing is a true and
10 correct transcript of her shorthand notes so taken
11 as aforesaid, and contains the proceedings given at
12 said hearing.

13

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Certified Shorthand Reporter



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