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ROUGH DRAFT ASCII  
JAMES HAUSMAN v. SAWYER COUNTY  
DEPOSITION OF DALE OLSON  
TAKEN MAY 25, 2005  
P R O C E E D I N G S

MS. AZAR: Matt, yesterday at the end of yesterday's deposition, you indicated that Sawyer County did not have any witnesses that personally observed the damage on or to the Hausman property any time between 2002 and today; is that correct?

MR. DREGNE: Other than what Hal Helwig testified to in terms of his observations of the repair work that was underway.

MS. AZAR: All right. So nobody's going to be produced in relation to Paragraph 2 and then in relation to Paragraph 3 you and I had not really discussed who was going to be produced in relation to that but I was certainly presuming it was going to be Mr. Olson.

MR. DREGNE: Could I see that.

MS. AZAR: Yeah.

MR. DREGNE: Because I don't have that paper. Yes, Mr. Olson is the person that we would produce to testify about those documents.

MS. AZAR: Just to clarify, I am referring to Exhibit 155 and we were just discussing Paragraphs 2 and 3 on Exhibit A. And as we

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discussed before this morning's deposition, rather than go through the documents today with Mr. Olson, the parties are going to be trying to resolve the issues concerning the documents independently and, if those issues cannot be resolved Sawyer County has agreed to produce Mr. Olson in Madison for the purposes of dealing with document admissibility issues; is that correct?

MR. DREGNE: That's correct.

MS. AZAR: And, with that, I think that's all the cleanup we had to do so we can go ahead and start the deposition of Mr. Olson.

DALE OLSON,

having been first duly sworn on oath, was interrogated and testified as follows:

\* \* \* \* \*

EXAMINATION

BY MS. AZAR:

Q. Good morning Mr. Olson as you know I'm Lauren Azar and the deposition ground rules that we had the last time are going to continue today. If you recall, let's try not to talk over each other. If you could make sure that all of your answers are audible that helps the court reporter. Also, if you don't understand any question I ask, please stop me immediately and ask me to rephrase the question and if at any point in time that you need to make a correction to any of your answers, please stop me

2 and go ahead and make the correction. We want to make sure  
3 you're comfortable with all of the answers you give today. Do  
4 you understand those directions?

5 A. I do.

6 Q. Great. Mr. Olson, what is your address? You don't have to  
7 give a Street address. What municipality do you live in?

8 A. Ah, Exeland, however, if I'm a corporate designee do you  
9 want my Hayward -- my work address?

10 Q. No, I just wanted your residential municipality so Exeland?

11 A. Exeland, Wisconsin.

12 Q. Your birth date?

13 A. 08-06-1965.

14 Q. And have you ever been arrested?

15 A. No.

16 Q. I'm going to hand you what's been marked as Exhibit 155.  
17 I'm going to walk through the different paragraphs for which  
18 you've been designated as the corporate designee on behalf of  
19 Sawyer County and, after I walk through them all, I'll want to  
20 confirm with you that you are indeed being presented today as  
21 Sawyer County's designee for those issues rather than read the  
22 text of the paragraphs I'm just going to refer to them.

23 Paragraph 1 A. Paragraph 1 B, Paragraph 1 C, Paragraph 1 D,  
24 Paragraph 1 E. Paragraph 1 F --

25 A. Ma'am?

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2 Q. Yes.

3 A. C, D and E refer to January 1st, 1990.

4 Q. Hm-hm?

5 A. I don't believe I started with Sawyer County until 1995 or

6 6.

7 Q. So you'll be presenting testimony on behalf of Sawyer County

8 from the beginning of your employment which was --

9 A. April 1st of 1996.

10 MR. DREGNE: Just for the record, our written response to the

11 notice of deposition at least as to -- as to A indicated that

12 that was the relevant time period that Mr. Olson would be

13 providing testimony to with respect to B we've indicated the

14 same. With respect to C, we've designated Dale Olson and Michael

15 Kruger both. With respect to D, we've designated Dale Olson and

16 Michael Kruger. With respect to 1 E we've designated Dale Olson

17 and Michael Kruger.

18 Q. Continuing then?

19 A. Yes.

20 Q. Paragraph 1 F as in Frank, 1 G, 1 J, 1 K, 1 L, 1 M,

21 1 N, 1 O, 1 P, 1 U, and though you were designated as the

22 designee for Paragraph 2 we understand that that is -- has been

23 rescinded; is that correct?

24 MR. DREGNE: Let me just note for the record, our response to the

25 notice of deposition indicated that, for at least some of those

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2 questions that were identified, where the time period is very

3 long, Mr. Olson has been designated as the custodian of records

4 regarding those topics and is designated to provide testimony

5 regarding the County's records regarding those topics.

6 MS. AZAR: And we'd also just like to note for the record that we  
7 acknowledged your objection and did not consider it appropriate  
8 given the legal requirements for corporate designees. With that,  
9 Mr. Olson, do you understand that your answers are being made on  
10 behalf of Sawyer County.

11 A. Yes.

12 Q. And do you understand that your answers will bind Sawyer  
13 County?

14 A. Yes.

15 Q. How did you prepare for this deposition?

16 A. By reviewing documents.

17 Q. What sorts of documents did you review?

18 A. I reviewed a July 9, 2004 letter from the Department of  
19 Natural Resources, to Sawyer County regarding the after the fact  
20 permit application for culverts on Osprey Creek. I reviewed a  
21 petition of Sawyer County to review and clarify certain orders  
22 relating to Round Lake prepared by Matthew P. Dregne to secretary  
23 Scott Hasset ^ sp of the Department of Natural Resources. I  
24 reviewed my deposition from July 8th of '04 at least as much as I  
25 could until midnight last night. And I reviewed the surveys and

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2 responses prepared by Sawyer County sent to Round Lake property  
3 owners.

4 Q. Can I see that; I believe all of the documents that you just  
5 referred to are in the record except for the survey and responses

6 to the property owner so I'm going to go ahead and have that  
7 marked that as an exhibit and just place it into the Exhibit file  
8 if that's okay with you. Is this your only copy?

9 A. No. It's not, but you should have that.

10 MS. AZAR: I'm sure we do have it, it's just it's not in the  
11 exhibits, so.

12 THE WITNESS: Oh.

13 MS. AZAR: That's the only reason I'm putting it in. So if you  
14 could go ahead and mark that as Exhibit No. 157.

15 (Documents marked for identification as Exhibits No. 157 through  
16 160.)

17 BY MS. AZAR:

18 Q. Mr. Olson, before we get to the documents that were just  
19 marked as exhibits, you had indicated how you'd prepared for this  
20 deposition. Did you review any of the historic documents in  
21 preparation for this deposition?

22 A. I did not.

23 Q. Let's move to what's been marked as Exhibit 158. Would you  
24 please identify this document?

25 A. These are photocopies of most of my journal kept on Sawyer

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2 County's dams.

3 Q. And when you say journal, what sorts of things do you record  
4 in this journal?

5 A. Water elevations on individual gauges. As well as any  
6 comments I may have regarding the status of boards, gates,

7 weather conditions, beaver activity, things like that.

8 Q. So when you would go out and inspect a water control  
9 structure you record your observations in this -- I'll call it  
10 log?

11 A. I do.

12 Q. Is there any other place that you record your observations  
13 concerning water control structures?

14 A. Just my memory.

15 Q. I'd like to first go the section referring to the Tiger Cat  
16 Dam, there are three pages referring to Tiger Cat Dam, the first  
17 page has notations from 1997, 1998, 1999 and the second page has  
18 references to the year 2000. I'm wondering what other years are  
19 recorded on the second and third pages?

20 A. It appears that 2001 and 2002 would be on Page 2.

21 Q. 2001 and 2002 are on Page 2 so let's just clarify this,  
22 are -- is it your contention that the line item stating 4 slash  
23 10, spring runoff nearly complete is the beginning of 2001?

24 A. Yes.

25 Q. And 2001 then ends at 11 slash 13?

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2 A. Yes.

3 Q. Thank you. Came to do fall draw down?

4 A. I believe that's what it says.

5 Q. That's the end of 2001. Then 2002 begins at the very last  
6 line on that page with an entry for April 12th, hold one stoplog;  
7 is that correct?

8 A. I believe so.

9 Q. Continuing on the next page then, does that continue with  
10 2002 or does that go to 2003?

11 A. I believe that's 2002.

12 Q. So on the third page beginning with the line item 4-17  
13 remove log that's 4-1702 and then 2002 ends with May 11th, the  
14 all in, lowcalls; is that correct?

15 A. Correct.

16 Q. And then where are the entries for 2003?

17 A. They are not written in the log book.

18 Q. Does that mean you didn't inspect the Tiger Cat Dam in 2003?

19 A. Not at all.

20 Q. Where would those entries be then?

21 A. They may not have been entered.

22 Q. And why would that happen?

23 A. I would be guessing.

24 Q. Please guess.

25 A. More than likely the log book was in one particular truck or

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2 another, possibly in a place where we didn't know where it was  
3 and they did not get entered.

4 Q. Is it possible that any of the years that you just gave me  
5 2001 and 2002 actually relate to 2002 and 2003 than 2001 and  
6 2003?

7 A. Possibly.

8 Q. So you don't know then the entries, the years of the entries



9 on the second and third pages that we just went through; is that  
10 correct?  
11 MR. DREGNE: If you want to look at it again, you can.  
12 THE WITNESS: The last entry on Page 2 of 4-12.  
13 MR. DREGNE: Are you showing me Page 2?  
14 BY MS. AZAR:  
15 Q. We have Bates numbers on the bottom right-hand corner so  
16 let's use that.  
17 A. SC 3301.  
18 Q. Okay.  
19 A. The last entry, 4 slash 12. Put one stoplog, 1, 46.  
20 Q. Hm-hm.  
21 A. It's not my handwriting.  
22 Q. Hm-hm.  
23 A. It looks remarkably similar to Tim Seidl's ^ sp handwriting  
24 and if I checked his dates of employment because he has been with  
25 me for two years, I think I could probably ascertain whether that

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2 was 2002 or 3.  
3 Q. Okay. We would ask the County to do that and get us the  
4 information then?  
5 MR. DREGNE: Let me take a note of it.  
6 BY MS. AZAR:  
7 Q. So I understand there's -- you're speculating that the  
8 reason that there is a year missing is because possibly the log  
9 book had been misplaced for a year; is that correct?

10 A. Possibly.

11 Q. What other reasons could there be?

12 A. Potentially that there was nothing remarkable to know.

13 Q. Are the water levels remarkable?

14 A. Generally not.

15 Q. What's the purpose of this dam log?

16 A. It's been for my use more than anything and it helps me in

17 looking back to know how high spring runoffs will be, when boards

18 should be removed, when I'll receive high complaints, when I'll

19 receive low complaints.

20 Q. So when you go out and inspect a dam, do you generally

21 record the water level, that you are witnessing on that day?

22 A. Generally.

23 Q. And it would go into this log book again. Correct?

24 A. Yes.

25 Q. So coming back then to why there would be a year missing

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2 here for the Tiger Cat Dam, you've now given two possible

3 reasons, one, the dam log book was misplaced, No. 2, that you

4 didn't perceive that any of the water levels at that specific

5 year were remarkable. Any other reasons why you may not have

6 recorded a water level at the Tiger Cat Dam?

7 A. Not to my knowledge.

8 Q. And you think it's impossible that Sawyer County failed to

9 inspect the Tiger Cat Dam in 2003?

10 I'm sorry in -- in one of the years between 2001, 2002, or 2003.

11 A. I do.

12 Q. Let's just jump to -- pages SC 3303 and 3304. Here there  
13 are entries for the years 2001, 2002 and 2003, aren't there?

14 A. Yes, there are.

15 Q. So it appears as though the dam log book was not missing,  
16 correct?

17 A. That appears to be the case.

18 Q. So, therefore when Sawyer County inspected the Tiger Cat Dam  
19 in one of those years, they just decided not to record the  
20 levels. Is that your testimony today?

21 A. My testimony is that we didn't record the levels when it was  
22 inspected in that year, at least in this log book.

23 Q. So it could be elsewhere?

24 A. If it is, I don't know where it is.

25 Q. Does Sawyer County have a legal obligation to maintain a log

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2 of the water levels on its dam structures?

3 A. Not to my knowledge.

4 Q. Let's jump to SC 3306 and 3307 which relates to the Round  
5 Lake Dam structure. I'm looking at your -- well, strike that.  
6 I'm looking at the entry for May 21st of 2002. Could you read  
7 the narrative that's after that entry?

8 A. Certainly. 20 big red horse, channel clear of silt.

9 Q. What does that mean?

10 A. Red horse are a large sucker type fish and they're kind of  
11 neat to see and these if I recall were all around five pounds.

12 They're delicious smoked. They were in the channel running back  
13 up into Little Round Lake, and as I recall on that bright and  
14 sunny morning the bottom of the channel was very clean looking.  
15 Q. I'm looking at the entry now for April 27th, 1999. I  
16 believe it says high complaints at -- Highway B, high complaints,  
17 water appears deep enough and dam has not been dredged. Is that  
18 what that says?  
19 A. Yes.  
20 Q. Why did you note that the dam had not been dredged?  
21 A. Although this isn't my handwriting, more than likely, in my  
22 opinion, we received a complaint that there had been dredging.  
23 We received complaints that there's all kinds of different  
24 activities on several of our structures and we do go out and  
25 again, as I testified previously, we're complaint driven, so if

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2 we received a call that said somebody's been dredging there we  
3 would have went out and looked at that.  
4 Q. Okay.  
5 MS. AZAR: All right. I'd now like to move on to what's been  
6 marked as Exhibit 160 and I'm going to come around if it's okay  
7 so we can walk through this together. I believe we're up to 159;  
8 right? Excuse me.  
9 MR. DREGNE: I'll come around to see.  
10 BY MS. AZAR:  
11 Q. Would you please identify what's been marked as Exhibit 159?  
12 A. These are records taken by my staff of water depths and

13 velocities at the Little Round Dam as well as notations on gage  
14 readings at Tiger Cat, Highway B bridge, the highway Double N  
15 culverts and Little Round Dam.

16 Q. And this is a new form, isn't it?

17 A. It is.

18 Q. Who created the form?

19 A. That's an excellent question. I don't know the answer to.

20 Q. Why did you start collecting this new data?

21 A. Pursuant to this case.

22 Q. What about this case -- I don't understand the answer to  
23 that question.

24 A. We started collecting data in order to have more information  
25 about the Little Round Lake Dam and water system.

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2 Q. Okay. So the new form then is for purposes of this  
3 litigation?

4 A. Yes.

5 Q. And to whom do you submit this information?

6 A. Montgomery & Associates.

7 Q. And have you talked to Montgomery & Associates about the  
8 information that they want?

9 A. Yes.

10 Q. And is it possible that they created this form?

11 A. Sure.

12 Q. And what have your discussions been with Montgomery &  
13 Associates with regards to this form?

14 A. That it takes a lot of staff time to go out and take these  
15 readings and I wish we didn't have to do it any more.  
16 Q. And how often do you have to take the readings?  
17 A. Ah, we've tried to take them I think once a month. Possibly  
18 more if we have time.  
19 Q. What other discussions have you had with Montgomery &  
20 Associates about this data?  
21 A. None.  
22 Q. And do you submit the data in computer format or written  
23 format?  
24 A. I believe my staff submits it in computer format.  
25 Q. Okay.

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2 MS. AZAR: Matt I'm presuming that you're going to be producing  
3 all of the digital information.  
4 MR. DREGNE: I'm sure we will.  
5 MS. AZAR: It would have certainly been subject to discovery you  
6 have received; I just wanted to confirm we'll be getting that  
7 BY MS. AZAR:  
8 Q. And is all of the digital information you've collected so  
9 far -- I'm sorry the information you've collected that's now been  
10 put into digital format is that presented here in these sheets  
11 that have been marked as Exhibit 159?  
12 A. I'm sorry --  
13 Q. Okay. You've been collecting data and you've been putting  
14 it in digital format in your computer?

15 A. Yes.

16 Q. All the data that you've collected and you've put it in  
17 digital format did you print it out here and is it reflected in  
18 Exhibit 159?

19 A. Yes.

20 MR. DREGNE: So, it's already been produced today I guess is  
21 another way of looking at it.

22 MS. AZAR: We'd like it in digital format.

23 BY MS. AZAR:

24 Q. Where are the water levels taken at the NN?

25 A. On a gage.

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2 Q. And the data that's collected here concerning the distance  
3 depth, observation depth and velocity can you just walk me  
4 through as to how your staff collects that data?

5 A. Certainly. There are nails with green flags under them on  
6 the guardrail of the Carlson Road structure.

7 Q. Hm-hm.

8 A. They string a tape measure across from nail to nail, use a  
9 flow meter, put it at a depth of .6 feet above the bottom  
10 elevation and record velocities every 1/2 foot, going all the way  
11 across the structure, for a total of 20 readings in 10 feet.

12 Q. I noticed on the computerized version it actually calculated  
13 the CFS; isn't that correct?

14 A. Yes.

15 Q. And who provided you with this program?

16 A. Montgomery and Associates.  
17 Q. Do you know what program it is?  
18 A. Excel.  
19 Q. Have you talked to Montgomery & Associates AT all about the  
20 discharges of CFS?  
21 A. I haven't.  
22 Q. I'm looking at the data collected on September 17th, 2004.  
23 I noticed that in the digital format there are no calculations  
24 that were completed for the flow, do you know did something --  
25 did some difficulty arise with this data?

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2 A. Yes.  
3 Q. And what was that?  
4 A. That was our brand new current meter breaking.  
5 Q. So your staff did it appears as though what they could do  
6 without a flow meter?  
7 A. Correct.  
8 Q. And do you know specifically what they did do?  
9 A. They used a water bottle float using time over distance.  
10 Q. And who instructed them as to how to do that?  
11 A. I can't say for certain.  
12 Q. Were you involved with that?  
13 A. No.  
14 Q. I noticed there aren't any printouts for 2005, have you done  
15 any data collection in 2005?  
16 A. Yes.



17 Q. Where is that data?  
18 A. It has not been entered in the computer yet.  
19 Q. Okay. But you do have the handwritten data, correct?  
20 A. I do have one sheet, yes.  
21 Q. So you've done it once in 2005?  
22 A. Yes.  
23 MS. AZAR: I'm sure we'll be getting that, too, Matt, right?  
24 MR. DREGNE: I'm making a note.  
25 BY MS. AZAR:

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2 Q. When was that data taken in 2005?  
3 A. Approximately May 10th.  
4 Q. Okay. And how did you determine when to start keeping that  
5 data?  
6 A. I believe that was probably the first available time we had  
7 after ice off.  
8 Q. And it appears as though the last physical date you took  
9 data in 2004 was October 4th, 2004; is that correct?  
10 A. Yes.  
11 Q. And -- and you indicated you just took your first round of  
12 data in 2005 was in May of 2005; is that correct?  
13 You just --  
14 A. Oh, yes.  
15 Q. Have -- did Sawyer County measure the water levels at the  
16 Little Round Lake dam between October 2004 and May 2005?  
17 A. If we did, we did not record it.

18 Q. Is Sawyer County taking any types of new data for either the  
19 Lake Placid Dam or the Tiger Cat Dam? I'm sorry, when I say new  
20 types of data, I'm talking about data in addition to what was  
21 normally recorded as Shelnow ^ sp Exhibit No. 158?

22 A. No.

23 Q. So the only new data that Sawyer County is taking in  
24 response to this lawsuit is that data that's reflected in  
25 Exhibit 159. Correct?

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2 A. Yes. But I would like the caveat that the Tiger Cat Dam  
3 data that's taking in Exhibit 159 is being taken at a higher  
4 frequency than it was in Exhibit 158.

5 Q. And at a higher frequency, that means that -- you said you  
6 were trying to take this data once a month; is that correct?

7 A. At least once a month, yes.

8 Q. And what was the normal frequency prior to taking it once a  
9 month?

10 A. In looking at Exhibit 158, it appears it would average  
11 approximately eight times per year.

12 Q. Now you just noted that you're taking the readings on the  
13 Tiger Cat Dam, the highway B bridge and the culverts at NN more  
14 frequently. We don't have any records of any water levels taken  
15 between October of '04 and today. You indicated that there is a  
16 measurement that was taken in May of '05 but you don't have it  
17 with you today. Did you record any water levels for -- or  
18 observe the water levels at the Tiger Cat Dam, County Highway NN

19 or the highway B bridge between October 2004 and May 2005?  
20 A. I don't know.  
21 Q. Who would know?  
22 A. No one other than myself. If I did not record it, I can't  
23 say in all certainty that I actually looked at it between October  
24 and May.  
25 Q. So you sitting here today have no recollection of inspecting

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2 the Tiger Cat Dam between October 2004 and May 2005?  
3 A. Not in all certainty, no.  
4 Q. Do you have any recollection of inspecting the culverts at  
5 NN or the lake level -- pardon me. Strike that. Do you have any  
6 recollection of inspecting the culverts at NN or the water level  
7 at the gage at NN between the period of October 2004 and May  
8 2005?  
9 A. Not in all certainty, no.  
10 Q. Do you have any recollection of inspecting the water level  
11 at the highway B bridge between October 2004 and May 2005?  
12 A. Not in all certainty, no.  
13 Q. And no one else in Sawyer County would have done that  
14 besides you, correct?  
15 A. No, that's actually not correct.  
16 Q. Who else would have done it then?  
17 A. My staff whose name is on the sheets provided in  
18 Exhibit 159. However, if they had, they -- I'm certain they  
19 would have produced a sheet like this.

20 Q. So they then did not inspect the Tiger Cat Dam between  
21 October of 2004 and May 2005?  
22 A. I don't believe so, no.  
23 Q. Your staff did not inspect the culverts at NN between  
24 October of 2004 and May 2005?  
25 A. I don't believe so. No.

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2 Q. Your staff did not inspect or record the water levels at  
3 Highway B bridge between October of 2004 and May 2005?  
4 A. I don't believe so, no.  
5 Q. Your staff did not inspect or record the water levels, of  
6 the Little Round Lake Dam between October 2004 and May 2005?  
7 A. I don't believe so, no.  
8 Q. Now let's jump to the Lake Placid Dam. There's absolutely  
9 no recordings that you provided through Exhibit 159 concerning  
10 the Lake Placid Dam. If there were inspections of the Lake  
11 Placid Dam, where would the records of those inspections been  
12 kept?  
13 A. As I stated in previous testimony, it's usually kept in the  
14 file in our office as a note, notation.  
15 Q. Did you personally inspect -- When is the last time you  
16 personally inspected the Lake Placid Dam?  
17 A. Once last fall and that's the best I can tell you is fall of  
18 2004.  
19 Q. And what were the conditions at that time?  
20 A. Excellent.

21 Q. Was there any water coming over the Lake Placid Dam?  
22 A. No.  
23 Q. Any water coming through the Lake Placid Dam?  
24 A. Very little.  
25 Q. And when was the last time -- strike that. Since your visit

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2 in the fall of 2004, when has Sawyer County inspected the Lake  
3 Placid Dam?  
4 A. When we used chipped betonite kitty litter to plug all the  
5 holes.  
6 Q. And when was that?  
7 A. Either fall of 2003 or spring of 2004.  
8 Q. Okay. That was the last time -- strike that. How many  
9 times between your inspection of the Lake Placid Dam in the fall  
10 of 2004 and today has Sawyer County inspected the Lake Placid  
11 Dam?  
12 A. None.  
13 Q. So, for all Sawyer County knows, water could be flowing over  
14 the Lake Placid Dam today and you would have no idea; is that  
15 correct?  
16 A. For all we know? No, I wouldn't say that's correct.  
17 Q. How would you know if water was flowing over the Lake Placid  
18 Dam today?  
19 A. There are land owners on both sides of the channel.  
20 Q. Hm-hm.  
21 A. It's also visible from McClaine Road.

22 Q. So when is the last time Sawyer County observed from  
23 McClaine Road the Lake Placid Dam?  
24 A. Probably fall of 2004. It's visible to all people from the  
25 road, so.

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2 Q. So from McClaine Road you can see whether or not there's  
3 water flowing over Lake Placid Dam?

4 A. Yes, you could in leaf off.

5 Q. And from McClaine Road can you see whether or not water's  
6 falling through the Lake Placid Dam?

7 A. No, you cannot.

8 Q. Can we go off the record for a minute.

9 (Discussion off the record.)

10 BY MS. AZAR:

11 Q. Mr. Olson, you've been designated as Sawyer County's  
12 designee for Paragraph 1 J, which is the reasons Sawyer County  
13 applied in 1936 to construct, operate and maintain a dam across  
14 the North Fork of the Chief River. I'm going to hand you what's  
15 been marked as Exhibit 52. (\*\*CHECK\*\* up last  
16 question.)\*\*CAMILLE, PLEASE LEAVE THESE \*\*CHECK\*\*'S IN.  
17 Exhibit 52 is the permit that Sawyer County received after it  
18 applied to the State of Wisconsin to operate and maintain the dam  
19 across the North Fork of the Chief River. And that is actually  
20 the permit for the construction of the Tiger Cat Dam, correct?

21 A. Yes.

22 Q. And does Sawyer County own the Tiger Cat Dam?

23 A. They do.  
24 Q. Has Sawyer County ever contested owning the Tiger Cat Dam?  
25 A. Not to my knowledge.

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2 Q. Now, in 1936 Sawyer County submitted an application to the  
3 State of Wisconsin asking to construct operate and maintain a dam  
4 across the North Fork of the Chief River; correct?  
5 A. They did.  
6 Q. And what was the purpose for submitting -- of submitting  
7 that application?  
8 A. The purposes of submitting the application was to construct  
9 the Tiger Cat Dam as it is now.  
10 Q. And why did Sawyer County want -- why did they want to  
11 construct the Tiger Cat Dam?  
12 MR. DREGNE: Do you have a copy of the permit available for the  
13 witness to look at or the application? Excuse me.  
14 MS. AZAR: I personally don't, but he should have been prepared  
15 to answer this question.  
16 THE WITNESS: I'm trying to answer the best way I can and I  
17 believe given that I'm going from memory that the Tiger Cat Dam  
18 was constructed after a drought period in order to provide water  
19 to Round Lake in low water periods.  
20 BY MS. AZAR:  
21 Q. The Tiger Cat Dam was constructed to provide water to Round  
22 Lake; is that correct?  
23 A. Yes.

24 Q. And was that done for the benefit of the public, generally?

25 A. That I can't say.

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2 Q. Who in Sawyer County can say?

3 A. Maybe I misunderstood your question; could you repeat it?

4 MS. AZAR: Could you please repeat it.

5 (The prior testimony was read as follows:

6 "The Tiger Cat Dam was constructed to provide water to Round

7 Lake; is that correct?

8 A. Yes.

9 Q. And was that done for the benefit of the public, generally?

10 A. That I can't say.

11 Q. Who in Sawyer County can say?")

12 THE WITNESS: I don't think anyone can say whether it was for the

13 general public. Sawyer County's the fifth largest county in the

14 state. Is the water level on one lake in a county with 450 lakes

15 good for the general public is a question I don't know if I can

16 answer. It's certainly a benefit for the people on Round Lake at

17 that time.

18 BY MS. AZAR:

19 Q. Is it a benefit to anybody else?

20 A. Currently, it's a benefit to all the homeowners on the Tiger

21 Cat flowage because there's a flowage there now where before

22 there was a river. It would be a benefit to the tax base of

23 Sawyer County; however, that gets into an area of the benefits of

24 taxes versus development, versus the public services we have to



25 provide to those houses. It's a benefit to the people who live

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2 on the lake now.

3 Q. When Sawyer County was making its decision back in 1936, was  
4 it taking into consideration the interests of its constituents?

5 A. I would have to say yes.

6 Q. Was Sawyer County acting to benefit its constituents when it  
7 decided to apply for the permit that's been marked as Exhibit 52?

8 A. Yes, I would say absolutely it benefited some constituents.

9 Q. Do you have any reason to believe that Sawyer County when it  
10 applied for the permit that's been marked as Exhibit 52 was  
11 acting just to benefit a few?

12 MR. DREGNE: Objection, vague with respect to what a few means.

13 THE WITNESS: I don't think it affected the people in Loretta and  
14 Draper and Winter. It probably cost them money to build this.  
15 Did it benefit the County as a whole; is that your question?

16 MS. AZAR: Hm-hm, yes.

17 THE WITNESS: It certainly increased the tax base today; and, in  
18 that respect, sure, it benefited the County as a whole.

19 BY MS. AZAR:

20 Q. I'm going to hand you what's been marked as Exhibit No. 51.

21 I think you can take that one and I'll take the other one back.

22 ^ Ck oh. That's it. Mr. Olson you've been designated as Sawyer  
23 County's designee to provide answers regarding the reason Sawyer  
24 County applied in 1937 to divert water from the Chief River to  
25 Round Lake, correct?

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2 A. Yes.

3 Q. And I just handed you Exhibit 51 which is the permit that  
4 authorized Sawyer County to make that diversion, correct?

5 A. Yes.

6 Q. And this is the permit that allowed Sawyer County to  
7 actually create the diversion canals from the Tiger Cat Flowage  
8 to Round Lake, correct?

9 A. Yes.

10 Q. And it permitted Sawyer County to construct the Lake Placid  
11 Dam, correct?

12 A. It did.

13 Q. Does Sawyer County own the Lake Placid Dam?

14 A. I'm certain we own the structure and I don't recall at this  
15 point whether the land is eased or fee simple ownership.

16 Q. Has Sawyer County ever contested it's ownership or  
17 responsibility for the Lake Placid Dam?

18 A. Absolutely not.

19 Q. Now, Sawyer County applied for the permit that's been marked  
20 as Exhibit 51, correct?

21 A. Correct.

22 Q. Why did Sawyer County apply to make a diversion from the  
23 lake -- Tiger Cat Flowage to Round Lake?

24 A. As I stated before it was after a drought situation in order  
25 to add water to Round Lake during drought periods.

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2 Q. And so Sawyer County, when they applied for the permit,  
3 that's been marked as Exhibit 151 was acting in the best  
4 interests of the County, correct?

5 MR. DREGNE: Exhibit 51?

6 MS. AZAR: Yes. Do you want to read that back, please?

7 (The pending question was read as follows:

8 THE REPORTER: And so Sawyer County, when they applied for the  
9 permit, that's marked as Exhibit -- Do you want me to substitute  
10 51?

11 MS. AZAR: Yes.

12 THE REPORTER: -- 51 was acting in the best interests of the  
13 County, correct?)

14 THE WITNESS: Again, I believe they were acting in the best  
15 interests of the people on Round Lake; and we can go into the  
16 whole tax base issue again; they were certainly acting in those  
17 people's best interests, according to them.

18 BY MS. AZAR:

19 Q. And, when Sawyer County applied for the permit that's been  
20 marked as Exhibit 51, did they evaluate any other related orders  
21 prior to making the application to the State?

22 A. I do not believe so.

23 Q. I'm handing you what's marked as Exhibit 66. This is a  
24 letter from you to me dated May 12th, 2003 in which among other  
25 things you're discussing the Lake Placid Dam. Do you see that?

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A. I do.

Q. And in this letter you state, quote, water flowing through the water control structure in diversion channel 4, period. We have contacted the portable band saw operator for new stoplog several months ago, period. We will be installing new boards, comma, but the culvert under McClaine Road is still the limiting factor for water volume, period. Water will most likely go over the top of the new boards, period. In the hydraulic regime of Round Lake, comma, this amount is quite small, period, end quote.

Do you see that?

A. I do.

Q. What is the capacity of the culverts under McClaine Road?

A. I was never able to get an exact capacity due to two factors, one being that, although we can ascertain the speed of the water moving through, we cannot ascertain the size of the structure under the road. Therefore, we cannot come up with a CFS rating. No. 2, when I tried to ^ ck flow anything through to try to estimate size, it just hasn't worked very well; and, ah, we don't know the condition of that culvert as it is, nor does the town. It is slip lined.

Q. What does that mean?

A. They put a little one inside a big one.

Q. And does the town own that culvert?

A. Pardon.

1 ROUGH DRAFT ASCII

2 Q. The town?

3 A. Town, yes.

4 Q. When did you conduct -- strike that. It sounds like you  
5 conducted an investigation of the culverts under McClaine Road.  
6 When was that investigation conducted?

7 A. Concurrently, with putting in new stoplogs.

8 Q. And when was that?

9 A. Ah, fall of 2003, I can certainly go through my old  
10 testimony and tell you, would you like that --

11 Q. No, just a ball park, that was fine. So you don't know what  
12 the flow capacity then is in the McClaine Road culverts, correct?

13 A. Correct.

14 Q. How could you conclude that the McClaine Road culverts are a  
15 limiting factor then?

16 A. When I removed the stoplogs from the Lake Placid Dam, there  
17 was ample head on Placid Lake and as I removed the stoplogs from  
18 the diversion canal dam, you can visually see how much water was  
19 able to come through that culvert. Being able to look at the  
20 culvert and its capacity compared to the capacity of the dam  
21 itself and its width, in my opinion, that's certainly the  
22 limiting factor was the culvert.

23 Q. And are there any other sources of water into diversion  
24 canal No. 4 into the culverts?

25 A. Yes.

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Q. On McClaine Road?

A. Yes.

Q. And what are those sources?

A. A wetland area as I testified previously to the north of the diversion canal that flows to the West I believe you had me pink highlighter it for you.

Q. And in this document that's marked as Exhibit 66 you indicated quote water most likely go over the top of the new boards period unquote. Why did you state that?

A. Ma'am, can I backup?

Q. Please.

A. You -- did you ask me if water came from the Tiger Cat Flowage into diversion canal four or any other water.

Q. I asked if there were any other inputs into diversion canal No. 4 besides McClaine Road culverts?

A. Thank you.

Q. Would you like to change your answer?

A. No.

Q. Ahm -- okay. Going back to Exhibit 66 you stated quote water will most likely go over the top of the new boards period unquote. Why did you make that statement?

A. Most likely as the old boards did leak and I made the assumption that, when they quit leaking with new stoplogs that the water level would raise on the small pond between McClaine

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2 Road and the Placid Lake diversion canal structure, that it would  
3 over top our boards.

4 Q. And were those boards at the top of the channel line?

5 A. As I provided in previous testimony, we were a bit lower  
6 than had previously been installed with our new boards, so we  
7 added one more on the advice of Mr. Dan Carthel.

8 Q. And so, when you indicate here in Exhibit 66 that water  
9 would be going over the top of the new boards, you were presuming  
10 that the County would not install any additional boards, correct?

11 A. Correct.

12 Q. And why wouldn't the County install additional boards if  
13 water was going over the top?

14 A. We may very well have and as it turns out, I was wrong.

15 Q. So water has not been going over the top of the new boards?

16 A. Never to my knowledge.

17 Q. What would Sawyer County do if water was going over the top  
18 of the new boards?

19 A. I'm uncertain. However, I believe there's room for possibly  
20 another half a stoplog in there, if I recall.

21 Q. So you were uncertain as to what Sawyer County would do if  
22 water was going over the top of the new boards, correct?

23 A. Yes.

24 Q. Who would be certain?

25 A. I don't think anybody could be in order for water to top

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2 over the new boards, we would probably have bigger fish to fry  
3 because the water would be over the top of most of our roads and  
4 probably a lot of houses. Right now I think we've got a good --  
5 well, over a foot of space between the top of the Boards and the  
6 water level. If the water raises that much it would probably be  
7 a flood situation.

8 Q. So, you began your job back in 1996?

9 A. You know I'm uncertain myself.

10 Q. Okay. But '95, '96, since that time, has water ever over  
11 topped the Lake Placid Dam?

12 A. I have never seen it.

13 Q. So, to Sawyer County's knowledge, water has never over  
14 topped the Lake Placid Dam?

15 A. I believe somewhere amongst all the paperwork I have, I did  
16 read an account of water over topping it; but I've never  
17 personally witnessed it.

18 Q. What did Sawyer County do when the water over topped the dam  
19 at Lake Placid?

20 A. I don't believe they did anything. However, I would still  
21 like to remember where I saw that account. And I don't.

22 Q. You testified just a few minutes ago that you were uncertain  
23 what Sawyer County would do if the dam at Lake Placid was being  
24 over topped. You further testified that you don't believe  
25 anybody at Sawyer County would know what to do if the boards at

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3 would Sawyer County -- strike that. What sort of factors would  
4 Sawyer County consider in determining how to respond to water  
5 coming over the Lake Placid Dam?

6 A. Our ultimate consideration is always safety. Secondly,  
7 would be lost property, and that property may be in the form of  
8 McClaine Road, destabilizing those banks by having them inundated  
9 for long periods of time, of course, would be -- could  
10 potentially be devastating and the inability to control the water  
11 in some other fashion.

12 Q. Since there is no water over topping McClaine Road -- I'm  
13 sorry, the -- Lake Placid Dam and presumably there's no water  
14 currently going through the Lake Placid Dam, we're just going to  
15 assume that for the moment. Is there any water discharging  
16 through diversion canal No. 4 into Round Lake?

17 A. Yes.

18 Q. Where is that water coming from?

19 A. The channel we spoke about previously north of the Placid  
20 Lake diversion canal that flows to the West, hits the diversion  
21 canal and into Round Lake.

22 Q. So it essentially circumvents the Lake Placid Dam?

23 A. Yes.

24 Q. And what is the amount of that flow?

25 A. I've never measured that flow.

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2 Q. Now, in this Exhibit 66, you conclude, quote, in the  
3 hydraulic regime of Round Lake, comma, this amount is quite small

4 period, end quote. What are you referring to with, quote, this  
5 amount, end quote?

6 A. This amount would be the amount leaking through the boards  
7 which was the same amount that I assume would be over topping the  
8 boards in the event that our new boards were extremely  
9 watertight, which hasn't happened. Mr. Dallam actually measured  
10 that flow, and he called it up to 1 CFS in one of his  
11 correspondences.

12 Q. And how did you conclude that that amount was, quote,  
13 unquote, quite small?

14 A. Based on the size of Round Lake, its drainage area, its  
15 watershed.

16 Q. What is the current discharge capacity of the -- what's the  
17 current discharge capacity of the Carlson Road Dam?

18 A. At what elevation?

19 Q. At the same -- 77.25.

20 A. Something less than 150 CFS.

21 Q. How much less than 150 CFS?

22 A. I do not know offhand.

23 Q. So it could be ten?

24 A. Sure.

25 Q. Could be five?

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2 A. Excuse me. Ten less? Yes, it could be ten less.

3 Q. No. Could it be 10 CFS?

4 A. No. It could not.

5 Q. So what -- what -- give me an approximation.  
6 A. Basing it again on Exhibit 159?  
7 Q. Hm-hm.  
8 A. I can conclude that we have averaged approximately 20 CFS.  
9 Q. And what was the elevation at that time?  
10 A. If I take an average, then I have to take an average  
11 elevation. That large elevation would be 5.5 on my gage and  
12 I'm -- I apologize for not bringing a calculator.  
13 Q. But 20 CFS, approximately, when the water's at maximum?  
14 A. When it's at 5.5 average.  
15 Q. And then the amount is going through or over top the  
16 McClaine Road -- I'm sorry -- the Lake Placid Dam is 1 CFS,  
17 correct?  
18 A. Mr. Dallam estimated it ^ ck up to 1 CFS was leaking through  
19 the boards.  
20 Q. And that would be approximately 5 percent of the capacity  
21 going through the Carlson Road Dam when the water elevation is  
22 77.25, correct?  
23 A. Potentially yes.  
24 Q. And I take it, from your Exhibit 66, you considered 5  
25 percent of the full capacity of the dam to be quite small,

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2 correct?  
3 A. I -- I didn't say anything about full capacity, of course,  
4 you know I'm talking about averages that we've seen on our sheets  
5 in Exhibit 159 which I'm just doing quickly in my head. I don't

6 believe that's the full capacity of that structure.

7 Q. Is the County currently trying to operate the Round Lake  
8 system so as not to exceed 77.25?

9 A. Inasmuch as we can, yes.

10 Q. You just limited your answer to inasmuch as we can, why did  
11 you limit it?

12 A. We operate it by not installing stoplogs.

13 Q. Not installing stoplogs where?

14 A. In the Carlson Road structure.

15 Q. So that's the only reason you limited your answer?

16 A. I -- in my opinion, I cannot think of what else we could do  
17 at this time to manipulate the water down. We could, of course,  
18 manipulate it up.

19 Q. Now when you say I personally can't think of anything to  
20 reduce the water level, Sawyer County's hired an engineer to  
21 provide some advice on that issue, haven't they?

22 A. They have.

23 Q. And has the engineer indicated that there are other ways in  
24 which Sawyer County can gain control of the high-water levels?

25 MR. DREGNE: Can I ask you to clarify what area you're referring

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2 to?

3 MS. AZAR: Why don't we ask your witness what engineer has Sawyer  
4 County hired to provide advice?

5 THE WITNESS: Mr. Dan Carthel has been the only engineer we've  
6 retained out of County funds.

7 BY MS. AZAR:  
8 Q. And are there any other engineers acting on behalf of Sawyer  
9 County?  
10 A. Yes.  
11 Q. And who is that?  
12 A. Montgomery & Associates, Mr. Rob Montgomery.  
13 Q. And so Mr. Carthel and Mr. Montgomery have provided advice  
14 to Sawyer County as to how they can gain control over the  
15 high-water levels on Round Lake?  
16 A. Actually, no.  
17 Q. Okay. Who has been providing that advice?  
18 A. No one to my knowledge.  
19 Q. So Sawyer County has not hired an engineer to provide advice  
20 as to how they can gain control over the high-water levels on  
21 Round Lake?  
22 A. No, I wouldn't say that was a true statement.  
23 Q. Then who --  
24 A. I'd say Mr. Carthel has been hired to provide those answers.  
25 However, those answers haven't been given. At least, not to the

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2 County's satisfaction.  
3 Q. When do you expect to get those answers?  
4 A. I don't know if those  
5 ans -- questions will ever be answered.  
6 Q. Why don't you know that?  
7 A. There are some questions that go unanswered. Maybe -- I --

8 this is of course conjecture on my part but there may not be any  
9 way of alleviating the water level elevation on Round Lake. If  
10 there is, is it a feasible decision? And that's a question I  
11 can't answer; I know no one has mentioned the pipeline yet as has  
12 been done in northern Wisconsin recently.

13 Q. What do you mean by a pipeline?

14 A. A pipe leading from a lake to another drainage, in this case  
15 it was from Shell Lake in Washburn County which was experiencing  
16 massive flooding, several feet higher, homes inundated and they  
17 put in a pipe to drain water from there to the Yellow River. It  
18 was a miserable failure.

19 Q. So Sawyer County does not know if they would be able to  
20 control the water levels so as not to exceed 77.25 under normal  
21 conditions?

22 A. I don't believe we do know that, no.

23 Q. Have you -- has Sawyer County asked Mr. Carthel to answer  
24 that question?

25 A. Ah, yes.

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2 Q. When do you expect Mr. Carthel to give you an answer?

3 A. I believe he provided us with his best answer in one of the  
4 exhibits that we've already looked at today, which was his  
5 recommendations.

6 MS. AZAR: Let's go off the record, and I'll grab that.

7 (Recess)

8 (Document marked for identification as Exhibit No. 161 and 162.)

9 BY MS. AZAR:

10 Q. During our break, we discussed whether or not the answers  
11 that Mr. Olson gave during his last deposition could be  
12 considered the answers as Sawyer County's corporate designee and  
13 both counsel for Sawyer County and Mr. Olson has indicated yes.  
14 So, in that vein, I would ask Mr. Olson that if I asked you the  
15 same questions that were asked on July 26th, 2004 as recorded in  
16 your deposition transcript, would you provide the same answers?

17 A. I will.

18 Q. Do you have any corrections to that testimony?

19 A. I don't at this time.

20 Q. Except for the items that you submitted in your errata  
21 sheet?

22 A. That's correct.

23 Q. And you understand then that the answers that you gave in  
24 that earlier deposition will be binding Sawyer County, correct?

25 A. Yes.

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2 Q. With that, let's continue. Mr. Olson, I've handed you  
3 what's been marked as Exhibit No. 24.

4 MS. AZAR: I'd ask the court reporter to read back the question  
5 right before we took the break.

6 (The pending question was read as follows:

7 "So Sawyer County does not know if they would be able  
8 to control the water levels so as not to exceed 77.25 under  
9 normal conditions?

10 Answer: I don't believe we do know that, no.  
11 Question: Have you -- has Sawyer County asked Mr. Carthel to  
12 answer that question.  
13 Answer: Ah, yes.  
14 Question: When do you expect Mr. Carthel to give you an answer?  
15 Answer: I believe he provided us with his best answer in one of  
16 the exhibits that we've already looked at today, which was his  
17 recommendations.")  
18 BY MS. AZAR:  
19 Q. So, Mr. Olson, is Sawyer County currently able to control  
20 the water levels on Round Lake during normal conditions so that  
21 they -- the water level does not exceed 77.25?  
22 MR. DREGNE: Object to form of the question; it's vague as to  
23 normal conditions.  
24 BY MS. AZAR:  
25 Q. For the purposes of this next line of questioning, I want

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2 you to assume that normal conditions applies to conditions less  
3 than the 100-year flood, okay?  
4 A. Sure.  
5 Q. With that, would you please read back the question?  
6 MR. DREGNE: Just for clarification, do you mean anything less  
7 than the 100-year flood event?  
8 MS. AZAR: For right now, yes.  
9 (The pending question was read as follows:  
10 "So, Mr. Olson, is Sawyer County currently able to control the



11 water levels on Round Lake during normal conditions so that  
12 they -- the water level does not exceed 77.25.")  
13 THE WITNESS: And, based on these parameters, no, we are not.  
14 BY MS. AZAR:  
15 Q. Under what conditions can Sawyer County control the water  
16 levels so as not to exceed 77.25?  
17 A. I apologize I do not know under the -- the flood stage that  
18 would pass through at 77.25. I can assume that no significant  
19 storm events would pass through at 77.25, significant in my mind  
20 being a five-year frequency duration rainfall, 24-hour.  
21 MS. AZAR: I'm sorry; can you read back that answer?  
22 (The last answer was read as follows:  
23 "I apologize I do not know under the -- the flood stage that  
24 would pass through at 77.25. I can assume that no significant  
25 storm events would pass through at 77.25, significant in my mind

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2 being a five-year frequency duration recall, 24-hour.")  
3 THE WITNESS: Rainfall.  
4 BY MS. AZAR:  
5 Q. So at the five-year storm event, Sawyer County cannot  
6 prevent the wea -- water levels from exceeding 77.25, correct?  
7 A. I don't believe so, correct.  
8 Q. Now, has Sawyer County asked either Mr. Carthel or  
9 Mr. Montgomery what action Sawyer County could take in order to  
10 control --  
11 A. Yes.

12 Q. -- the water levels?

13 A. Yes.

14 Q. And what answers has Sawyer County received and from whom?

15 A. From Mr. Carthel we received his four options. I wouldn't  
16 consider them all the options of controlling the high water but  
17 at least of possibly changing the ground rules of the 1941 order,  
18 but he does give two options that have that potential. That  
19 would be his Options No. 3 and No. 4, No. 3 being improving the  
20 Osprey Lake outlet stream, No. 4 being abandoning the Little  
21 Round Lake Dam and the Lake Placid Diversion Dam.

22 Q. And how would No. 4 give Sawyer County control over the  
23 water levels on Round Lake?

24 A. Ah, I don't know as though it would give control but I  
25 thought the original question that we asked Mr. Carthel was how

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2 we were going to alleviate the high water which, it may do. And  
3 in that case it -- abandoning the structure and abandoning the  
4 Placid Lake Diversion Dam would alleviate -- could possibly  
5 alleviate high water problems.

6 Q. And would it provide Sawyer County with the ability to  
7 control the water level so as not to exceed 77.25 in the five  
8 year event?

9 A. I don't know that without looking at the engineering studies  
10 that have been done and the dam non-existent study that has been  
11 prepared by both Barr Engineering as well as Mr. Carthel.

12 Q. And you also indicated that Recommendation No. 3 in

13 Exhibit 24 would potentially alleviate the high water, I think,  
14 is how you phrased it. I'd like to focus on No. 3 there. Please  
15 tell me whether or not No. 3 would provide Sawyer County with the  
16 ability to control the high water so as not to exceed 77.25 in  
17 the five-year event?

18 A. Ah, No. 3 is a fairly generic description; but it would  
19 improve the ability of the water to move from Round Lake to  
20 Courte Oreilles Lake which has been in all the engineering  
21 studies I've looked at been a problem at several points.

22 Q. Does that mean you don't know if it would provide Sawyer  
23 County with the control?

24 A. It would certainly provide us with a greater degree of  
25 control than we enjoy now.

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2 Q. Would Sawyer County be able to control the water levels  
3 below 77.25?

4 A. Sure, yes.

5 Q. Would they be able to --

6 A. Excuse me. Below 77.25, if it's a drought condition we  
7 can't obviously bring it up. You know if there's no water there  
8 we can't -- we can't stoplog up water that's not coming in.

9 Q. Would options No. 3 provide Sawyer County with the ability  
10 to control the water level so as not to exceed 77.25 in the five  
11 year event?

12 A. Very possibly, yes.

13 Q. And -- and No. 4, No. 4 provides Sawyer County with the

14 ability to control high-water levels so as not to exceed 77.25 in  
15 the five-year event?

16 A. Potentially but it would require further study.

17 Q. What other opinions has Sawyer County received as far as  
18 options for controlling the water level so as not to exceed  
19 77.25?

20 A. Viable options.

21 Q. Any options?

22 A. Oh.

23 Q. By a professional?

24 A. Oh, by a professional. Ah, a new outlet, south and west of  
25 the current outlet, that would bypass Osprey Lake.

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1 ROUGH DRAFT ASCII

2 Q. Who provided that opinion?

3 A. Initially Howard Hanson, Round Lake resident, retired  
4 attorney and retired engineer.

5 Q. What other opinions has Sawyer County received from  
6 professionals as to how it can control high water on Round Lake  
7 so as not to exceed 77.25 in the five year event?

8 A. I'm going to say we've received information regarding  
9 ground-water flow from the Tiger Cat drainage area back to Round  
10 Lake. Whether or not that has been in written form through --  
11 from professionals or has been in verbal form and possibly  
12 conjecture on their part but ground-water flow from the Tiger Cat  
13 maybe influencing Round Lake to such an extent that there is  
14 changing hydrology.

15 Q. And who provided that opinion?

16 A. Actually several people have. I believe Mr. Carthel has. I  
17 believe Mr. Dallam has indicated it, although he would never --  
18 I'm certain he would want to have more study done and I believe  
19 there was also inferences to that in reports done by Barr  
20 Engineering.

21 Q. Has Sawyer County ever investigated whether rebuilding the  
22 Carlson Road Dam would provide the ability to control the levels  
23 so as not to exceed 77.25 in the five year event?

24 A. No.

25 Q. Has Sawyer County ever investigated whether dredging the

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2 northern drainage channel -- let me stop right here. Do you  
3 recall what we were referring to as the northern drainage  
4 channel?

5 A. Yes.

6 Q. Has Sawyer County then, continuing with my question has  
7 Sawyer County ever investigated whether dredging the northern  
8 drainage channel would provide it with the ability to control the  
9 water levels on Round Lake so as not to exceed 77.25 in the five  
10 year event?

11 A. No.

12 Q. And I -- I want to clarify something here. I've been using  
13 the five year event pretty generically because you have defined a  
14 significant storm event as the five-year event and so that's why  
15 I've been using that as the benchmark do you understand that?

16 A. I do.

17 Q. And so I'm not suggesting that it's limited to the five-year  
18 event but I was using your language as far as what would be  
19 considered a significant storm event under normal conditions, do  
20 you understand that?

21 A. Absolutely.

22 Q. Thank you. Has Sawyer County investigated whether any  
23 changes to the culverts at NN would provide it with the ability  
24 to control the water levels on Round Lake so as not to exceed  
25 77.25 in the five year event?

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2 A. I believe in conjunction with Nancy Dent Johnson's study,  
3 that was one of the -- one of the structures that she had routed.  
4 And based that as to whether it was a limiting factor or not.

5 Q. Now, Sawyer County hasn't hired Nancy Dent, have they?

6 A. Absolutely, not.

7 Q. Has Sawyer County itself either through Mr. Carthel or  
8 Mr. Montgomery or some other agent on behalf of Sawyer County  
9 investigated whether or not any changes in the culverts at NN  
10 could provide the control to prevent the water levels on Round  
11 Lake from exceeding 77.25 in the five-year event?

12 A. We've never hired anybody to do that. To my knowledge, I  
13 apologize; I thought the question was whether we ever looked at  
14 that as an option, which -- we certainly looked at her report.

15 Q. And has Sawyer County ever evaluated whether a combination  
16 of modifying the Carlson Road Dam, dredging the northern drainage

17 channel and modifying the culverts at NN could provide Sawyer  
18 County with the ability to control the water level so as not to  
19 exceed 77.25 during a normal, significant rain event?

20 A. Not to my knowledge.

21 Q. So to summarize your testimony, items 3 and 4 in Exhibit 24  
22 are the -- two options that Sawyer County has considered and help  
23 control the water levels on Round Lake so as not to exceed 77.25  
24 in a normal significant rain event, correct?

25 A. Yes.

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2 Q. Mr. Olson, I've just handed you what's been marked as  
3 Exhibit 161, can you identify that document?

4 A. I can. It is the application of Sawyer County for a permit  
5 to fix a normal water level for Round Lake and Little Round Lake.

6 Q. And this was the application that Sawyer County submitted in  
7 1940 that resulted in receipt of the 1941 order, correct?

8 A. Correct.

9 Q. And what water level did Sawyer County seek to have the  
10 normal level fixed at?

11 A. 79.0.

12 Q. And did the State of Wisconsin agree with that request?

13 A. Ah, to my knowledge, for the most part, yes. There was  
14 parameters set with 79.0 as a benchmark.

15 Q. A benchmark where?

16 A. Of normal water elevation.

17 Q. For?

18 A. Round Lake and Little Round lake.  
19 Q. For 79.0?  
20 A. Is that a question.  
21 Q. Yes?  
22 A. Yes.  
23 Q. In what document can I find that in?  
24 A. I don't recall the name of it. The permit that was granted  
25 for construction of that structure.

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1 ROUGH DRAFT ASCII  
2 Q. Is Sawyer currently operating the Little Round Lake Dam so  
3 as to maintain the water levels on Round Lake at 79.0?  
4 A. As I stated before inasmuch as we can, yes.  
5 Q. And what is 79.0 on the gage at the Little Round Lake Dam?  
6 A. I apologize to you, I had a slip of paper in here. My  
7 journal has been handled by other people where it's no longer in  
8 there. I don't know. I can certainly find out and it would take  
9 some time.  
10 MR. DREGNE: Could I ask for a copy of the 1941 order, exhibit.  
11 Do you have that? Thanks.  
12 MS. AZAR: And we'll be going through that in just a minute.  
13 MR. DREGNE: Just as long as it's handy, when you're done.  
14 BY MS. AZAR:  
15 Q. Mr. Olson I've just handed you what's been marked as  
16 Exhibit 111. Can you identify that document?  
17 A. Ahm, it is authorized water levels for the Tiger Cat Flowage  
18 and Round Lake provided by the DNR.



19 Q. So the document was prepared by the DNR?  
20 A. It appears to be.  
21 Q. Why do you state that?  
22 A. Because it has Dave Kafura's name on the bottom.  
23 MR. DREGNE: That's an exhibit sticker.  
24 THE WITNESS: Hm-hm  
25 BY MS. AZAR:

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1 ROUGH DRAFT ASCII  
2 Q. Sawyer County actually produced this document to us, didn't  
3 they?  
4 A. We did.  
5 Q. And do you know where Sawyer County got it from?  
6 A. That I can't say. That was most likely before my time. I'm  
7 sure we used this as our -- these numbers do look correct to me.  
8 I don't memorize all the gage levels for all the County owned  
9 dams but it does say that normal authorized level of 77.0 feet  
10 equates to 5.25 on the gage.  
11 Q. And it says -- what does it say the maximum authorized level  
12 is?  
13 A. 77.25.  
14 Q. And what's that on the gage?  
15 A. 5.5.  
16 Q. And so does Sawyer County currently operate the Carlson Road  
17 Dam to achieve a normal authorized level of 5.25 on the gage?  
18 A. Again, inasmuch as we can.  
19 Q. And does Sawyer County currently operate the Carlson Road

20 Dam to achieve -- strike that. Does Sawyer County currently  
21 operate the Little Round Lake Dam so as not to achieve the,  
22 quote, maximum authorized level, end quote?  
23 MR. DREGNE: You said not to achieve.  
24 MS. AZAR: Let me try that again then. Does Sawyer County  
25 operate the Little Round Lake Dam so as not to exceed the, quote,

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1 ROUGH DRAFT ASCII  
2 maximum authorized level, end quote, of 5.50 on the gage.  
3 A. Yes. I guess we do. As much as we can.  
4 Q. And does Sawyer County own the Little Round Lake Dam?  
5 A. Yes.  
6 Q. Has it ever questioned its ownership of the Little Round  
7 Lake Dam?  
8 A. I did in previous testimony.  
9 Q. And why did you question it?  
10 A. Because I was uncertain of whether we actually own the  
11 property around it. If it was fee simple or easement.  
12 Q. And what is your conclusion at this point in time whether or  
13 not Sawyer County owns the dam?  
14 A. We do.  
15 Q. And how did you render that opinion?  
16 A. Going through historical documents.  
17 Q. And what documents did you base that decision on?  
18 A. Oh, boy. I'm sorry. At this point I just do not -- don't  
19 know. I can't tell you the name of -- there's been thousands.  
20 Q. Does Sawyer County own the bridge over which the dam --

21 under which the dam sits?  
22 A. I'm assuming we do as part of the structure. I know  
23 ^ sp Deere Lake, the town actually owns the bridge over the top  
24 of our structure. I would as -- nobody has ever requested money  
25 from us to repair it. However, I would assume so.

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2 Q. Did Sawyer County construct the Little Round Lake Dam?  
3 A. I believe it was constructed by a construction company.  
4 Q. Did Sawyer County retain a construction company to construct  
5 the Little Round Lake Dam?  
6 A. Yes.  
7 Q. Which Construction Company was retained?  
8 A. I do not know.  
9 Q. What year was the Little Round Lake Dam constructed?  
10 A. I'm sorry; I'd have to go back to my records. And I can do  
11 that. It would take some time.  
12 Q. I will need to know that answer?  
13 A. Okay.  
14 Q. Did Sawyer County receive an approval from the State to  
15 construct the Little Round Lake Dam?  
16 A. Yes.  
17 Q. What year was the approval received?  
18 A. I believe 1941.  
19 Q. And so the approval for the Little Round Lake Dam that  
20 currently exists is -- the permit that was issued and has been  
21 marked as Exhibit No. 50.

22 A. Yes.

23 Q. I'd like to point your attention to the permit authorizing  
24 the construction of the little Round Lake Dam, specifically like  
25 to point you to pages 10 and 11 of Exhibit 50; the order

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2 specifies that the dam control gates must have capacity to  
3 discharge 150 CFS. Does Carlson Road Dam currently have the  
4 ability to discharge 150 CFS?

5 A. It does.

6 Q. At what water elevation?

7 A. Something over 77.25.

8 Q. Do you know what water elevation is required to achieve the  
9 150 CFS?

10 A. I do not.

11 Q. Does the current Little Round Lake Dam comply with the  
12 specifications specified in Exhibit 50?

13 MR. DREGNE: Objection as to form. Calls for a legal conclusion.  
14 Subject to the objection.

15 THE WITNESS: I -- with the exceptions of a different staff gage,  
16 that being the one mentioned at Kaisers' resort which is now  
17 defunct, the ability to discharge -- excuse me. I take that  
18 back. I'd say generally it does.

19 BY MS. AZAR:

20 Q. How does it not comply with the specifications specified in  
21 Exhibit 50?

22 MR. DREGNE: Same objection.

23 THE WITNESS: Well, it does say with the dam and control gates  
24 whereby the water level in Round and Little Round Lakes may be  
25 controlled. We do not have complete control over the water in

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2 Round and Little Round Lakes.

3 BY MS. AZAR:

4 Q. And indeed the dam structure that was constructed is  
5 incapable of achieving the water levels specified in Exhibit 50  
6 during what you've defined as a normal, significant rain event,  
7 correct?

8 A. Yes. Also in periods of drought.

9 Q. The -- did the County submit plans to the State for the  
10 existing control structure prior to constructing the Carlson Road  
11 Dam?

12 A. I would assume, yes. We do not, however, have a copy. And  
13 as you know Mr. Dregne stated my appearance here is of -- is as  
14 of custodian of these records. We do not have copies of the  
15 design of the dam.

16 Q. What existed -- strike that. Though we don't know what year  
17 the dam was constructed, it was constructed pursuant to the  
18 permit presented as Exhibit 50, correct?

19 A. Yes.

20 Q. What existed at that location prior to the construction of  
21 the structures authorized in Exhibit 50?

22 A. I have no idea.

23 Q. So as far as you know -- strike that. As far as Sawyer

24 County knows there was nothing there and water could flow freely  
25 beyond Little Round Lake Dam prior to the construction of the

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1 ROUGH DRAFT ASCII  
2 structures authorized in Exhibit 50, correct?  
3 MR. DREGNE: Objection this question is beyond the scope of I  
4 believe the topics that this witness has been designated to  
5 testify to. Unless you can direct me to the one that you're  
6 asking under at this point.  
7 MS. AZAR: Go ahead and answer the question.  
8 MR. DREGNE: Subject to the objection.  
9 THE WITNESS: We do not know.  
10 BY MS. AZAR:  
11 Q. Now, when Sawyer county submitted the application that's  
12 been marked as Exhibit 161, were they acting in the best  
13 interests of Sawyer County?  
14 A. Again, I believe I answered that for the most part -- yes.  
15 Q. And when they submitted -- when Sawyer county submitted  
16 Exhibit 161 requesting the State fix and establish a normal water  
17 level for Round and Little Round lakes, did the County examine  
18 other related orders that the State had issued to Sawyer County?  
19 A. I don't believe any are designated. No.  
20 Q. So you don't believe Sawyer County investigated other  
21 related orders before it requested that the State designate the  
22 normal level at 79.0?  
23 A. Would you clarify your question?  
24 Q. I'd be delighted to.

25 MS. AZAR: Let's go off the record for a minute and I want to

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2 make sure you've got all the exhibits that we've gone through so

3 far.

4 (Discussion off the record.)

5 BY MS. AZAR:

6 Q. Mr. Olson, I just handed you Exhibits 52, 51 and 53, which

7 are all orders relating to different water bodies or dam

8 structures in Sawyer County that pre-date the application that

9 Sawyer County submitted which has been marked as Exhibit 161. Do

10 you have those documents?

11 A. I do.

12 Q. When Sawyer County submitted its application which has been

13 marked as Exhibit 161, did it take into consideration the orders

14 that had already been issued to Sawyer County, which would

15 include such things as Exhibit 51, 52 AND 53?

16 A. Yes.

17 Q. It did.

18 (Discussion off the record.)

19 (There was a recess.)

20 BY MS. AZAR:

21 Q. Mr. Olson, I'd like to talk to you about the structure that

22 was built in response to the order issued in 1941, namely, what's

23 currently the Carlson Road Dam. You'd indicated that Sawyer

24 County built the structures that currently exist and you also

25 indicated earlier that Sawyer County built the structures -- any

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2 structures that preceded the current dam -- strike that. The

3 1941 Order authorized the construction of structures to control

4 the water levels on Little Round Lake, correct, and Round Lake?

5 A. Yes.

6 Q. And Sawyer County constructed a number of different

7 structures based on the permit issued in the 1941 Order, correct?

8 A. Yes.

9 Q. All of those structures were built in the embankment that is

10 currently located where the Carlson Road Dam is, correct?

11 A. I believe so, yes.

12 Q. Did Sawyer County construct the embankment in which the

13 Carlson Road dam and bridge exists?

14 A. I have not seen any indication of that in any of the

15 historical documents.

16 Q. Have you seen any indication to the contrary?

17 A. Yes.

18 Q. What have you seen?

19 A. The channel that is in place directly downstream of that

20 structure.

21 Q. How does the channel directly downstream of that structure

22 affect Sawyer County's activities on the embankment?

23 A. I thought I heard you ask me if we constructed the

24 embankment. If we constructed the embankment we probably

25 wouldn't have put a channel, that wide of an embankment and then



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cut a channel all the way through it. It would be a much narrower embankment. We call it a birm as we have done on many of our other dams that were built around the same time.

Q. I'm not sure I understand. Can you answer that question differently?

A. Did we construct a birm or an embankment? I believe the embankment was already there, and we did not construct that -- that answers one question. Did we do anything to the contrary? Yes, I believe we cut a channel through the existing embankment.

Q. And on what do you base the opinion that Sawyer County did not build the embankment?

A. That there was an embankment in place.

Q. And how do you know that?

A. I don't know. It was my opinion.

Q. Was that based on any historic documents?

A. It was based on site observation.

Q. What about your site observation has indicated that that embankment was not built by Sawyer County?

A. Because it is approximately three hundred feet long and engineering-wise I don't know why anybody would build a three hundred-foot-wide embankment when a fifty-foot embankment would do.

Q. So you're speculating whether or not Sawyer County built or did not build the embankment, correct?

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2 A. Yes.

3 Q. Giving you what's been marked as Exhibit No. 82, which is a  
4 memo from you to the Land and Water Conservation Committee  
5 members, on the second bullet there, it indicates that you  
6 recommended that the, quote, bridge on Carlson Road, paren, dam  
7 site, end paren, should be inspected by a DOT-certified bridge  
8 inspector, period. Ownership of the road should be researched,  
9 period, end quote.

10 A. Yes.

11 Q. Has Sawyer County requested that a DOT-certified bridge  
12 inspector look at the Carlson Road Dam and bridge at this point?

13 A. They have not.

14 Q. And why not?

15 A. Conjecture on my part. I -- I don't know.

16 Q. Whose responsibility is that?

17 A. Since it is a bridge and bridges in Sawyer County are  
18 generally cost shared with federal funds by the County to the  
19 towns, if it is on a town road, I would say it would have joint  
20 responsibility of the town and the county highway department.

21 Q. And why did you recommend that it be inspected?

22 A. Because it's just a good idea.

23 Q. Any physical conditions of the bridge currently prompt that  
24 suggestion?

25 A. No.

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- 1
- 2 Q. I'd like to hand you what's been marked as Exhibit 103.
- 3 This is a letter from Wisconsin Department of Natural Resources
- 4 to Ken Carlson and I'll you know, that Ken Carlson at that time
- 5 was the head of the Round Lake Property Owners Association. I'm
- 6 just going to be focusing on the first page and this reflects
- 7 back to the discussion we had just a moment ago concerning the
- 8 150 CFS and capacity of the Round Lake Dam and as to whether or
- 9 not it can accommodate 150 CFS. I'd like you to read
- 10 Section 1.a) in Exhibit 103 which states, quote: In order for
- 11 the structure to pass 150 CFS, the water level in the lake would
- 12 have to rise to about 80.65 feet, semi-colon, 3.40 feet above the
- 13 authorized maximum; end quote. Do you see that?
- 14 A. I do.
- 15 Q. Would you consider water levels at 80.65 feet to be flood
- 16 stage?
- 17 A. Yes.
- 18 Q. Have you ever seen the water levels at 80.65 feet at the
- 19 Little Round Lake Dam?
- 20 A. No.
- 21 Q. Earlier you indicated that you believed that Sawyer County
- 22 designed the Carlson Road Dam in compliance with the 1941 Order
- 23 as it relates to the 150 CFS; do you recall that?
- 24 A. Yes.
- 25 \*\*\* CHECK \*\*\* up 10 \*\*\*Camille, leave these in\*\*\*.

1 ROUGH DRAFT ASCII

2 Q. At that time you didn't know specifically how high the water  
3 had to be for it to pass 150 CFS, correct?

4 A. Correct.

5 Q. Is it Sawyer County's position that the State intended for  
6 Sawyer County to construct a dam that could pass 150 CFS only  
7 during flood conditions?

8 A. I'm sorry you'll have to read it back to me.

9 (The pending question was read as follows:

10 "Is it Sawyer County's position that the State intended for  
11 Sawyer County to construct a dam that could pass 150 CFS only  
12 during flood conditions?")

13 THE WITNESS: It's not.

14 BY MS AZAR:

15 Q. That is not Sawyer County's position? I'm trying to  
16 understand what it's not meant.

17 A. It is not -- it is not our contention that we assumed that  
18 the dam would only pass 150 CFS under flood conditions. That is  
19 not our contention.

20 Q. So Sawyer County believes that the dam can pass 150 CFS in  
21 conditions less serious than flooding?

22 A. No.

23 MS. AZAR: Could you read back the question and answer?

24 (The testimony was read as follows:

25 "So Sawyer County believes that the dam can pass 150 CFS in

1

2 conditions less serious than flooding.

3 A. No").

4 BY MS. AZAR:

5 Q. According to Exhibit 103, Sawyer County designed and  
6 constructed a dam that could comply with 150 CFS specification  
7 only in flooding conditions, correct?

8 A. Correct.

9 Q. And earlier you testified that -- that Sawyer County is not  
10 assuming that the State intended for the structure -- strike  
11 that. Do you know where I'm trying to get. Let's go off the  
12 record for a minute.

13 (Discussion off the record.)

14 BY MS. AZAR:

15 Q. Mr. Olson, you indicated that Sawyer County has -- that you  
16 don't know when the current Little Round Lake Dam was constructed  
17 nor does Sawyer County have the plans for the dam. Correct?

18 A. Correct.

19 Q. And you indicated that you thought that the approval for the  
20 current dam was provided in the 1941 Order. Correct?

21 A. Yes.

22 Q. And were there any approvals subsequent to the 1941 Order  
23 that approved the structure that currently exists as the Carlson  
24 Road Dam?

25 A. Were there any other. Was that the question?

1

2 Q. Indicating?

3 A. No, there were not.

4 Q. So the only approval that Sawyer County knows of for the  
5 structure is the 1941 Order. Correct?

6 A. Actually, no. We have tacit approval from lots of DNR  
7 correspondence especially in the last twenty years that says that  
8 we've operated it in a manner befitting that structure. It does  
9 not say that it was operated in accordance with the 1941 Order.

10 Q. And we're not talking about operating the dam. I'm talking  
11 about the construction, the specifications for the dam?

12 A. Then 1941 is the original application I believe still holds  
13 an original permit.

14 Q. And right now just so you know this whole line of questions  
15 is going to focus on the specifications of the dam and whether or  
16 not the dam construction and design complied with the 1941 Order?

17 A. I understand.

18 Q. Does the current structure comply with the 1941 Order as it  
19 relates to the 150 CFS?

20 MR. DREGNE: Objection as to form. Calls for legal conclusion.  
21 Subject to the objection.

22 THE WITNESS: The 1941 Order, as I read it just said that it had  
23 to pass 150 CFS and I don't believe it gave that 77.0 number.  
24 Just that they constructed ^ ck on a channel from Little Round  
25 Lake to Squaw Lake of the capacity to discharge 150 CFS.

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2 BY MS. AZAR:

3 Q. So it is Sawyer County's position that the specification of  
4 150 CFS can be -- does not relate to any specific water  
5 elevation?

6 A. It was never stated in the permit.

7 Q. Now the permit does specify that Sawyer County should  
8 operate the dam so as not to exceed 77.25, correct?

9 A. It does.

10 Q. Is it reasonable to assume that the State wanted Sawyer  
11 County to construct -- design and construct a dam that could pass  
12 150 CFS when the water was at or below 77.25?

13 MR. DREGNE: Object to form of the question. Calls for  
14 speculation what the State's intentions were.

15 THE WITNESS: I would assume that when they said it would pass  
16 150 CFS that normal engineering protocols would be taken into  
17 place. One could most likely make the assumption that I could  
18 pass 150 CFS through a 2 inch piece of PVC pipe, but I'm also  
19 under the assumption that they would not expect a 2 inch PVC pipe  
20 to be placed under the Carlson Road, but, that's an assumption

21 BY MS. AZAR:

22 Q. So when Sawyer County designed the Carlson Road Dam, at what  
23 elevation was it designing to pass a flow of 150 CFS?

24 A. Again, speculation on my part since we do not have the  
25 original data, they may very well have been assuming that it

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2 could pass 150 CFS at that elevation. People make mistakes, too.

3 I don't know and since we don't have that information, I don't  
4 know as though we will ever know.

5 Q. Fact is though it obviously can't at 77.25 feet, correct?

6 MR. DREGNE: Asked and answered many times.

7 THE WITNESS: That is correct.

8 BY MS. AZAR:

9 Q. Mr. Olson, I'd like to call your attention to Exhibit 56  
10 which is a 1968 permit to Sawyer County to dredge material from  
11 the bed of the outlet of little Round Lake and this permit was  
12 issued in response to an application Sawyer County submitted to  
13 the state. Correct?

14 A. Correct.

15 Q. And did Sawyer County take into account an issue -- the  
16 orders that had been issued prior to September 9th, 1968, when it  
17 applied to dredge materials from the bed of the outlet of Little  
18 Round Lake?

19 MR. DREGNE: You can take your time to read it if you'd like.

20 THE WITNESS: The question again please, ma'am.

21 MR. DREGNE: I don't think there's one pending.

22 MS. AZAR: Yes there is.

23 MR. DREGNE: Oh I'm sorry could you read it back.

24 (The pending question was read.

25 "And did Sawyer County take into account an issue -- the orders

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1 ROUGH DRAFT ASCII  
2 that had been issued prior to September 9th, 1968, when it  
3 applied to dredge materials from the bed of the outlet of Little



4 Round Lake?")

5 THE WITNESS: I can only assume so, however, not having the  
6 application itself, I don't know.

7 BY MS. AZAR:

8 Q. Did you review the application in preparation for today's  
9 deposition?

10 A. I didn't.

11 Q. Hand you what's been marked as Exhibit 57. Exhibit 57 is a  
12 permit issued from the Wisconsin Department of Natural Resources  
13 in 1969 authorizing Sawyer County to bridge material from the bed  
14 of Squaw Lake. Do you see that?

15 A. I do.

16 Q. And Sawyer County submitted an application to the WDNR prior  
17 to receiving this permit, correct?

18 A. Yes.

19 Q. And when Sawyer County submitted the application that led to  
20 the issuance of this permit did Sawyer County consider the orders  
21 that had been issued to Sawyer County prior to March 21st, 1969  
22 as they relate to the Round Lake system?

23 A. In Exhibit 57, I again I'm assuming that the Squaw Lake  
24 elevation level which is stated in here would be one of the  
25 orders that they would have had to have looked at in order to do

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2 this work.

3 MS. AZAR: Can you read the question back? I'm going to ask you  
4 to answer the question directly.

5 (The pending question was read as follows:  
6 "And when Sawyer County submitted the application that led to the  
7 issuance of this permit did Sawyer County consider the orders  
8 that had been issued to Sawyer County prior to March 21st, 1969  
9 as they relate to the Round Lake system?")

10 THE WITNESS: I stand by my first answer as Squaw Lake being part  
11 of the Round Lake system and I will include, did they -- did  
12 they take into consideration other orders issued before 1969;  
13 take into consideration being a very broad brush but they  
14 probably took them into consideration again not having the  
15 permit, conjecture is assumably they did

16 BY MS. AZAR:

17 Q. And so did you review the application in preparation for  
18 this deposition?

19 A. I did not.

20 MS. AZAR: And, Matt, I'd just like to point out that we consider  
21 that as improper preparation for this deposition. And that is on  
22 the record, correct?

23 THE REPORTER: (Indicating yes).

24 BY MS. AZAR:

25 Q. The northern drainage ditch the County currently holds an

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2 easement that encompasses both the northern drainage ditch as  
3 well as the Little Round Lake Dam, correct?  
4 A. Yes.  
5 Q. And is that easement valid?

6 A. I would assume so, yes.

7 Q. Has Sawyer County ever questioned the validity of that  
8 easement?

9 A. Not to my knowledge.

10 Q. Has Sawyer County ever questioned the existence of that  
11 easement?

12 A. No, not to my knowledge.

13 Q. When was the Lake Placid Dam built?

14 A. The Lake Placid Diversion Canal Dam, was -- 1936 was the  
15 application so somewhat after that.

16 Q. Hand you what's been marked as Exhibit 55. This is a 1983  
17 permit from the Wisconsin Department of Natural Resources to  
18 raise the elevation of the Tiger Cat Flowage; do you see that?

19 A. I do.

20 Q. Why did Sawyer County petition the DNR to raise the water  
21 level of the Tiger Cat Flowage?

22 A. Based on the request of property owners.

23 Q. And so Sawyer County submitted an application to raise the  
24 elevation of the Tiger Cat Flowage to appease some of its  
25 constituents, correct?

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2 MR. DREGNE: Objection as to form. Mischaracterizes the  
3 witness's prior testimony.

4 BY MS. AZAR:

5 Q. Did Sawyer County submit an application in 1982 or 1983 to  
6 raise the elevation of the Tiger Cat Flowage for the benefit of

7 some of the its constituents?

8 A. Yes.

9 Q. And was that action done for the benefit of the public?

10 A. Well, technically, I suppose so, that if even one  
11 constituent could be the public.

12 Q. And when Sawyer County submitted the application that  
13 resulted in the issuance of the permit that's been marked as  
14 Exhibit 55, did they consider the orders that had been issued by  
15 the State to Sawyer County prior to 1983?

16 A. Yes.

17 Q. I'd like to hand you what's been marked as Exhibit 54.

18 Exhibit 54 is a --

19 A. I'm going to have to take a break.

20 MS. AZAR: Yeah. We're close to done but absolutely.

21 (There was a recess.)

22 BY MS. AZAR:

23 Q. Mr. Olson I'd like to have you look at what's been marked as  
24 Exhibit 54, it's a permit issued by the WDNR in 1950 to the  
25 Sawyer County to raise the level of the Tiger Cat Flowage; do you

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2 see that?

3 A. I do.

4 Q. And why did Sawyer County request that the level of Tiger  
5 Cat flowage be raised?

6 MR. DREGNE: Let me first object that this question is not within  
7 the scope of the topics for which this witness has been

8 designated to testify pursuant to the notice of deposition.  
9 MS. AZAR: What number is this? 54?  
10 THE WITNESS: Hm-hm.  
11 MS. AZAR: That would be -- Paragraph 1 M as in Mary.  
12 MR. DREGNE: I stand corrected. I withdraw that objection.  
13 THE WITNESS: I'm sorry; could you read back the question?  
14 (The pending question was read as follows:  
15 "And why did Sawyer County request that the level of Tiger Cat  
16 flowage be raised?")  
17 THE WITNESS: Ostensibly for the benefit of some of the  
18 constituents on the Tiger Cat Flowage property owners.  
19 BY MS. AZAR:  
20 Q. The County there took this action for the benefit of the  
21 public, correct?  
22 A. Again, for some of the public, yes.  
23 Q. And did Sawyer County when it submitted an application that  
24 resulted in the issuance of this permit that's marked as  
25 Exhibit 54 take into considerations the orders that had been

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2 issued to Sawyer County by the State prior to June 5th of 1950?  
3 A. Ah, possibly, yes. Although it was not stated that they  
4 had.  
5 Q. Did you review the application in preparation for this  
6 deposition?  
7 A. The application? I'm sorry; no, I did not.  
8 MS. AZAR: May I -- I just say we are going to keep this witness

9 subject to recall given the fact that he was not properly  
10 prepared to answer the questions on behalf of Sawyer County as  
11 specified in the notice of deposition.

12 BY MS. AZAR:

13 Q. Let's move on to Exhibit No. 1 -- 162?

14 A. 162.

15 Q. Could you please identify that document?

16 A. It is a letter to the Sawyer County Land and Water  
17 Conservation Committee regarding water levels on Round Lake, from  
18 Byron Miller.

19 Q. And have you seen that document before?

20 A. I have.

21 Q. And do you know who Mr. Byron Miller is?

22 A. I do not.

23 Q. What was the response of Sawyer County to receipt of this  
24 letter?

25 MR. DREGNE: Before you answer, let me look at it.

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2 \*\*\*CHECK\*\*\* \*\*\*CHECK\*\*\* 3.

3 MR. DREGNE: Could you read back the question going about two  
4 questions back, please. Starting with this ^ ck .

5 (The testimony was read as follows:

6 "Could you please identify that document?

7 A. It is a letter to the Sawyer County Land and Water  
8 Conservation Committee subject of Round Lake, by Byron Miller.

9 Q. And have you seen that document before?

10 A. I have.

11 Q. And do you know who Mr. Byron Miller is?

12 A. I do not.

13 Q. What was the responses of Sawyer County to receipt of this  
14 letter?")

15 MR. DREGNE: Go ahead.

16 THE WITNESS: Ah, in recollection, I would assume gratitude that  
17 we have to all people who give us their opinion.

18 BY MS. AZAR:

19 Q. So a letter of response was sent out to Mr. Miller?

20 A. No. Probably not.

21 Q. So when you said gratitude, how was that gratitude expressed  
22 to Mr. Miller?

23 A. Maybe not expressed to him. But appreciation of.

24 Q. To your knowledge no response was given to Mr. Miller.

25 Correct?

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2 A. Correct.

3 Q. Do you know how to get in contact with Mr. Miller?

4 A. I would assume by his return address or I can also look up  
5 his name on our text database.

6 Q. I'd like to hand you what's been marked as Exhibit 134. And  
7 this is Sawyer County's petition to the WDNR dated June 2nd,  
8 2004, asking that the DNR exercise its authority to regulate and  
9 control the level and flow of water on Round Lake and to review  
10 and clarify certain orders relating to Round Lake. Why did

11 Sawyer County submit this petition?  
12 A. In relation to this litigation.  
13 Q. Now, the WDNR and Sawyer County have been having ongoing  
14 discussions about Sawyer County's operation and maintenance of  
15 the Round Lake Dam, correct?  
16 A. Yes.  
17 Q. And ongoing discussions as well about Sawyer County's  
18 ability or inability to maintain the water levels as specified in  
19 the 1941 Order, correct?  
20 A. I'm assuming so.  
21 Q. And Mr. Dave Kafura of the WDNR is responsible for  
22 overseeing the water levels on Round Lake and Sawyer County's  
23 maintenance of those levels, correct?  
24 A. I don't believe so.  
25 Q. Do you know what Dave Kafura's responsibility is in relation

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2 to Round Lake?  
3 A. Ahm, water management specialists, generally, are just the  
4 permitting authority and since this is a dam I would assume it  
5 would fall to Frank Dallam possibly more than Dave Kafura. I  
6 guess either one of them speaks for DNR as a whole, as I speak  
7 for the County as a whole.  
8 Q. Have you been part of any discussions with Mr. Dallam  
9 concerning Mr. Kafura?  
10 A. Discussions? No.  
11 Q. Have you ever heard Mr. Dallam say anything about



12 Mr. Kafura?

13 A. Yes.

14 Q. What have you heard?

15 A. And I'll apologize that this isn't verbatim, but the general  
16 sense that I received from Mr. Dallam was that he did not think  
17 highly of Mr. Kafura's opinions and methodology and the way he  
18 was conducting himself during the Round Lake water level  
19 investigations we'll call it.

20 Q. What specifically was Mr. Dallam concerned about with  
21 regards to, you stated, the methodologies?

22 A. Ahm, I don't recall a lot of the exact instances and one of  
23 them had just crossed my desk and I'm -- can't remember what it  
24 was. And I did not prepare for this, of course; but it was  
25 something I thought was inappropriate given the timing of the

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2 situation since we do not know what anything that will be  
3 happening in the future. And it was something that was taking a  
4 definitive position and I don't believe Mr. Dallam thought that a  
5 definitive position was good at this time given the volatility of  
6 what could possibly happen in the future.

7 Q. In what forum did you hear Mr. Dallam make these statements?

8 A. What forum? In my office.

9 Q. Mr. Dallam was there in person?

10 A. Yes.

11 Q. Who else was there?

12 A. I'm certain my secretary was. Possibly, one or two of the

13 other employees.

14 Q. Who would they be?

15 A. Tim Siedl ^ sp who's name you've seen and -- probably just  
16 Tim because we had -- parks guy hasn't been here since September  
17 so and I think it's been since September.

18 Q. That was going to be my next question. When did this  
19 discussion occur?

20 A. Since September.

21 Q. Of '04?

22 A. Yes.

23 Q. And what did you do with that information?

24 A. Nothing.

25 Q. What was the purpose of your meeting with Mr. Dallam?

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2 A. I don't know for sure why he stopped in. We've had issues  
3 such as Mosquito Brook Dam, the Fish Trap Dam and others, so at  
4 that given time I can't tell you exact why he was in the office,  
5 but I can tell you he was.

6 Q. How many -- how often does Mr. Dallam come to your office?

7 A. Oh, possibly, once a month. Maybe not quite that much.

8 Q. How often has Mr. Hausman been in your office?

9 A. Been in? I don't recall ever.

10 Q. At the Land and Water Conservation Committee meeting, you  
11 had expressed concerns about private meetings that had been  
12 occurring with regards to the Little Round Lake Dam, do you  
13 recall that comment?

14 A. Not offhand.

15 Q. Do you recall having private meetings about the Little Round  
16 Lake Dam and being frustrated about the number of meetings that  
17 you -- Hi.

18 ALSO PRESENT: Excuse me.

19 (Discussion off the record.)

20 BY MS. AZAR:

21 Q. ^ Ck -- you were having --

22 A. Yes.

23 Q. The number of meetings that you were having with regards to  
24 Little Round Lake Dam?

25 A. Absolutely.

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2 Q. And with whom were those meetings being held?

3 A. I'd like to emphasize that a meeting could be construed as  
4 telephone calls, things like that. With Mr. Hausman, with  
5 Mr. Reineman, with Mr. Hirschfeld, with Ms. Suhsen, ah, I -- I  
6 can't even venture a guess as to how many hours I've put in on --  
7 and people come to talk to me and that's understandable and  
8 that's well within their -- their right to do that. At some  
9 point, though, it's a big County and I do have other obligations,  
10 lots of them.

11 Q. As far as the -- the meetings and conferences that you had,  
12 were any of those with the staff of the Land and Water -- I'm  
13 sorry, not the staff -- the members of the Land and Water  
14 Conservation Committee?

15 A. I just said yes, yeah.  
16 Q. You had mentioned Ms. Suhsen. Who else?  
17 A. Mr. Hirschfeld was.  
18 Q. Thank you, yes.  
19 A. Maybe briefly with Mr. Delong but not -- and you know  
20 conversation I don't consider one or two sentences a  
21 conversation, so probably all of them at some stage, but yeah.  
22 Q. So Ms. Suhsen was the primary person you had conversations  
23 with?  
24 A. Being the committee chair she was in my office more than  
25 anybody else and would like to know what I was doing why I was

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2 getting paid.  
3 MS. AZAR: Off the record.  
4 (Discussion off the record.)  
5 BY MS. AZAR:  
6 Q. Has your department been informed of the new damage  
7 occurring on Round Lake?  
8 A. Of any new damage?  
9 Q. This would be erosion damage that has happened within the  
10 last 30 days?  
11 A. I made two site visits relatively recently. I don't know if  
12 it's damage that's happened over the course of the last 30 days  
13 or if they've just contacted me within that period of time.  
14 Q. Who has contacted you?  
15 A. Steve Austin, ah, Jim Connor, and one up on Peninsula Road

16 that I believe Tim took.

17 MR. DREGNE: Did you mean Jim O'Connor? I'm trying to remember  
18 myself.

19 A. Could be. Tri-athlete.

20 Q. Did you go and investigate Mr. Austin's and Mr. Connors  
21 or -- Connors' property?

22 A. I did.

23 Q. And what did you find?

24 A. Oh, boy. This could take a while. I found at Mr. Austin's  
25 property relatively steep slopes with a dock deck access system

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2 that shades out vegetation and unstable tow and a small amount of  
3 erosion of unconsolidated material and, at Mr. -- at Jim's we  
4 found a relatively stable shore, some slumping on a scale of one  
5 to ten I would give it about a two to three compared to most of  
6 our site visits for erosion. He had applied for a riprap permit  
7 and unfortunately instead of putting filter fabric behind the  
8 rock he used tarp material which is impervious to water and  
9 that's not good. Both sites had fair vegetative buffers. Both  
10 very -- nice gentlemen, very agreeable. I did give Mr. Austin  
11 some willow cuttings and I will -- I promised to take some to  
12 Mr. -- to Jim.

13 Q. And what are the willow cuttings for?

14 A. They are for planting. They have massive root systems.  
15 They hold shorelines very well. They're inexpensive especially  
16 when I give them to them and they have the potential to really

17 stabilize a shoreline if there is slumping.  
18 Q. And why don't you define slumping for me?  
19 A. Slumping is generally an occurrence where there is an  
20 unstable tow undercutting and the weight of the existing earth on  
21 the bank moves downward, downslope.  
22 Q. Did you see any fissures on Mr. O'Connor's property?  
23 A. That would be slumping.  
24 Q. Now, the -- did you ever see the fissures on Mr. Hausman's  
25 property?

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2 A. No. As I stated before, I never went out.  
3 Q. And so your testimony is slumping is always caused by  
4 undercutting of the tow?  
5 MR. DREGNE: I just want to clarify that this line of questioning  
6 is I believe outside the scope of the questions for which this  
7 witness has been designated to testify pursuant to the notice of  
8 deposition. You can proceed with -- subject to the objection.  
9 THE WITNESS: I rarely use words like always and never.  
10 BY MS. AZAR:  
11 Q. So what are the other causes of slumping?  
12 A. Ah, massive overland flow of water, Fragic, F-r-a-g-i-c,  
13 soils. You see that, hm, relatively common in northern  
14 Wisconsin. Two different soil types, one will slide over the top  
15 of a harder one. Inundation is always a possibility, weight,  
16 sometimes where there's a new building you'll see slumping.  
17 Those are all good -- good possibilities, generally it's an

18 unstable tow.

19 Q. And, when you evaluated Mr. O'Connor's slumping, what is  
20 your conclusion about the cause of that?

21 A. It was so little that I didn't have a huge conclusion. We  
22 are used to dealing with sometimes four to ten-foot vertical raw  
23 banks that are receding at several feet per year. In the grand  
24 scheme of things, Mr. Connor's property was a very shallow slope,  
25 a very small amount which isn't to belittle his problem he wants

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2 to make sure it stays there and I don't blame him. Hopefully, a  
3 little bioengineering will help. Bioengineering being the willow  
4 stakes. I told him to try these willows on half of it to see if  
5 it holds and it's almost a little bit of an experiment.

6 Q. I'm sorry. Was it an undercutting tow that caused the  
7 slumping on Mr. Connors' property?

8 A. He has riprapped it since it started. He has maintained to  
9 me that it's been going on for forty years since he's been coming  
10 there.

11 Q. And what's been happening for forty years?

12 A. The slumping.

13 Q. So the fissures on his property have been occurring for  
14 forty years?

15 A. According to Mr. Connor, yes.

16 Q. Is that 4-0?

17 A. F-o-r-t-y.

18 Q. 4-0?

19 MR. DREGNE: 40 years?  
20 THE WITNESS: 40. 40. He said he's been coming to Round Lake  
21 for forty years.  
22 MS. AZAR: And he's had fissures on his property for forty years.  
23 THE WITNESS: That's what he said to me.  
24 MR. DREGNE: Can I just ask the court reporter to clarify? Are  
25 you using 40 as in 4-0?

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2 THE REPORTER: 4-0.  
3 MR. DREGNE: Both Mr. Hausman and I are trying to figure out  
4 whether we are hearing 14 or 40?  
5 BY MS. AZAR:  
6 Q. Where's Mr. O'Connor's property?  
7 A. Scarlet Taninger.  
8 Q. So it's just about four doors from -- so it's about 75 feet  
9 from Mr. Hausman's property?  
10 A. I've never been to Mr. Hausman's property.  
11 Q. Do you know where it's located?  
12 A. No.  
13 Q. You had mentioned earlier that Mr. Reineman had contacted  
14 you concerning the problems on Round Lake. How often does  
15 Mr. Reineman contact you?  
16 A. Currently, I haven't spoken to Mr. Reineman in many months.  
17 Ah, probably, since last fall. Before that, maybe once a month.  
18 Q. And generally what were your conversations about?  
19 A. Oh, water levels, sometimes his new kid.



20 Q. What has he been saying about the water levels?  
21 A. That they're fine.  
22 Q. At all times?  
23 A. No.  
24 Q. When does he think they're fine. When has he conveyed to  
25 you that the water levels are fine and when has he conveyed that

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1 ROUGH DRAFT ASCII  
2 they're not fine?  
3 A. I -- I don't keep accurate records of every time he came in  
4 and whether they were good or not. Generally as they are,  
5 approximately today around that 5.5 on the gage. He seemed to be  
6 pretty agreeable that that was a good water level.  
7 Q. Do you know of any alterations to the Little Round Lake Dam  
8 since it was originally built?  
9 A. Yes.  
10 Q. And what have those alterations been?  
11 A. We have done some maintenance on it and brushing and which I  
12 have already articulated to you. I feel that's it.  
13 Q. Is the bridge over the Carlson Road Dam currently leaning?  
14 A. I have no idea.  
15 Q. When's the last time you were at the Carlson Road Dam?  
16 A. Yesterday.  
17 MS. AZAR: I think that's all on my end. Do you have any?  
18 MR. DREGNE: I have a few.  
19 MS. AZAR: Actually, I do have one question. This goes to the  
20 documented production, if I could just ask a very basic question

21 about the documents that you produced about two years ago.

22 BY MS. AZAR:

23 Q. Do you recall the huge document production that you put  
24 together?

25 A. Oh, yes.

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2 Q. Can you just describe for me how you compiled those  
3 documents. How you went about locating them, what you were  
4 looking for? Where you went to find them, things like that.

5 A. The easiest to start with would be E-mails just did a  
6 search. A correspondence we did a search, round, find, print,  
7 all other documents my secretary has been slowly over the course  
8 of the years getting copies of everything that we have into  
9 individual files. We gave you our entire file system. We asked  
10 the highway, we asked the surveyors' office and land records,  
11 also, the County Clerk who I believe produced many of his own  
12 materials. Everything we had we produced.

13 MS. AZAR: Thank you.

14 MR. DREGNE: Okay.

15 MR. DREGNE: I want to start with just a couple of exhibits here.

16 MS. AZAR: Time out.

17 MR. DREGNE: Yeah, do you want to take a break while I'm looking?

18 THE WITNESS: Just one minute.

19 (There was a recess.)

20

\* \* \* \* \*

21

EXAMINATION

22 BY MR. DREGNE:

23 Q. Mr. Olson, I've asked you to look at Exhibit No. 161; and,  
24 in particular, would you look at paragraph on the first Page 2  
25 and the reference to elevations 79. Earlier in your deposition,

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2 you were asked a question about what elevation Sawyer County  
3 applied to have the normal level of Round Lake established at and  
4 what elevation was specified by the Public Service Commission in  
5 response to the application and you testified earlier that the  
6 Public Service Commission set the elevation at -- or specified  
7 elevation 79 in its order and I've also asked you to look at  
8 Exhibit No. 50 which is the 1941 Order. In looking at Exhibit  
9 No. 50, does that refresh your recollection regarding what  
10 elevations were specified by the Public Service Commission as the  
11 normal and -- referred to as the normal and maximum levels in  
12 that order?

13 A. It does.

14 Q. And what were those levels?

15 A. Normal level of 77.0 feet, maximum level of 77.25 feet.

16 Q. And I believe earlier in your testimony after you were asked  
17 about what level was established and you indicated 79 you were  
18 then asked whether the County had been attempting to operate the  
19 system to stay within a particular elevation or elevation 79.  
20 After reviewing the 1941 Order again does that refresh your  
21 recollection regarding what elevation the County has in fact been  
22 attempting to operate within?

23 A. Yes.  
24 Q. And what elevation is that?  
25 A. 77 to 77.25.

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2 Q. Earlier in your deposition, you testified that Frank Dallam  
3 measured the flow through the cracks of the Lake Placid diversion  
4 canal structure. Did Mr. Dallam measure the flow through the  
5 cracks of the boards that are in place currently or did he  
6 measure the flow of the cracks that were in place before they  
7 were replaced?  
8 A. Before they were replaced. And he may not have measured.  
9 He may have estimated flow up to 1 CFS.  
10 Q. Do you know how he reached that conclusion that the flow was  
11 up to 1 CFS?  
12 A. I do not.  
13 Q. Could I see the Exhibit that has your log book -- copies of  
14 your log book not the new one but?  
15 MS. AZAR: It should be.  
16 (Discussion off the record.)  
17 BY MR. DREGNE:  
18 Q. Earlier, during your deposition, you were asked to look at  
19 Page SC 3304 and some entries on that page including a couple of  
20 entries dated in 2003 and did that and then asked whether that  
21 meant that the log book had in fact not been replaced --  
22 misplaced at all during 2003. Is it possible that the log book  
23 had been misplaced during parts of 2003 other than those dates

24 noted in the log book?

25 A. Possible.

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2 Q. Earlier you testified that you had not carried out any  
3 inspections at the bridge at County Highway B, the Tiger Cat dam,  
4 or the County Highway NN between October 2004 and May 2005. Was  
5 there any need during that time period to carry out an  
6 inspection?

7 A. None to my knowledge.

8 Q. And you were also asked whether you carried out any  
9 inspection of the Lake Placid Dam between the fall of 2004 and  
10 the present time. Was there any need to inspect the Placid --  
11 the Lake Placid structure between the fall of 2004 and today?

12 A. Not to my knowledge.

13 Q. Earlier in your deposition, you testified regarding the  
14 inquiry, the studies that have been done and the inquiries that  
15 have been made by the County regarding how the County -- what the  
16 County's options are for managing the water level on Round Lake.  
17 What is your understanding of the relationship between the  
18 petition that the County has filed with the Department of Natural  
19 Resources marked as Exhibit 134 and further engineering studies  
20 or investigation or decisions regarding managing the water level  
21 at Round Lake?

22 A. That we would like all interested parties and, of course,  
23 the Department of Natural Resources who seems to have the only  
24 authority to regulate and control those levels to be partners in

25 doing just that.

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2 Q. You were asked a number of questions about the County's  
3 position regarding the meaning of the language in the 1941 Order,  
4 specifically the reference in the 1941 Order to discharging 150  
5 cubic feet per second. What is your understanding between the  
6 understanding of the relationship between the petition the County  
7 has filed with the Department of Natural Resources marked as  
8 Exhibit 134 and the interpretation of that requirement and other  
9 requirements of the 1941 Order? Do you understand the question?

10 A. No, I'm sorry.

11 Q. I probably didn't ask it very well. Could you -- before I  
12 ask you the question why don't we go off the record and I'll give  
13 you an opportunity to review the 1941 Order so that you're  
14 refreshed on what -- not the 1941 Order, but the petition. So if  
15 we could go off the record you can review the petition.

16 (Discussion off the record.)

17 MR. DREGNE: Back on the record.

18 BY MR. DREGNE:

19 Q. You were asked a number of questions earlier in your  
20 deposition about the County's interpretation of the language in  
21 the 1941 Order relating to the discharge of 150 cubic feet per  
22 second through the Little Round outlet structure; do you remember  
23 those questions?

24 A. I do.

25 Q. And what is your understanding of the relationship between

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the petition that the County has filed with the Department of Natural Resources and the County's attempt to interpret the requirements of the 1941 Order?

A. The relationship would be that the County is requesting the DNR to clarify, review and interpret that 1941 Order in order to assist us with the regulation and control of the level.

MR. DREGNE: That's all I have.

MS. AZAR: A few follow-up questions.

\* \* \* \* \*

EXAMINATION

BY MS. AZAR:

Q. Mr. Olson, you just indicated that the relationship between Sawyer County's 2004 petition to the WDNR and the 1941 Order was to ask assistance from the DNR to review and clarify the 1941 Order, correct?

A. Yes.

Q. Is Sawyer County unsure of its obligations under the 1941 Order?

A. Yes.

Q. And why hasn't Sawyer County before 2004 asked for assistance in reviewing and clarifying its obligations under the 1941 Order?

A. I'm certain that's just an awareness issue.

Q. I'm sorry?

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2 A. An awareness issue.

3 Q. An awareness issue, so Sawyer County hadn't known about its  
4 obligations under the 1941 Order before 2004?

5 A. Possibly not, it's a period of many years.

6 Q. When did Sawyer County first become reacquainted with its  
7 obligations under the 1941 Order?

8 A. Approximately two years ago.

9 Q. What year was that?

10 A. 2002, 2003.

11 Q. So, prior to 2002, 2003, Sawyer County was not cognizant  
12 that it had obligations under the 1941 Order?

13 A. I'm certain they were closer to 1941. It is my opinion that  
14 for a number of years it may have escaped some of the County  
15 board supervisors' memories.

16 Q. And you began your employment in 1996. Right?

17 A. Yeah.

18 Q. '95, '96. Were you aware of the County's obligations under  
19 the 1941 Order prior to 2002?

20 A. No.

21 Q. When did you first become aware of the County's obligations  
22 under the 1941 Order?

23 A. 2002.

24 Q. Do you remember approximately when?

25 A. No.



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Q. Was it -- how did you learn about your obligations?

A. Pursuant to this litigation.

Q. The litigation didn't actually start until 2003, so.

A. Pursuant to Mr. Hausman's notice of damage.

Q. So you learned of the 1941 Order from Mr. Hausman?

A. No.

Q. From whom did you learn about the 1941 Order?

A. From our own varied records.

Q. You had just testified that the reason you had not inspected either the Carlson Road Dam or the Lake Placid Dam between October 2004 and May of 2005 was because you did not perceive a need to conduct inspections of those dams or the water levels, correct?

A. Correct.

Q. How do you define -- I mean what constitutes a need to conduct such an inspection?

A. Again, we're complaint driven; that is probably the utmost need. I can generally base things on other watersheds elevations. In other words, if one lake in the watershed is low, generally, they all are. I think that's -- those two reasons are probably enough.

Q. So between October of 2004 and May 2005, were the water levels on Round Lake below 77.0, between 77.0, and 77.25 or above 77.25?

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2 A. I don't know.

3 Q. Based on your observations on other water bodies, what would  
4 your conclusion be about what the water levels would have been on  
5 Round Lake during that time period?

6 A. Under 77.0, and on Round Lake, if they were over 77.0, there  
7 would be nothing I could do about it regardless, so I'm uncertain  
8 of why I would have had to run out immediately.

9 Q. Were there any beaver dams in the Carlson Road Dam between  
10 October 2004 and May 2005?

11 A. I think the first one we took out was the -- in the  
12 beginning of May, so -- and that was I think we've had -- taken  
13 one out and they're taking one out today.

14 Q. And how did you find out about the beaver dam in the Dam?

15 A. There are neighbors that watch and we do in May is when we  
16 did our first -- and I'm not saying it wasn't the end of April.  
17 It was about May. We're using that as a very quick date.

18 Q. I understand. So did one of the neighbors call in the  
19 beaver dam that was located?

20 A. I don't recall.

21 Q. So you may have gone out just to do a water level  
22 measurement and found the beaver dam, correct?

23 A. Possibly.

24 Q. You have a power to remove beaver dams in the Carlson Road  
25 Dam, correct?

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A. I hope so. We certainly do.

Q. And, indeed, if there is -- when beaver dams are located in the dam it does artificially elevate the water level, correct?

A. It has a potential to. If there is some debris in the dam, it doesn't necessarily slow the water down that much. There's a difference between complete blockage and -- and just a little bit of brush hauled in.

Q. Do you know how extensive the beaver dam -- do you know how extensive the beaver dam was that was removed in late April, early May by your staff?

A. Not terribly.

Q. It wasn't terribly expensive, but you do not know?

A. That's what you asked, right. How expensive was it, not terribly. I am -- I either have to take a break and go get something to eat for myself or --

MS. AZAR: I'm done.

MR. DREGNE: I'm done.

MR. DREGNE: Is that it for you, too?

(Recess).

(The deposition concluded at 1:31 p.m.)