

STATE OF WISCONSIN            CIRCUIT COURT            SAWYER COUNTY

= = = = =

JAMES HAUSMAN,

Plaintiff,

vs.

Case No. 03-CV-167

SAWYER COUNTY,

Defendant.

= = = = =

Deposition of:

JAMES R. HAUSMAN

= = = = =

Date: Wednesday, January 19, 2005

Time: 9:00 o'clock a.m.

Reported by GREGORY GASSEN

3	128	Copy of letter to Kris Mayberry from Lauren Azar dated May 9, 2003 with attachment	25
4			
5	129	Copy of typewritten notes	122
6	130	Copy of typewritten notes	124
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14 DEPOSITION of JAMES R. HAUSMAN,  
15 the plaintiff in the above-entitled action, taken at the  
16 instance of the defendant, under the provisions of  
17 Chapter 804 of the Wisconsin Statutes, pursuant to  
18 notice, before GREGORY GASSEN, a Notary Public in and for  
19 the State of Wisconsin, at the offices of Stafford  
20 Rosenbaum LLP, Attorneys at Law, Three South Pinckney  
21 Street, in the City of Madison, County of Dane, and State  
22 of Wisconsin, on January 19, 2005, commencing at  
23 9:00 o'clock a.m.

1 A P P E A R A N C E S

2 LAUREN L. AZAR and JON G. FURLOW,  
3 MICHAEL, BEST & FRIEDRICH, LLP,  
Attorneys at Law, 1 South Pinckney Street  
Madison, Wisconsin, appearing on behalf

4 of the plaintiff;

5 JOSEPH P. WRIGHT and MATTHEW P. DREGNE,  
6 STAFFORD ROSENBAUM LLP, Attorneys at Law,  
7 Three South Pinckney, Madison, Wisconsin,  
8 appearing on behalf of the defendant.

9 ALSO PRESENT: ROB MONTGOMERY

10 = = = = =

11 JAMES R. HAUSMAN,  
12 called as a witness, after being first  
13 duly sworn in the above cause, testified  
14 under oath as follows:

15 EXAMINATION

16 BY MR. WRIGHT:

17 Q What is your full name, sir.

18 A James R. Hausman, H-a-u-s-m-a-n.

19 Q Where do you live?

20 A

21 Q What's your address there?

22 A

23 Q

24 MS. AZAR: Can we go off the record  
25 a second?

(Discussion off the record)

1 Q Mr. Hausman, we just agreed off the record that you'll  
2 provide me separately with your home address and I  
3 don't have a problem with that, and we'll maintain the  
4 confidentiality on that. What's the address of the  
5 property you own in Sawyer County?

6 A 10536 N. Scarlet Tanager Lane.

7 Q And how long have you owned that property?

8 A I believe I bought that in '93.

9 Q Are you the only person who owns that property?

10 A Yes.

11 Q Does your wife have any interest in that property?

12 A No.

13 Q As you well know by now I'm Joe Wright and I represent

14 the county. There are just a few rules that I'd like

15 you to abide by during this deposition. One of them

16 is, please wait until I finish a question before you

17 give an answer, and I'll try and do the same with

18 respect to your answers, okay?

19 A Yes.

20 Q The second rule is answer out loud.

21 A Yes.

22 Q The third rule is if you need to take a break and

23 there's not a question pending, please let me know and

24 we'll take a break, okay?

25 A Okay.

4

1 Q If you don't understand one of my questions, please

2 let me know and I'll reask it or rephrase it, all

3 right?

4 A Okay.

5 Q Have you ever been deposed before?

6 A Yes.

7 Q How many times?

8 A Numerous, but --

9 Q Other than with respect to your business, have you  
10 ever been a party to a lawsuit besides this one?

11 A Yes.

12 Q Okay. Have you ever been party to a lawsuit in  
13 Wisconsin besides this one?

14 A Yes.

15 Q Tell me the first lawsuit that you were involved in in  
16 Wisconsin.

17 A It was a collection of a bad debt with a dealer out of  
18 Marshfield, Marshfield, Wisconsin. And it was a  
19 transaction that took place in the same property in  
20 Hayward and that's why we proceeded with collection up  
21 here.

22 Q I don't understand the relationship to the property in  
23 Hayward.

24 A It was jurisdiction, an issue of where I could sue  
25 this guy to collect the money.

5

1 Q Oh, I see, but it had nothing to do with the property  
2 that's the subject of this lawsuit?

3 A No.

4 Q I'm sorry, I misunderstood. What's the next lawsuit  
5 you were involved in in Wisconsin?

6 A I think that's all in Wisconsin.

7 Q How about in other jurisdictions, what lawsuits have  
8 you been involved in?

9 A The biggest one is myself versus J. Thomas Johnson,  
10 Director of the Illinois Department of Revenue at the  
11 time, this is back in '85 or '86, it went to the  
12 Illinois Supreme Court.

13 Q Generally, what was the nature of that lawsuit?

14 A Sales tax.

15 Q What other lawsuits have you been involved in?

16 A Lots of them through the business.

17 Q Okay. Let's separate out the business then for a  
18 moment. Have you been involved on a personal level in  
19 any other lawsuit besides this one?

20 A Yes.

21 Q Which lawsuits were those?

22 A That involved my brother in Nova Scotia, a wrongful  
23 death suit.

24 Q Any other suits?

25 A I don't believe so.

6

1 Q What's the name of your business?

2 A The Gold Center, Inc.

3 Q What is the nature of the business?

4 A Precious metals, rare coins, currency. We are, we,  
5 when I say we, I mean my company, I own 100 percent of  
6 it. We are one of the six or seven distributors for  
7 the U.S. Treasury Department worldwide for the eagle  
8 coins.

9 Q And how long have you been in business as The Gold

10 Center?

11 A Started in 1975, I believe, it was under a different  
12 name then, and then we changed the name to The Gold  
13 Center in '92.

14 Q How old are you?

15 A Fifty -- yeah, fifty.

16 Q Fifty?

17 A Yes.

18 Q Five-zero?

19 A Yes.

20 Q Okay. You seemed a little unsure, and that's fine.

21 A Time flies.

22 Q Tell me your educational background.

23 A I've got an associate degree in law enforcement from  
24 Parkland College in Champaign, I've got my BS in  
25 criminal justice from the University of

7

1 Illinois-Springfield. I've taken some classes after  
2 my BA but --

3 Q Is it a BA or BS?

4 A BS, I believe.

5 Q And what year did you graduate from  
6 Illinois-Springfield?

7 A '76, I believe, '75 or '76.

8 Q Right about the time you got into the gold business?

9 A Correct.

10 Q Other than The Gold Center, have you been in any other  
11 businesses in the last 20 years besides The Gold

12 Center?

13 A Yes.

14 Q What other businesses do you have an interest in?

15 A Illinois Depository Corporation, we store metals is  
16 what we do there, and Illinois Armored Transport. Of  
17 course the name basically says it all, we transport  
18 precious metals, stuff like that, and it's also,  
19 Illinois Armored is also a private detective agency.

20 Q Are you a licensed private detective?

21 A Yes.

22 Q In which states?

23 A The armored car company grants me authority in all 50  
24 states, my PI license by itself is by Illinois.

25 Q Any other businesses that you have had an interest in

8

1 in the last 20 years or so?

2 A Yes, a jewelry division, it was called Illinois  
3 Wholesale Jewelry, Inc. that I did away with in, I  
4 believe 2000, Christmas of 2000 I did away with that  
5 company.

6 Q Any other businesses?

7 A A family farm.

8 Q Anything else?

9 A No.

10 Q Where is the family farm?

11 A South of Champaign.

12 Q Do you have any businesses that have any offices or



13 physical locations in the State of Wisconsin?  
14 A I use my house there as my office when I'm up in  
15 Hayward.  
16 Q Okay. Other than that, do you have any businesses  
17 that have any location in Wisconsin?  
18 A I don't believe so.  
19 Q You're married?  
20 A Yes.  
21 Q What is your wife's name?  
22 A Carol.  
23 Q When did you and Carol marry?  
24 A New Year's Eve, '01.  
25 Q How long have you been coming to Sawyer County?

9

1 A Since I was a baby.  
2 Q Did anyone in your family either grow up there or own  
3 property there?  
4 A Yes, my grandfather. I believe he built in 1946.  
5 Q Where did he own property?  
6 A On Round Lake.  
7 Q What was his name?  
8 A Charles Rice, R-i-c-e.  
9 Q When was the first time you owned property in Sawyer  
10 County?  
11 A That would have been the A-frame property, '93, I  
12 believe.  
13 Q And so you bought that property in '93, and then you  
14 acquired a neighboring piece of property sometime

15 after that, correct?

16 A Correct.

17 Q Do you own any other properties in Sawyer County?

18 A Not now.

19 Q Okay. That tells me you did at one time. What other  
20 properties have you owned in Sawyer County?

21 A I had another lot on Round Lake that I recently sold  
22 in October, I believe.

23 Q October of 2004 you sold that lot?

24 A Correct.

25 Q Where was that lot?

10

1 A It was on Sandy Beach Road right across the street  
2 from Lakeview Golf and Pizza, the golf course.

3 Q Were there any structures on that lot?

4 A No.

5 Q Who did you sell it to?

6 A Mike and Terri Olson out of LaCrosse, I believe.

7 Q Was that a waterfront lot?

8 A Yes.

9 Q Any other properties you've owned in Sawyer County  
10 besides those you own currently and the Sandy Beach  
11 Road lot?

12 A No.

13 Q When would Carol have started visiting the property on  
14 Round Lake?

15 A '01.

16 Q Okay.

17 A 2001.

18 Q That was the first year she would have visited the  
19 property that's the subject of this lawsuit?

20 A Yes, the Fall of '01.

21 Q Was there anyone else who was a regular visitor,  
22 family friend or otherwise from 1994 on to the  
23 property that's the subject of this lawsuit?

24 A Can you --

25 Q Sure, let me ask it differently. Do you have family

11

1 members that you have come visit you at the property  
2 that's the subject of this lawsuit?

3 A Yes.

4 Q Okay. Siblings, cousins, I don't know who it might  
5 be, but I'm trying to find out the names of the people  
6 who have been regular visitors over the years that  
7 you've owned the property on Round Lake.

8 A You used the word regular, then I would say no.

9 Q Okay. Have there been family members or friends who  
10 have spent more than a day or two at Round Lake since  
11 1994?

12 A Yes.

13 Q Tell me who probably has visited the most over that  
14 time.

15 A My brother Chris.

16 Q Same last name, Hausman?

17 A Yes.

18 Q Where does Chris live?

19 A He lives in Pesotum, P-e-s-o-t-u-m, Pesotum,  
20 Illinois.

21 Q What's his business, if you know?

22 A Farming.

23 Q He's on the family farm?

24 A Yes.

25 Q And other members of your family who have visited even

12

1 semi-regularly over the years?

2 A My mom and dad, but they've been there once or twice  
3 in 14 years. My older brother, Joe, he's been there  
4 maybe twice.

5 Q Where does Joe live?

6 A He also lives in Pesotum.

7 Q Have you ever rented that property to anyone?

8 A No.

9 Q Have you ever allowed anyone to stay there for a week  
10 without your presence?

11 A No.

12 Q Has anybody ever visited when you weren't there, to  
13 your knowledge, I mean, that you've let stay there  
14 while you weren't there?

15 A No.

16 Q Let me back up to, let's say the year 2000 to present,  
17 over that four-plus year period, five-year period, can  
18 you give me an estimate of how much time you spend at

19 the Sawyer County property versus your home in  
20 Illinois?

21 A I would -- now with the baby I'm going to say probably  
22 five months in Hayward and the rest in Springfield.  
23 Prior to Maggie it was probably nine months to 10  
24 months in Hayward and two months in Springfield.

25 Q Okay. And how old is Maggie?

13

1 A Seventeen months.

2 Q And she's the only child that you have with Carol?

3 A Yes.

4 Q Do you have any other children?

5 A No.

6 Q And so when was Maggie born, help me with the math.

7 A August 1 of '03.

8 MR. WRIGHT: Off the record.

9 (Discussion off the record)

10 Q Back on the record. So August 1, 2003 Maggie  
11 arrives. Before that you were spending nine months to  
12 10 months out of the year in Hayward, is that what you  
13 said?

14 A Yes, but maybe not in '03, there was --

15 Q Okay.

16 A We had to be at home a lot with the pregnancy.

17 Q Okay. So let's say in 2000, '01 and '02 you were  
18 spending nine to 10 months out of the year in  
19 Hayward?

20 A Yes.

21 Q And when you were in Hayward, I assume you stayed at  
22 the property that's the subject of this lawsuit?

23 A Not always.

24 Q Okay. Where else did you stay?

25 A There were occasions where, if it was in the Winter

14

1 and I was coming up for a meeting or something, that I  
2 would stay at a hotel instead of going out and  
3 opening, you know what that's like.

4 Q Let's start with '02, and I understand that your claim  
5 is that there was property lost during an event, we'll  
6 call it for now in 2002. Can you tell me what periods  
7 of time you were at your property in Sawyer County  
8 during 2002?

9 A In 2002, I haven't done the math yet, but I believe  
10 six to seven months in Hayward in '02.

11 Q Can you tell me approximately which months those would  
12 have been?

13 A I can tell you which ones they weren't.

14 Q Okay, that's fine.

15 A October and November are definitely out.

16 Q Meaning you were not there?

17 A I was not there, I was out of the country. January,  
18 we were on our honeymoon in January, but I don't know  
19 when we went back to Hayward, but shortly after we got  
20 back from our honeymoon, either the end of January or  
21 the 1st of February then we went to Hayward.

22 Q And how long were you there after that?

23 A I don't know.

24 Q Were you there through the month of February, do you

25 believe?

15

1 A I don't know.

2 Q Were you there in March?

3 A I don't know.

4 Q When's the next time in 2002 that you remember being

5 at the lake?

6 A I know I was there when snow was on the ground. I

7 know I was there in April. I know I was there in May,

8 but I know that there was a gap in between.

9 Q And is it during that gap that this event that's the

10 subject of this lawsuit occurred?

11 A No.

12 Q Okay. Were you there when that event occurred?

13 A The high water part, yes.

14 Q Explain to me what you mean by the high water part.

15 A The high water.

16 Q Okay. What I'm trying to understand is whether the

17 high water part is a time when there was shoreline

18 loss or other damage to your property during 2002

19 now.

20 A Okay.

21 Q Let me put it another way. You've made a claim that

22 in 2002 that approximately eight feet of your

23 shoreline, for lack of a better term, fell into the

24 lake, right?

25 A Right.

16

1 Q Were you there when that happened?

2 A Yes.

3 Q Okay. Tell me what you saw.

4 A The water level came up so high that it went  
5 completely over the top of what rock retaining wall  
6 that I had. The property behind the rock just, for  
7 lack of a better word, dissolved.

8 Q When did that happen?

9 A At the time I would say April, early April, late  
10 March.

11 Q Over what period of time did the water rise to overtop  
12 the riprap?

13 A I don't know.

14 Q Well, was it more than an hour?

15 A Yes.

16 Q Was it more than a day?

17 A Yes.

18 Q And let me back up. I'm just going to refer to this  
19 as the event, okay, for now?

20 A Okay.

21 Q And by the event, I mean the time from when the water  
22 started to rise until, according to you, the shoreline  
23 was lost, okay?

24 A Okay.



25 Q What level, and if you know precisely by measurement,

17

1 great, but if you don't, that's fine, what level was  
2 the water at before the event began?

3 A In the Fall of '01 Columbus Day or around Columbus Day  
4 of '01, and what I know today I didn't know then, but  
5 I would say that the water level was below elevation  
6 77.0 on the Round Lake datum.

7 Q What's your basis for saying that?

8 A Photos.

9 Q Moving forward into 2002 -- well, let me back up. At  
10 that level that you've just described to me where was  
11 the water on, with respect to the riprap on your  
12 property adjacent to where you later claim you lost  
13 shoreline?

14 A Best guess without reviewing photos, four to five feet  
15 away from my rocks.

16 Q Meaning there was four to five feet of beach --

17 A Beach.

18 Q -- that was exposed?

19 A Yes.

20 Q Okay. When, if you know, did the water rise to meet  
21 the bottom of your riprap?

22 A In late Winter, I don't know if you'd call it late  
23 Winter, '01, meaning February, March of '02, and there  
24 again, it's subject to photos.

25 Q And at that point in late February or early March,

18

1 your recollection as you sit here today is that the  
2 water reached the bottom of the riprap?

3 A I believe so.

4 Q Can you tell me the distance vertically between the  
5 bottom of the riprap and the top of the riprap, I  
6 mean, directly vertically, in other words, what's the  
7 elevation difference between the top of the riprap and  
8 the bottom of the riprap in the area where you claim  
9 you lost the shoreline?

10 A There were areas that were probably more than two feet  
11 and some that were 16, 18 inches.

12 Q Now, your testimony earlier I think was that  
13 eventually the water overtopped that riprap, correct?

14 A Correct.

15 Q And when did it first overtop the riprap as best as  
16 you remember?

17 A April of '02, could have also been in March, but I  
18 don't remember if I was there in March, but I know I  
19 was in early April.

20 Q Well, when you were there in early April, had the  
21 water already reached the top of the riprap?

22 A In some areas, yes.

23 Q Was this the first time in your experience at this  
24 property that the water had ever overtopped the  
25 riprap?

1 A Yes.

2 Q At the time in early April when the water was at the  
3 top of the riprap, was there still ice on the lake?

4 A Yes.

5 Q Now, the overtopping of the riprap, was that ice  
6 coming up to the top of the riprap or was there liquid  
7 water?

8 A Liquid water. I've never had ice come up because of  
9 the position of my property.

10 Q Explain that to me.

11 A Well, usually when the ice goes out there's certain  
12 areas of Round Lake that gets hammered with ice, and  
13 my lot faces to the northeast, and it's kind of in  
14 this little protected cove so to speak.

15 Q So you don't get large ridges of ice washing ashore?

16 A Correct.

17 Q Okay. So in early April it's your testimony the water  
18 overtopped the riprap. Did you take any measurements  
19 of the depth of the water over the riprap, in other  
20 words -- let me back up. Did the water simply flow  
21 over the riprap and pool behind it, or did it overtop  
22 it and kind of create a flat surface where the riprap  
23 was entirely under water?

24 MS. AZAR: Object as to form.

25 A Eventually, what you just said is correct, it was

1 completely under water, and everything behind it just  
2 disappeared. There's pictures of just the rock

3 standing there and nothing behind it.

4 Q How long did it take for the water to go from the  
5 bottom of the riprap to its greatest depth?

6 A More than a day, but I can't pin it down, because I  
7 wasn't there in January. So I know that, I don't  
8 believe I was there in January. I don't know what the  
9 level was then. I believe sometime in February that  
10 the water level was at the base of the riprap. So  
11 sometime between February and April the water had to  
12 have come up.

13 Q And I think you said that it overtopped the riprap in  
14 early April, is that right?

15 A I think the peak would have been sometime in April,  
16 possibly May, I think, is when it hit its peak.

17 Q And at the time that it was at its peak, did you take  
18 any measurements of how much water there was above the  
19 top of your riprap?

20 A No.

21 Q Did you take any measurements of the water depth  
22 behind the riprap?

23 A No.

24 Q How far landward of the riprap did the water go?

25 A Can you ask that a different way, reask that question,

21

1 please?

2 Q Well, I assume there was some measurable distance  
3 between the top of the riprap and the landward most

4 point that the water reached, do you understand what  
5 I'm asking?

6 A Yes.

7 Q How far was that from the top of the riprap to the  
8 farthest point on the shore that the water reached?

9 A As a property owner it seemed like it went on for  
10 miles.

11 Q I understand that, sir. My question is, how far was  
12 it?

13 A I don't know as far as a measurement goes, I don't  
14 know, I never measured that.

15 Q Well, you later claimed that you lost eight feet of  
16 shoreline, meaning eight feet from the top of the  
17 riprap to the landward most point where you lost  
18 shoreline, right?

19 A Yes.

20 Q Okay. Was the water farther landward than the point  
21 where you lost the shoreline?

22 A I don't know.

23 Q I take it then, and I may have asked this already, I  
24 apologize if I did, but you didn't take any  
25 measurement at that time of how far the water was

22

1 landward of the riprap?

2 A No.

3 Q When did you first notice any loss of shoreline behind  
4 the riprap?

5 A April, possibly March.

6 Q Okay. Describe for me what you observed happen to the  
7 shoreline and the soil behind the riprap.

8 A The water just kept coming up and up and up, and I  
9 took pictures of it. You could almost -- well, the  
10 sequence literally by weeks to where this much of a  
11 rock is sticking out, and then next week it's gone,  
12 and the next week the water is this much above it.  
13 And then the property behind just like disappeared.  
14 And then when the waves started, when the ice was  
15 totally off the lake and the waves started, you  
16 know --

17 Q When was the ice out that year, do you remember?

18 A Not the exact date, maybe I do, I don't know, I might  
19 have written that down.

20 Q Was it in April or May, do you know?

21 A Best guess is April.

22 Q How long was it from the time that the water  
23 overtopped the riprap until the process of losing the  
24 shoreline was complete in your view?

25 A Oh, that went on into '03.

23

1 Q You've talked about the water coming up in '02. When  
2 did the water recede from the level it reached in '02?

3 A Without referring to notes, I believe that in '02 that  
4 as the water came up and peaked, I'm going to say May  
5 was the peak, sometime in May, possibly late April.  
6 It stayed high all summer, and then finally in

7       October, November, December it went back down.  And  
8       then in the Spring of '03 it started all over again.  
9   Q   When the water began to rise in the Spring of '02,  
10       what, if anything, did you do to protect your  
11       shoreline beyond the riprap that was already there?  
12   A   I don't think there was anything I could have done.  
13   Q   That's not my question, sir.  What, if anything, did  
14       you do to protect your shoreline?  
15   A   I don't believe anything, I mean.  
16   Q   What action, if any, did you take to notify the county  
17       or anyone else of high water levels in April of '02?  
18   A   I believe that I probably, I don't know, I believe  
19       that I called Dale Olson at the time, and started --  
20   Q   Your testimony is you called Dale Olson in April of  
21       2002?  
22   A   I believe so, but I'm not 100 percent sure.  
23   Q   Did you do anything in April or May of '02 to  
24       investigate the cause of high water level on Round  
25       Lake?

24

1   A   Yes.  
2   Q   What did you do?  
3   A   I started doing background investigation on Round  
4       Lake.  
5   Q   Let me back up for a moment.  I forgot to ask you  
6       about one thing with respect to the event where there  
7       was water overtopping your riprap.  You mentioned that  
8       after ice out some waves, you know, came ashore.

9 There's been some mention in the documents that I've  
10 seen that you claimed there was a three to four-foot  
11 wave event that happened at some point in the Spring  
12 of '02?

13 A There was a wave event, I don't know if it was three  
14 or four feet, I think that's almost impossible on that  
15 lake.

16 Q Okay.

17 (Exhibit 128 is marked for identification)

18 Q Mr. Hausman, what's Exhibit 128?

19 A It's a letter to Kris Mayberry from Michael, Best &  
20 Friedrich.

21 Q And it's a double-sided copy, so if you take a look at  
22 the back of the second piece of paper, there's a  
23 letter there also dated September 20, 2002, correct?

24 A Yes.

25 Q And that letter that's dated September 20, 2002 is the

25

1 Notice of Claim that your lawyer sent to Sawyer County  
2 with respect to the loss of your property in 2002,  
3 true?

4 A Yes.

5 Q And I assume you reviewed this letter before it was  
6 sent on your behalf to Sawyer County, correct?

7 A Yes.

8 Q And that letter says in the second paragraph, "During  
9 May, high winds created three to four foot swells of



10 water. The high water level and the swells seriously  
11 damaged the eastern shoreline of Round Lake." And  
12 then it goes on to say that your property lost more  
13 than eight feet of shoreline and a rock retaining  
14 wall, do you see that?

15 A Yes.

16 Q What was the basis for the statement in the letter  
17 that there were high winds that created three to four  
18 foot swells of water on Round Lake in May?

19 A I was not there, I don't believe, during the storm  
20 event, and received word from and I came back up  
21 immediately after the storm went through, and was told  
22 by witnesses of what occurred. And then I saw the  
23 damage on the lake and took photos of that.

24 Q Who told you about the storm event?

25 A I think the people at the marina, neighbors.

26

1 Q Mr. Hirschfield?

2 A Hirschfield.

3 Q Who told you that there were three to four foot swells  
4 on the lake?

5 A I believe the neighbors and the marina.

6 Q Which neighbors?

7 A I don't remember precisely who, which one of my  
8 neighbors, but all of us had damage down there.

9 Q Have you ever seen three to four foot swells come  
10 ashore on your property?

11 A Yes.

12 Q Now, you just told me it was a protected property that  
13 didn't have ice ridges build up on it because of  
14 swells.

15 A Correct.

16 Q But your testimony is now that you've seen three to  
17 four foot swells come ashore on your property?

18 A Yes.

19 Q Did you ever see three to four foot swells come ashore  
20 on your property in April and May of 2002?

21 A No.

22 Q Okay. This letter also states that there was damage  
23 to docks and boats?

24 A Yes.

25 Q Whose dock was damaged?

27

1 A Neighbors.

2 Q Whose?

3 A Jim Tiffany is one in particular.

4 Q And his dock as far as you know -- strike that. Did  
5 Mr. Tiffany tell you that his dock was damaged?

6 A I called him and informed him of that.

7 Q You saw the dock damage?

8 A Yes, it threw his boat and his dock up against on the  
9 shore.

10 Q And was Mr. Tiffany not a year-round resident?

11 A Correct.

12 Q And he was not at his home on Round Lake at the time?

13 A Correct.

14 Q What other docks did you see damaged?

15 A Gottschalks, one of my neighbors, their docks.

16 Literally it was, Round Lake was damaged, I mean, all  
17 over the lake, I went around in my boat, docks up on  
18 the beach, boats on the beach, boats overturned.

19 Q How many boats did you see either beached or  
20 overturned as a result of this event?

21 A In May, quite a few.

22 Q More than 10?

23 A Probably about that.

24 Q How many docks did you see damaged as a result of this  
25 event?

28

1 A To clarify the word damaged, most of the time the  
2 docks, unless a boat hits them or a lift turns over on  
3 top of them or something, the docks will have their  
4 planking washed away, but then you usually can go find  
5 it and bring it back and put it on, I mean, if you  
6 call that damage.

7 Q Well, how many did you see with their planking washed  
8 away or other damage?

9 A There again, quite a few, I mean, primarily just  
10 watching my neighbors' properties.

11 Q And did you make a boat tour of the lake to look at  
12 this damage?

13 A Yes.

14 Q Was anyone with you?

15 A Probably.

16 Q Any guesses as to who that might have been?

17 A Well, my No. 1 guess would be my wife, but I would go  
18 out in the boat literally almost every day.

19 Q Did you take any photos of the damage to docks and  
20 boats that you observed?

21 A Yes.

22 Q Okay. And those have been produced as a part of this  
23 case?

24 A Yes.

25 Q How long after this wave event, how long after this

29

1 wave event did you observe the damage to docks and  
2 boats?

3 A I think within a day, if my memory serves me correct.  
4 I came back from Springfield almost immediately after  
5 hearing of this storm that went through.

6 Q Who called you and told you about the storm that went  
7 through?

8 A I could have either seen it on the weather or possibly  
9 somebody from the marina.

10 Q Who might it have been at the marina?

11 A Probably Mark, the owner, or his wife, Kathy, or at  
12 the time his secretary, Lisa.

13 Q What are their last names?

14 A Mark is, his last name is Helm.

15 Q Could you spell that, please?

16 A H-e-l-m, and Lisa's last name I believe is Tart,  
17 T-a-r-t.

18 Q When you got back to your home on Round Lake after  
19 this wave event, what did you observe about the area  
20 where you claim the water had overtopped the riprap?

21 A One, that the rocks were gone. Now, whether they were  
22 really gone or buried, I don't know, but the riprap  
23 was gone.

24 Q Did you dig down to see if the rocks were in fact  
25 buried, do you know?

30

1 A No, I did not, I don't believe.

2 Q What did you do at that point to repair the property  
3 or protect the property?

4 A I don't know.

5 Q Did you restore the riprap?

6 A No.

7 Q Not at all during 2002?

8 A I don't believe so.

9 Q Okay. When you got back to your home on Round Lake  
10 after that wave event, was the eight feet of shoreline  
11 that you're claiming was lost, had that been lost at  
12 that point?

13 A Pretty much.

14 Q Was there any further damage subsequent to your  
15 return? Let me ask a better question. You've told me  
16 that, you just said that the eight feet of shoreline  
17 that you're claiming in this lawsuit was pretty much

18 lost at that point, true?

19 A Pretty much.

20 Q Okay. Pretty much true or pretty much lost?

21 A Both.

22 Q Okay. What happened after that to the shoreline, if  
23 anything, during 2002?

24 A In '02, what happened to the shoreline. The water  
25 level stayed high all summer, and every time a boat

31

1 went by it just, as a property owner it would just  
2 bring tears to your eyes to see waves coming into your  
3 yard from a boat.

4 Q Come on, are you telling me you were crying every time  
5 a boat went by?

6 A Oh, it was disgusting to see the shoreline just --

7 Q Are you really going to get on the stand and testify  
8 that you cried every time a boat went by?

9 A It felt like it.

10 Q Okay.

11 A Stuff like that. I started with Sawyer County, the  
12 DNR.

13 Q I'm not asking you yet about what you, who you  
14 contacted. I'm asking you what else, if anything,  
15 happened to that shoreline during 2002.

16 A Just further erosion and then some cracks, and I call  
17 it the western part of my property, on the western  
18 part where the riprap and the major erosion occurred,

19 then there were cracks between the fire pit and the  
20 new shoreline that I've got.

21 Q Were those cracks, are they the same thing as the  
22 fissures that were later described in 2003?

23 A No.

24 Q Were these cracks parallel to or perpendicular to the  
25 shoreline as it existed after the wave event?

32

1 A It ran right behind, paralleling the shoreline.

2 Q How far from the new, what you call the new shoreline  
3 was the crack or cracks that you're referring to?

4 A Some places four feet, some places eight feet.

5 Q What was the size of those cracks?

6 A Small.

7 Q Less than an inch wide?

8 A Yes -- well, no. Different areas there were some that  
9 were three, four inches wide. The major band that I'm  
10 referring to closest to that fire pit is small, less  
11 than an inch.

12 Q And how many cracks were there in 2002, do you  
13 remember?

14 A Primarily, on the western part of my property, that  
15 ran the whole length from the beach area over to the  
16 western neighbor.

17 Q How many cracks were there, just one?

18 A Well, one there, and then some four-inchers, I'm going  
19 to call it at water's edge, I guess. So more than one  
20 but --

21 Q What, if anything, did you do during 2002 to stabilize  
22 the shoreline?  
23 A Nothing.  
24 Q Why not?  
25 A Physically nothing, I guess.

33

1 Q That's my question. I'm focusing now on what you did  
2 on your property in 2002 to stabilize that shoreline,  
3 and your answer is nothing?  
4 A Correct.  
5 Q Now, in 2003 you did a repair that you spent about  
6 \$120,000 on, right?  
7 A Correct.  
8 Q Why didn't you take any steps to effect a repair in  
9 2002?  
10 A Because of --  
11 MS. AZAR: Objection,  
12 mischaracterizes testimony.  
13 Q Well, did you take any steps in 2002 to effect a  
14 repair to the shoreline on your property on Round  
15 Lake?  
16 A Yes.  
17 Q What steps did you take to physically repair the  
18 shoreline on your property in 2002?  
19 A Started with engineers of how to fix it. I believe I  
20 did that in '02, I know I did.  
21 Q Other than talking to engineers, what, if anything,



22 was done to stabilize your shoreline in 2002?

23 A I don't believe anything.

24 Q Was there anything that prevented you from performing

25 the repairs in 2002 instead of 2003?

34

1 A Yes.

2 Q What?

3 A Trying to understand what was going on on Round Lake.

4 You can't fix something until you understand the

5 problem.

6 Q When did you first consult any engineers about

7 repairing the damage that was done in 2002?

8 A I believe in '02 sometime, but when, I don't know, not

9 an exact date or anything.

10 Q Was it during the Summer?

11 A I believe it was, but I'm not sure.

12 Q Did any engineers or anyone else -- strike that. Did

13 any professional, either a landscaper, a contractor or

14 an engineer, visit your property in 2002?

15 A I believe so.

16 Q Who was that?

17 A A team of engineers from Hanson Engineering.

18 Q When did they first visit?

19 A I can't give you an exact date, I don't know.

20 Q Was it before Labor Day, 2002?

21 A It would be a guess if I answered it.

22 Q Okay. Can you give me an estimate of how much

23 shoreline was lost from the time that you returned and

24 found the effects of the wave event until the end of  
25 2002?

35

1 A Can you ask that again?

2 Q Sure. You've said in your notice of claim,  
3 Exhibit 128, that, "The Hausman property alone lost  
4 more than eight feet of shoreline and a rock retaining  
5 wall was entirely destroyed," relating to the May  
6 event that created three to four foot swells of water,  
7 do you see that in the letter dated September 20  
8 that's part of Exhibit 128?

9 (Witness examines document)

10 A And where are you reading?

11 Q The bottom of the first page of the letter of  
12 September 20, 2002, your lawyer stated that your  
13 property alone lost more than eight feet of shoreline,  
14 do you see that?

15 A Yes.

16 Q First of all, is that an accurate statement as to what  
17 happened to your property during the May high wind  
18 event described in the letter?

19 A Yes.

20 Q And what I'm asking you is, if you lost more than  
21 eight feet of shoreline at that time, how much more  
22 shoreline, if any, did you lose in the remainder of  
23 2002?

24 A I believe that there was a couple of areas that were

25 more than eight feet, and because of those cracks that

36

1 I described that paralleled the shore behind this  
2 part, that property was also going to go into the lake  
3 eventually.

4 Q I'm not asking you what would go into the lake  
5 eventually, sir. I'm asking you how much more was in  
6 fact lost during 2002?

7 A I don't know if there was more than eight feet.

8 Q Well, the letter says that there was more than eight  
9 feet lost during the May wind event, correct?

10 A Correct.

11 Q Okay. I'm asking you whether you know, maybe you  
12 don't, was there any more shoreline lost after the  
13 amount described in the letter that described the May  
14 wind event?

15 A After the May wind event is your question?

16 Q Yes.

17 A Yes, there was.

18 Q How much more?

19 A On the east side of the property after the May event  
20 when the gigantic cracks formed there, that was deeper  
21 than eight feet. That was closer, I believe there  
22 were areas that were 15, 20 feet back.

23 Q Are you talking about the large fissures that appeared  
24 in 2003?

25 A Correct.

37

1 Q I'm focusing on 2002.

2 A Okay.

3 Q How much more shoreline, if any, can you tell me was  
4 lost between the May wind event described in the  
5 notice of claim dated September 20 and the end of that  
6 year?

7 A I don't believe any more.

8 Q Okay. Now, when was the first time that you noticed  
9 what have been referred to as fissures or tension  
10 cracks on your property?

11 A The ones on the east end that would be between the  
12 beach area and the boat landing were found in '03, and  
13 I can't give you a precise date, but it was either  
14 January or February of '03. I mean, I can give you a  
15 precise date but I can't do it right now.

16 Q That's fine. We already talked a little bit about the  
17 fact that '03 was a little bit of a different year for  
18 you because of the birth of your daughter, and so you  
19 weren't at Round Lake as much as you had been in the  
20 past, true?

21 A That's correct.

22 Q Okay. Can you remember as you sit here today what  
23 months you were at Round Lake during '03 and what  
24 months you weren't?

25 A As I'm sitting here today, no.

1 Q Can you tell me whether you were there during January  
2 of '03?

3 A Yes.

4 Q The entire month, if you know?

5 A No.

6 Q Do you know how much time you spent there in January?

7 A No.

8 Q Was it more than half the month?

9 A I don't know.

10 Q How about in February?

11 A I don't know.

12 Q Were you there at all during February?

13 A I don't know.

14 Q Okay. How about in March?

15 A The same thing, I don't know.

16 Q How about in April?

17 A I'm sure I was at some point, but I don't --

18 Q When did you first observe tension cracks or fissures?

19 A Well, I have it noted when they were discovered.

20 Q Okay. And your records may reflect what date you  
21 wrote it down. I'm just trying to get a ballpark, was  
22 it January, February, somewhere in there, is that what  
23 you're telling me?

24 A It was one of the two months I had a meeting WDNR  
25 on-site, and we were sitting 15 feet in that garage,

1 15 feet away from these cracks. And if you've ever  
2 been to my property, I don't know if you have or not,

3 you drive in and you would be looking straight at  
4 these cracks when you drive in. There was no snow on  
5 the ground or very little, and those cracks were not  
6 there when I came up for that meeting, and I walk out  
7 the door the next day and they're there.

8 Q Okay. So the day before the cracks were first  
9 observed you arrived for a meeting with DNR?

10 A Correct.

11 Q And who was at that meeting?

12 A Dale Lang and Dave Kafura.

13 Q K-a-f-u-r-a. So you met with them the same day that  
14 you arrived from Springfield?

15 A Probably, I probably got there one day before.

16 Q Okay. And then you met with them, and then was it the  
17 following day that you first observed the cracks?

18 A I believe it was the following day, it might have been  
19 two days.

20 Q Was Mrs. Hausman there with you when you saw the  
21 cracks?

22 A I don't believe so.

23 Q Was anybody else present when you first observed the  
24 cracks?

25 A No.

1 Q When you first saw the cracks, what did you observe?

2 A Just these openings, I mean, a foot wide and three  
3 feet, four feet deep.

4 Q How many tension cracks were there when you first  
5 observed that phenomenon?

6 A I guess one, the whole thing.

7 Q And was there an elevation difference between the two  
8 sides of the crack?

9 A I would have to -- my guess would be yes.

10 Q Do you remember how much of an elevation difference  
11 there was?

12 A No, I don't.

13 Q Had there been any unusual weather in the two days or  
14 so while you were there before the cracks appeared?

15 A No.

16 Q Do you remember, I mean, we can look it up, but do you  
17 remember right now how cold it was?

18 A I don't believe anything, not like this 40 below  
19 stuff, nothing like that. It was just normal weather,  
20 I guess, I mean.

21 Q I assume there was ice on the lake?

22 A Yes.

23 Q But there wasn't much or any snow?

24 A No, there was not much snow on the ground. There was  
25 on the lake but not on the ground.

41

1 Q All right. It seems like a dumb question, but I'll  
2 Ask it anyway. Did you hear anything?

3 A No.

4 Q Okay. You didn't hear anything that you associated  
5 with the cracks developing?

6 A No.

7 Q Aside from the grass that might have been split by the  
8 crack opening, did any vegetation like trees or shrubs  
9 or anything fall down as a part of that process that  
10 you observed then?

11 A Yes.

12 Q What did you observe about vegetation?

13 A There was a pine tree, a good-sized pine tree, red  
14 pine that I just couldn't believe that those cracks  
15 could have done that, but it tore the roots off like  
16 literally and opened it up to where, and I've always  
17 been told that once the roots are exposed of a pine  
18 tree it's dead, and it opened it up, and we did lose  
19 that tree.

20 Q Any other tension cracks that you observed at that  
21 time besides the one you've just described?

22 A Well, I refer to it as all one. And it basically  
23 started from over by the beach area, and I call it  
24 east, went east, and there was, you know, a small  
25 amount of snow but there wasn't any big piles of snow

42

1 on the ground, and then later as that snow  
2 disappeared, an inch or two inches of snow or a half  
3 an inch, then you could just follow that same crack on  
4 into the neighbor's property.

5 Q How long did your visit last that time at your  
6 property, how long did you stay?



7 A I don't know.

8 Q Did you later that month or later into the Spring  
9 observe any other tension cracks develop on your  
10 property?

11 A New ones, I don't believe so.

12 Q Okay. Did you do anything before May of 2003 to  
13 address the tension cracks, to physically repair the  
14 tension cracks I should say?

15 A No. Oh -- well, I'll let it go.

16 Q If you have something to add, go ahead. What did you  
17 want to tell me?

18 A I went, after those big cracks were discovered, I  
19 called DNR to get them right back out there to look at  
20 them. And in preparation for them to come back out  
21 again, I physically went out and removed the snow from  
22 the front of the retaining wall on the lake with a  
23 snowblower so they could see the rock retaining wall,  
24 everything, for them to come out and inspect and tell  
25 me what in the world is going on.

43

1 Q Approximately when was that?

2 A The same time that the cracks were discovered,  
3 January, February.

4 Q Like within a week of that or so?

5 A Yeah.

6 Q Okay. Who came out to look at that from DNR?

7 A I believe, best guess is Dave Kafura, but there again,  
8 it's a guess, and I don't believe I was there when

9       they came back out.

10 Q   At the time that the fissures appeared on your land --

11       strike that.  You refer to it as one tension crack or

12       fissure, right?

13 A   Yes.

14 Q   Okay.  And from your perspective there was always just

15       one big long tension crack, is that fair?

16 A   Yes, yes.

17 Q   At the time that that tension crack appeared on your

18       property, can you tell me what the water level was on

19       Round Lake?

20 A   Below 77, at or below is my best guess.  Right now

21       it's my best guess.

22 Q   Okay.  Did the fissure that you just described result

23       in any further loss of shoreline to your property?

24 A   Yes.

25 Q   How much?

44

1 A   I was told by DNR that all of it was going into the

2       lake.

3 Q   Well, but wait a minute.

4 A   The crack, so I was going to lose that property.

5 Q   We'll get back to what DNR told you and what you

6       thought was going to happen.  I'm asking you, sir, did

7       that fissure in fact result in loss of additional

8       shoreline?

9 A   Yes.

10 Q When was the shoreline lost as a result of that  
11 fissure?

12 A '03.

13 Q Obviously, before the seawall was put in, right?

14 A Correct.

15 Q How much was lost as a result of that fissure?

16 A That I don't know an exact amount.

17 Q When was the shoreline lost as a result of that  
18 fissure?

19 A When the retaining wall on, I'm going to call it the  
20 east end, when the retaining wall started collapsing.

21 Q And that retaining wall has now been replaced by the  
22 seawall?

23 A Correct. I should say riprap wall, not retaining  
24 wall.

25 Q Okay. I knew what you meant but thank you for the

45

1 clarification. Other than the red pine that you  
2 described, did you lose any other mature trees as a  
3 result of the fissure?

4 A I believe that there was an oak, a fairly good-sized  
5 oak tree next to the boat landing that we lost also.

6 Q When you say we lost, did you take it down or did it  
7 fall down?

8 A I had to take it down.

9 Q And why did you have to take it down?

10 A I don't remember if the roots were, something with the  
11 roots, or it was leaning to fall in the lake or

12 something, but --

13 Q Did anyone tell you it had to come down?

14 A If I was told that I was going to lose the tree, I  
15 guess the answer to that would be yes.

16 Q Okay. Who told you you were going to lose the tree?

17 A I believe DNR and some of the engineers, I believe.

18 Q Can you tell me the names of the people who told you  
19 you were going to lose that tree?

20 A Best guess would be Kafura or Dale Lang, probably some  
21 of the engineer people from Hanson Engineering, and  
22 then probably some from Barr Engineering.

23 Q So the property, the shoreline that you lost as a  
24 result of this fissure is, according to you, the  
25 riprap wall that began to collapse at the east end of

46

1 your property?

2 A Correct.

3 Q And that riprap wall has been replaced by the seawall,  
4 correct?

5 A Correct.

6 Q Any other shoreline that you claim you lost as a  
7 result of fissure that you observed in '03?

8 A The boat landing.

9 Q What happened at the boat landing?

10 A The crack went across it also, I mean, it went across  
11 the whole east end of the property.

12 Q And did it go entirely across your boat landing?

13 A Yes.

14 Q What was your boat landing made of?

15 A Rock.

16 Q Kind of a gravel path down into the water?

17 A Yes.

18 Q There was no asphalt or concrete there, was there?

19 A No.

20 Q And so the soil there that included a gravel covering

21 was split by this fissure, correct?

22 A Yes.

23 Q And as a part of the Barr Engineering repair, that

24 aspect of the boat landing was repaired, wasn't it?

25 A Yes.

47

1 Q Back to as good as new, if you will, today?

2 A Yes.

3 Q Now, what other property did you lose as a result of

4 the fissure in 2003?

5 A I guess that's all.

6 Q Okay. So right now we've got one red pine, right?

7 A Uh-huh.

8 Q Yes?

9 A Yes.

10 Q One oak --

11 A Yes.

12 Q -- that you think was lost due to this, correct?

13 A Yes.

14 Q The riprap wall on the east end of your property,

15 correct?

16 A Yes.

17 Q And the crack in the boat landing, right?

18 A Yes.

19 Q Those are the four things that you attribute to the  
20 fissure in 2003, true?

21 A Yes.

22 Q Okay. Now, have you planted a new oak tree or a new  
23 red pine?

24 A Yes.

25 Q You've planted both a new oak and a new red pine?

48

1 A Yes, and then some.

2 Q And have you included the new oak and the new red pine  
3 as a part of your damage claim in this case?

4 A Yes, I believe.

5 Q And obviously, you've included all of the Barr  
6 Engineering costs associated with repairing the boat  
7 landing, right?

8 A Yes, I guess.

9 Q And you've included the costs associated with  
10 establishing the seawall, as I like to call it?

11 A Yes.

12 Q Okay. All right. And I assume you filled in the  
13 fissure, right, as a part of the repair work?

14 A Yes.

15 Q And that area where the fissure occurred now has the

16 same slope and elevation as it did before the crack  
17 appeared, is that true?

18 A No, I don't believe it does have the same elevation.

19 Q All right. How significant an elevation change do you  
20 think there was?

21 A Within 12 inches, I believe.

22 Q But the area where the fissure actually appeared has  
23 been repaired to your satisfaction, has it not?

24 A I guess.

25 Q I mean, if it hadn't Barr Engineering would have heard

49

1 something about it from you I'd expect, is that fair?

2 A Yes.

3 Q Okay. And you've not registered any complaint with  
4 Barr Engineering about the work it did with respect to  
5 repairing the fissure, right?

6 A No, but Barr Engineering didn't do it.

7 Q Okay. Whoever did the actual repair on the fissure,  
8 you haven't told that person that you're unsatisfied  
9 with the repair that was done?

10 A Correct.

11 Q Okay. There was testimony from the folks at Barr  
12 Engineering that they observed tension cracks on  
13 adjacent properties. You were here for that  
14 testimony, right?

15 A Yes.

16 Q Did you accompany them on the visits to the adjacent  
17 properties to look at the tension cracks?

18 A Sometimes, not all the time.

19 Q What properties are there near yours, whether directly  
20 adjacent or not, that you feel have tension cracks  
21 similar to the crack that appeared on your property?

22 A That I saw?

23 Q Yes, let's keep it to your observation, yes.

24 A Just about everybody running to the west and then back  
25 to the south.

50

1 Q Well, let's go to the west first. Whose property by  
2 name had a tension crack that you observed that you  
3 felt was similar to the tension crack that appeared on  
4 your property?

5 A The one in that report?

6 Q In the report that Barr Engineering did?

7 A Yes.

8 Q Which property owner is that that had a tension crack  
9 that appeared in the Barr report?

10 A The one with the light pole with the wires exposed  
11 under it, that was Stoffell's, S-t-o-f-f-e-l-l, I  
12 believe, Don and Jane Stoffell.

13 Q What other property owners to the west had tension  
14 cracks that you observed that you felt were similar to  
15 the tension crack that appeared on your property?

16 A Jim Tiffany. There's an empty lot south of Jim  
17 Tiffany's that I don't know who the owner is, you  
18 could see that from the lake. Then there's a guy that



19 built a new house, he's from Tomah, Steve Austin is  
20 his name, a major land shift there that's visible from  
21 the lake. Then it continues south of Steve Austin's  
22 property to an empty lot that I don't know who owns  
23 that.

24 Q Are we going west or south now?

25 A South.

51

1 Q Okay. I'm sorry, I thought I asked you about property  
2 owners to the west.

3 A West, and then it turns south.

4 Q Oh, I see, okay. So we're going down the lakeshore in  
5 order?

6 A Right.

7 Q All right. Who else in that direction?

8 A Well, south of that next empty lot, that is Bergman, I  
9 did not inspect his property at all.

10 Q I just want to know who you saw had cracks like  
11 yours.

12 A Just the ones that, the easiest one is to stop there.

13 Q How about the other direction from your property?

14 A Well, from the report, I see that Steve Morales, the  
15 neighbor to the east, had those cracks also.

16 Q Anyone else?

17 A I didn't go any further to the east.

18 Q By the way, going back to the 2002 event, are you  
19 aware of any other property owners on Round Lake who  
20 lost shoreline in a manner similar to yours?

21 A Yes.

22 Q Who else?

23 A Myself again.

24 Q Yes, I said similar, other property owners.

25 A My other lot.

52

1 Q Oh, I see what you mean by myself again, okay, the  
2 Sandy Beach lot?

3 A Correct.

4 Q Anyone else?

5 A Yes.

6 Q Who else lost property in that event?

7 A Literally everyone on the lake.

8 Q Sir, whose property did you observe that you know from  
9 your personal knowledge lost shoreline in the event in  
10 May, 2002?

11 A In May of '02 I went around the lake, I documented,  
12 took pictures of all the really bad erosion that  
13 occurred. I could probably go do some research and  
14 find out the owners. By name I do not know them. By  
15 site on the lake I could --

16 Q Did you talk to any of the property owners around you  
17 about whether they'd lost property during the May,  
18 2002 event?

19 A Yes.

20 Q And who, if any, told you that they had in fact lost  
21 shoreline during that event?

22 A All of my neighbors that I talked to.

23 Q Okay. Who were they?

24 A Well, on my little section down there Steve Vilks.

25 Q Spell the last name, please.

53

1 A V-i-l-k-s, Jim Tiffany, Gottschalk's, Stoffell's  
2 picture is in that report. Bemis, it's the Bemis  
3 family, but that's not who owns that property right  
4 immediately next door to me to the west, they lost the  
5 same amount of property as I did.

6 Q In all the years that you've been coming to Round Lake  
7 had you ever seen a loss of shoreline similar to what  
8 occurred during that May, 2002 wave event?

9 A No.

10 Q Ever seen anything like it since?

11 A No.

12 MR. WRIGHT: I'm at kind of a good  
13 breaking point for a minute.

14 (A short recess is taken)

15 (Attorney Azar is no longer present)

16 (Attorney Furlow is now present)

17 Q Mr. Hausman, I wanted to come back to a statement you  
18 made earlier about what the lake level was in February  
19 of '03 when you first observed the tension crack. I  
20 think you said it was below 77 Round Lake datum, does  
21 that refresh your memory about your testimony?

22 A I believe I might have an accurate reading, but to be  
23 positive, no, I can't without --

24 Q Well, the reason for the question is not to ask you  
25 whether you're positive that that was exactly the

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1 level, but I wanted to ask you instead about what you  
2 mean when you say Round Lake datum, okay? Because we  
3 had some discussion with Barr Engineering about the  
4 conversion that Barr has done to come up with a  
5 different figure for what it believes equates with the  
6 state ordered maximum in its view, okay? What do you  
7 mean when you say, for example, 77 Round Lake datum?

8 A It would be off of the Tiger Cat, the two elevation  
9 markers on the Lake Placid dam and the elevation  
10 marker at the Little Round Lake dam.

11 Q And you're not applying any conversion to come up with  
12 a number different than what those markers show?

13 A Those markers, no.

14 Q Okay. I just want to make sure I'm comparing apples  
15 to apples when you and I discuss what data you came up  
16 with about a lake level on a given date, okay?

17 A Okay.

18 Q Since you had the tension cracks in February of 2003,  
19 have you in your view suffered any further damage to  
20 your property as a result of what you think are high  
21 water levels on Round Lake?

22 A Can I ask my attorney a question before I answer that?

23 Q Unless it relates to a matter of whether something is  
24 privileged or not, no, you give me your answer to the

25 question, not his.

55

1 MR. FURLOW: Do the best you can.

2 A Yes.

3 Q Okay. What damage do you think you've suffered since  
4 the tension crack in February, 2003 as a result of  
5 high water levels on Round Lake?

6 A Possible structural damage to the two existing  
7 dwellings that are on my property now.

8 Q And we're talking about the Tanager Lane property?

9 A Correct.

10 Q You've not presented a notice of claim to the county  
11 about that, have you?

12 MR. FURLOW: Objection, calls for a  
13 legal conclusion, but go ahead subject to that.

14 A That's correct, it's being looked at.

15 Q What structural damage do you contend -- first of all,  
16 without regard to cause, what structural issues do you  
17 have with the two dwellings on the property on Tanager  
18 Lane?

19 A Of course I'm not an expert in this.

20 Q Tell me the lay person's version of it.

21 A The lay person's version is that the front of both  
22 structures have gone down towards the lake.

23 Q You're saying they've slid down the slope?

24 A No.

25 Q Or settled?

56

1 A The front part has settled down.

2 Q And by how much?

3 A Inches.

4 Q When did that first become apparent to you?

5 A The last year.

6 Q Can you be more precise?

7 A '03.

8 Q Well, that's two years ago, now we're in '05?

9 A Yes, that's true, in '03.

10 Q Approximately when in '03 did you first notice any

11 settling in either of the two dwellings?

12 A Actually, it could have even been in '04. No specific

13 date.

14 Q Well, was it --

15 A It's just something that I noticed.

16 Q Was it before or after Maggie was born?

17 A Probably after Maggie was born.

18 Q Before or after her first Christmas?

19 A Probably after, so it would be in '04.

20 Q Before or after her first birthday?

21 A Before.

22 Q Okay. Was it before or after Memorial Day in '04?

23 A I'm going to say, probably thinking about it, the way

24 that you're doing this, probably in the Spring of '04.

25 Q All right. How do you describe the two dwellings,

1        what names should we give about them when we're  
2        talking about them separately?

3    A    A-frame, and I guess you can call it a garage next to  
4        it, it's really like a dayroom.

5    Q    You have an office in there, right?

6    A    Yes, an office in there.

7    Q    Okay. Tell me what you first observed about  
8        settlement of the A-frame.

9    A    Visual notice that the deck on the front of the  
10       A-frame, you've seen pictures I'm sure, but it wasn't  
11       level anymore.

12   Q    And what else have you noticed about any problem with  
13       the A-frame?

14   A    The foundation.

15   Q    What about the foundation?

16   A    It appears that there's cracks on both sides of the  
17       foundation that appears that it's leaning towards the  
18       lake or cracked.

19   Q    The wall facing the lake is leaning toward the lake?

20   A    No, the sidewalls have cracked to where it appears  
21       that the front has gone down a little bit and created  
22       these cracks in the foundation.

23   Q    Anything else about the A-frame?

24   A    No.

25   Q    What's happened to the garage?

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1    A    A large crack in the concrete floor.

2    Q    When did you first observe the crack in the garage

3 floor?

4 A When Maggie was crawling and walking and there was  
5 pieces of concrete, the crack was that large that  
6 there were pieces of concrete that were broke off, and  
7 it concerned me. And then I'm thinking how could this  
8 concrete crack that way, and I went out and it just  
9 looks to the front, both of the buildings appear to  
10 have gone down some.

11 MR. WRIGHT: Jon, I don't want to  
12 get into a long deposition about elements or  
13 claimed damage that's not a part of the claim in  
14 this case. Can we agree right now that these  
15 claims are not being made in this lawsuit?

16 MR. FURLOW: Well, I think you  
17 ought to ask what you think you need. I made a  
18 note to myself on this, because it seems that  
19 there's some continuation going on here. So I  
20 don't, I guess I'm not prepared to say right now  
21 that, well, let's just put that to the side. I  
22 think if you have things to ask about it, you  
23 probably ought to go ahead and ask it.

24 MR. WRIGHT: Well, this is the  
25 first time I've heard of anything like this. It

1 wasn't in anything that you've produced thus far  
2 as an element of your damages. So I'm going to  
3 follow-up a little bit so I understand the nature



4 of your claim, but I'm going to reserve the right  
5 to come back to this and re-depose you on this if  
6 in fact you intend to present a claim at the  
7 lawsuit that we're going to try in July that  
8 there's been property damage to your two dwellings  
9 on the property there, so we're clear on what  
10 position I'm taking here.

11 I'm going to follow up, but having  
12 not seen it, not having an expert inspect it, not  
13 having an expert report that refers to it or  
14 explains it or ties it to anything the county did,  
15 I can't be considered to be prepared to examine  
16 you thoroughly on this, so I'll reserve the right  
17 to do it later. That said I'm going to follow up  
18 a little bit so I understand today what the nature  
19 of this issue is so that I get the full scope of  
20 what you personally think happened here.

21 MR. FURLLOW: I understand your  
22 position, I'm not agreeing with it by sitting here  
23 silent, but I understand what you've just said.

24 MR. WRIGHT: Fine.

25 Q Now, so you said there's a crack in the floor of the

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1 garage, correct?

2 A Correct.

3 Q How long is the crack?

4 A All the way across.

5 Q How far is that?

6 A I think 15, 16 feet wide, it's how wide that garage  
7 is.

8 Q And how wide is the crack?

9 A Well, a quarter inch, I guess.

10 Q Can you orient the crack with respect to the shoreline  
11 of your property?

12 A It parallels the shoreline.

13 Q And have you observed any other cracks in the ground  
14 outside the garage or outside the A-frame?

15 A No.

16 Q Have you done anything to repair either the A-frame or  
17 the garage?

18 A No.

19 Q Have any engineers looked at the A-frame or the  
20 garage -- strike that. Let me ask it a different  
21 way. Have you asked any professionals to look at the  
22 A-frame or the garage problems that you just  
23 identified?

24 A Yes.

25 Q Who's looked at them?

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1 A I believe Phil from Barr Engineering did when he was  
2 up there. So I noticed a crack in the foundation of  
3 the A-frame when Phil was there.

4 Q And he was there May, 2003?

5 A Correct. So I noticed it, at least the foundation  
6 part, the garage sometime in '04.

7 Q Okay.

8 A Okay? Because these -- a lot of dates.

9 Q What did Phil tell you, if anything, about his views  
10 on the crack in the foundation?

11 A At the time it was very small on the foundation, very  
12 small, and just basically, well, watch it, or you  
13 watch it.

14 Q Have you talked with him about it since?

15 A Not with Phil.

16 Q Have you talked with any other professional about it  
17 since May of 2003?

18 A Yes.

19 Q Who?

20 A Nancy Dent and some other people in Barr Engineering.

21 Q What have they told you?

22 A I don't recall anything in specifics.

23 Q Has any professional at any time told you that the  
24 cause of the crack in the A-frame or the cause of the  
25 crack in the garage is related to water levels on

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1 Round Lake?

2 A I don't know.

3 Q You don't remember or?

4 A I don't remember and I don't know, both.

5 Q Have you put that question to any professional, that  
6 is, whether the crack in the A-frame or the crack in  
7 the garage is related to water levels on Round Lake?

8 A I don't know.

9 Q You don't know whether you've asked anybody?

10 A Correct.

11 Q But you were talking to them about it?

12 A Yes.

13 Q What did they tell you?

14 A The question, the concern, the question was over the  
15 stability of, I guess, that front part of the  
16 shoreline.

17 Q What did they tell you?

18 A Let me clarify for you so we can go on and get done  
19 today. The intent of the A-frame and that garage is  
20 for those two buildings to be torn down, and that's  
21 why I haven't used that or made a claim, because we  
22 plan on tearing those buildings down this year.

23 Q That's independent of anything that has to do with the  
24 county or this lawsuit. In other words, you're not  
25 tearing them down because they've been damaged by the

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1 county?

2 A Correct, I'm re-building or building new, and then  
3 those two structures will be torn down, okay, or at  
4 least that's the plan as we sit here.

5 Q So you're not going to get up on the witness stand and  
6 talk about the damage to your buildings at the trial  
7 in this case, that's your intention today?

8 A My intention today would not be to do that.

9 Q Would be not to do that?

10 A Correct.

11 Q Okay. At any point have you or has anyone at your  
12 direction done any soil borings or soil investigation  
13 with respect to the stability of the property?

14 A I believe so.

15 Q Okay. Aside from what the Barr Engineering folks  
16 testified to the other day about the soil borings that  
17 they did and that Mr. Solseng talked about, have any  
18 soil borings been done since then or separate from  
19 that, I should say?

20 A Yes.

21 Q Who else has done soil borings?

22 A Septic, the borings that, whoever the people that do  
23 the septic system, those borings were done numerous  
24 times.

25 Q That relates to installing your new septic, though,

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1 right?

2 A Correct, but they were done all over the property.  
3 Then when they installed the new septic system, we  
4 tried to document or pay attention, I guess is the  
5 correct word, of the soil, because they went, when  
6 they installed the new tank, how deep that tank went.

7 Q Okay. Any other soil borings besides the septic  
8 related ones and the one that Mr. Solseng did?

9 A Not to my knowledge.

10 Q Okay. I want to talk now about the repair work that  
11 was done to your property. And correct me if I'm

12 wrong, but all of that work was done in 2003, correct?

13 A I believe so.

14 Q Okay. And you first hired Hanson Engineering to take  
15 a look at the issues for you, correct?

16 A Yes.

17 Q Why did you switch from Hanson to Barr?

18 A The biggest reason was the distance.

19 Q The travel cost was too high?

20 A Yes.

21 Q Any other reasons?

22 A No.

23 MR. FURLow: And I'll caution you

24 not to disclose anything you talked to your

25 lawyers about. Subject to that, go ahead.

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1 A It was really travel.

2 Q Barr, according to Ms. Dent, the Barr folks first  
3 visited in, I think she said late April, 2003, is that  
4 your recollection roughly?

5 A Joe, it would be a total guess, I don't know.

6 Q In any event, in May, 2003 is when Mr. Solseng and  
7 Ms. Dent came up to do the work that they described  
8 during their depositions. Do you have any reason to  
9 disagree with what they told me?

10 A No, but I don't know the dates without my notes.

11 Q All right, that's fine. They presented to you, as I  
12 understand it from the reports that they've prepared

13 here, essentially three different options for the kind  
14 of shoreline protection that you could put into place  
15 here, correct? There's vegetation, riprap or what I  
16 call a seawall.

17 A Yes.

18 Q Okay. Now, as a part of this whole repair process,  
19 you had some discussions with Wisconsin DNR about what  
20 you could or could not do to replace the shoreline  
21 that was lost in the 2002 event, correct?

22 MR. FURLOW: Could I hear that  
23 back, Greg, please?

24 (Reporter reads back last question)

25 A Yes.

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1 Q Who did you talk to at DNR about what you could do or  
2 could not do with respect to repair of the shoreline  
3 loss?

4 A Dale Lang and Dave Kafura. I don't know if there was  
5 somebody else involved, I think that there was, but I  
6 can't give you a name.

7 Q As between Mr. Lang and Mr. Kafura, who had primary  
8 responsibility for dealing with the work at your  
9 property on behalf of the DNR from your perspective?

10 A I thought that Lang was Kafura's boss, but I might be  
11 wrong on that, but at the time that's what I thought,  
12 I thought Dale Lang was the boss.

13 Q When you first approached DNR about repairing the  
14 shoreline at your property, what did you suggest to

15 them that you wanted to do?

16 A The first part was to recover my property, and how to  
17 do it and then how to protect it.

18 Q You've talked previously about at least one or two  
19 meetings that you had with the folks from DNR out at  
20 your property at various times. When was it that some  
21 stakes were put in the water, do you remember when  
22 that was done?

23 A '03 -- you mean for DNR or --

24 Q For purposes of marking where the shoreline used to  
25 be, when did you first do that?

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1 A I think there was some that went in in '02.

2 Q Who did that?

3 A Dave Rieder.

4 Q And he was the surveyor that you engaged?

5 A Correct.

6 Q And what did he use as the basis for determining where  
7 the shoreline used to be as far as you know, what data  
8 did you provide to him?

9 A Previous surveys that the same surveyor, Dave Rieder  
10 did, previous surveys, variance applications, county  
11 records, stuff like that.

12 Q When the stakes were put in in '02, what was the  
13 goal? In other words, were you trying to put the  
14 stakes at where the shoreline used to be or where did  
15 the stakes go in in '02?



16 A To the best of my memory in '02 it was, it was a  
17 theory on elevations of where the water would be by  
18 measuring the bottom of the lake, and that was the  
19 purpose in '02.

20 Q Okay. And were the stakes put, as best as you could,  
21 exactly where the shoreline was before that May event  
22 washed away the eight feet or so?

23 A In '02?

24 Q Yes.

25 A I don't know, I don't know.

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1 Q Were those stakes taken out before the ice formed in  
2 '02?

3 A Some of them, and then the ice took the rest of them.

4 Q And then after ice out in '03, did you put new stakes  
5 in?

6 A You're referring in the Spring of '03 then?

7 Q Yes.

8 A Yes.

9 Q Okay. Who physically drove in the stakes that went in  
10 in '03?

11 A Which time?

12 Q Okay, good point. The first time they went in in '03,  
13 who put them in?

14 A I think Dave Rieder and his staff.

15 Q And where did they put those stakes in '03?

16 A Shoreline, I mean, in the lake, I guess.

17 Q And they were putting them in the lake at

18 approximately the point where the shoreline was before  
19 the erosion in '02, was that the purpose?

20 A I believe so.

21 Q Okay. And had you had any discussions with DNR before  
22 Mr. Rieder put the stakes in in '03 as to where the  
23 stakes ought to go?

24 A Yes.

25 Q And did DNR approve or disapprove where the stakes

69

1 went the first time in '03 when Mr. Rieder put them  
2 in?

3 A Both.

4 Q What did they do? Tell me what action DNR took with  
5 respect to the first set of stakes that Mr. Rieder put  
6 in in '03.

7 A We had a meeting with the surveyors there, and then  
8 DNR, and I don't remember if Kafura was there by  
9 himself or somebody else, but we came out and the  
10 stakes were set off of what Rieder had specific  
11 measurements on of, you know, like this point or this  
12 point or this point, like that. And then Kafura  
13 reviewed that.

14 Q And did Kafura suggest changes to where individual  
15 stakes were placed?

16 A Yes.

17 Q And were those changes made?

18 A Yes.

19 Q And was it your understanding that the purpose of  
20 those changes was to match the location of the stakes  
21 to as precisely as possible the location of the  
22 shoreline before the erosion in 2002?

23 A Yes and no.

24 Q Okay. Explain to me what that means.

25 A There was one particular spot that literally was

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1 approved by DNR that I didn't take.

2 Q In other words, DNR approved the placement of a stake?

3 A Right.

4 Q And you, what do you mean you didn't take, explain  
5 that to me.

6 A I gave the State of Wisconsin back five feet of my  
7 property.

8 Q All right. You moved the stake for purposes of the  
9 repair work five feet further landward?

10 A Correct, about. And this is my best recollection.

11 Q Okay. And --

12 A It might have been six or seven feet.

13 Q Why did you do that?

14 A Because it was a judgment call on this one particular  
15 spot that would have made that wall zigzag to where it  
16 would have not been nice.

17 Q It was an aesthetic choice for lack of a better term?

18 A That and the repair cost, because then they would have  
19 had to have done another corner, and it would have  
20 added to the cost and more steel.

21 Q But from an engineering standpoint as far as you knew,  
22 it was possible to put the wall at the point that  
23 Mr. Kafura had approved?

24 A That is correct.

25 Q And you made the considered choice to instead donate

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1 five feet of your property to the State of Wisconsin,  
2 is that fair?

3 A And then some.

4 Q Okay. By and then some, you mean it was more than  
5 five feet at some point?

6 A Well, no, then there was a couple of other spots that  
7 I did the same thing at Mr. Kafura's suggestion.

8 Q But no one required you to do that, true?

9 A Correct. Well, no, it was --

10 Q Let me back up, let me go back to the first point  
11 where you said you donated five feet of land to the  
12 State of Wisconsin. At that point Mr. Kafura had said  
13 the stake can stay here, but my suggestion is the wall  
14 might look better if you move it back here?

15 (Indicating)

16 A Pretty much.

17 Q Okay. Now, how many other stakes were there that were  
18 initially placed where the shoreline used to be but  
19 were moved landward?

20 A Both corners.

21 Q Okay. And how far landward were those two corners

22 moved?

23 A I don't know in feet without going out and measuring  
24 it, but it was at DNR's suggestion, strong suggestion  
25 that they did not want 90 degree points off of the

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1 neighboring property, and that they wanted me, for  
2 this thing to be approved that they wanted me to round  
3 those corners off or 45 degree angle those corners off  
4 to where it wasn't so obvious, I guess, I don't know  
5 what the word is.

6 Q And you agreed to that?

7 A Yes.

8 Q And then the wall was constructed according to the  
9 stakes that were placed after you and DNR reached an  
10 agreement about where those stakes would be, true?

11 A Yes.

12 Q So other than at either corner and the one stake that  
13 Mr. Kafura suggested you move landward to avoid a  
14 zigzag in the wall, were there any other places where  
15 the stakes did not match the shoreline that existed at  
16 the time you claim you lost shoreline in May of 2002?

17 A I don't believe so.

18 Q Okay. We started to talk about the different types of  
19 protection that could have been placed, for lack of a  
20 better phrase, where those stakes were, okay? And I'm  
21 going to ignore for the moment in this discussion the  
22 fact that a couple of those stakes were moved, but  
23 just bear with me and I'm going to talk about what

24 protection you could have put where those stakes were,  
25 all right?

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1 A Okay.

2 Q And the choices that Barr discussed with you were,  
3 vegetation was one of them, correct?

4 A Yes.

5 Q And riprap was another one, correct?

6 A Correct, yes.

7 Q And the third one was some sort of wall, either  
8 concrete or steel?

9 A Yes.

10 Q And your initial preference was for a concrete wall,  
11 was it not?

12 A Mine, no.

13 Q Your personal one?

14 A No.

15 Q What was your initial preference?

16 A Anything that I could have got away with with a lot  
17 less money.

18 Q Which would have been what in your view?

19 A Probably rock.

20 Q And did you ever talk with Mr. Kafura or anyone else  
21 from DNR whether DNR would approve a riprap wall?

22 A Yes.

23 Q And what was the discussion about that?

24 A That it wouldn't work, and they're the ones that

25 started the ball rolling that told me either the

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1 concrete or the steel along with Hanson Engineering,  
2 and I believe the concrete that we've given you, the  
3 concrete drawings were prepared by Hanson, and DNR is  
4 the one that said no, you don't want to do this, call  
5 around up in Duluth or call Eau Claire or somewhere  
6 and get steel. And they basically said rock won't  
7 work.

8 Q The DNR folks told you rock would not work?

9 A Correct.

10 Q Who from DNR told you that?

11 A Lang and Kafura.

12 Q What was the reason they gave for why rock would not  
13 work?

14 A To the best of my memory it was simply that where  
15 those cracks were, fissures, stress, whatever you guys  
16 call them, that all that property was going to go into  
17 the lake and all the rock in the world wasn't going to  
18 stop them.

19 Q Did you have any discussion with DNR about using  
20 vegetation instead of either rock or a wall made of  
21 concrete or steel?

22 A Lakeside, no. I mean, that would not stop that  
23 property from going into the lake.

24 Q Did you discuss that with them?

25 A I believe so, I mean, I'm sure we did, but --

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1 Q With respect to the steel wall then, except where you  
2 agreed to move the stakes -- strike that. Barr  
3 engineered a steel wall for placement along what was  
4 the shoreline before the erosion occurred, correct?

5 A Yes.

6 Q And except at the two corners and in the one place to  
7 avoid a zigzag, that wall now matches where your  
8 shoreline used to be as close as you could?

9 A Yes, I believe.

10 Q And so all the land that was lost during that 2002  
11 erosion has been reclaimed through the use of that  
12 wall and placement of fill behind that wall, true?

13 A I guess, yes.

14 Q Okay. Have you had any difficulties with the wall  
15 since it was put in place, is it holding up?

16 A Yes.

17 Q Okay. Has there been any further erosion to your  
18 property since the wall has been put in place?

19 A No.

20 Q I want to talk to you now about your communications  
21 with different people from Sawyer County, and when I  
22 say Sawyer County, so we don't have the confusion we  
23 did yesterday for a moment with Mr. Lee, when I say  
24 Sawyer County, I'm referring to my client, the county  
25 government, I'm not talking about residents of Sawyer



1 County who are not part of county government right  
2 now, okay?

3 A Okay.

4 Q So starting from the beginning, when did you first  
5 communicate with anybody from Sawyer County about  
6 concerns you had about what you considered to be high  
7 water levels on Round Lake?

8 A Early Spring, '02, I mean in relation to this case.

9 Q Well, had you talked to people at the county about  
10 high water levels before the issues that we're talking  
11 about here in this lawsuit?

12 A Not about the issues in this lawsuit, no.

13 Q Okay. Well, when was the first time you talked to  
14 anybody from county government about any concern you  
15 had with water levels on Round Lake?

16 A On Round Lake I haven't.

17 Q Had you discussed with county government concerns  
18 about water levels on other bodies of water?

19 A Yes.

20 Q What waters were those?

21 A The ones behind my property. It's not part of, I  
22 mean, it's not Round Lake, and I don't think it even  
23 has a name, but from the neighbor.

24 Q Mr. Morales?

25 A Yes, with beavers.

1 Q Okay. When was that?

2 A Way back, I think.

3 Q Okay. Going back to early Spring of '02 when you had  
4 concerns with water levels that relate to the issues  
5 that are now part of this lawsuit, who did you contact  
6 at Sawyer County?

7 A I know that I talked to or called Shirley Suhsen at  
8 home, because she doesn't have a county office per se  
9 to have the matter put on the county's agenda.

10 Q Was that for the county board or the land and  
11 conservation?

12 A Land and water.

13 Q Okay.

14 A Now, this is in the beginning. I'm sure that, I  
15 believe I talked to Dale Olson, John Hirschfield,  
16 probably DNR.

17 Q I'm only asking you about Sawyer County now, I  
18 understand you talked to the DNR. Anyone else that  
19 you remember contacting in the Spring of '02 from the  
20 county about water levels on Round Lake?

21 A Bill Christman maybe, Mert Maki, M-a-k-i. There might  
22 have been others, but that's all that I can think of.

23 Q Did you contact Kris Mayberry at that point?

24 A No, not to my knowledge.

25 Q When you first contacted Ms. Suhsen, what was her

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1 response, if any?

2 A She put me on the agenda for the next land and water  
3 meeting.

4 Q Okay. Tell me if I'm characterizing your views  
5 incorrectly or not, but my perception from the things  
6 you've written and the things I've seen in the file is  
7 that you don't feel that you got a fair hearing from  
8 Ms. Suhsen and the Land and Water Conservation  
9 Committee throughout this whole process, is that a  
10 fair statement, maybe an understatement from your  
11 point of view?

12 A I would agree with your statement.

13 Q That it's an understatement or that it's a fair  
14 statement?

15 A That what you said originally is a fair statement.

16 Q Okay. Tell me what Ms. Suhsen has said to you over  
17 the last two and a half, three years when this has  
18 been going on that leads you to think that you haven't  
19 gotten a fair hearing from her.

20 A Can you -- I don't know how to answer that question.

21 Q Well, has Ms. Suhsen ever made any statements to you  
22 or in your hearing that led you to believe she didn't  
23 take your concern seriously?

24 A Yes.

25 Q What has she said?

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1 A Staging events.

2 Q What does that mean?

3 A She did, along with others, everything in their power  
4 to keep the truth from the taxpayers and the property  
5 owners on Round Lake.

6 Q Give me examples of what you mean by that.

7 A An example would be trying to limit Barr Engineering  
8 and/or myself from public hearings, because there was  
9 more than one, by limiting time. The comments that  
10 came out of her committee such as, I don't care who  
11 Barr Engineering is or who's paying them, they don't  
12 get any more time than any other private person, and  
13 try to limit Barr Engineering to, I believe originally  
14 it was two minutes, two minutes for a public hearing.

15 Q What other specific examples do you have of Ms. Suhsen  
16 doing everything in her power to keep the truth from  
17 the taxpayers and the property owners?

18 A My opinion?

19 Q Yes.

20 A Carthel's report.

21 Q What about it?

22 A The survey, so-called survey.

23 Q What about, first of all, Mr. Carthel's report. What  
24 did Ms. Suhsen do to keep the truth from taxpayers and  
25 property owners with respect to Mr. Carthel's report?

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1 A She mailed it out to the taxpayers or the property  
2 owners on Round Lake, incomplete, there's just --

3 Q Well, we'll go through these one at a time. Now, when  
4 you say incomplete, do you mean that the letter that  
5 was sent out with the property owners survey was an  
6 incomplete statement of what was going on, is that

7 your complaint there? What are you referring to that  
8 was mailed out -- let me back up. You said something  
9 was mailed out, what was mailed out that was  
10 incomplete in your view?

11 A This little survey, so-called survey card.

12 Q Oh, all right. We're only talking about that card  
13 right now. Was it an incomplete review of what the  
14 options were, is that your view?

15 A Yes.

16 Q Okay. Do you have any evidence that Ms. Suhsen  
17 influenced Mr. Carthel's recommendations that resulted  
18 in that survey card?

19 A That Shirley Suhsen influenced?

20 Q Yes.

21 A No.

22 Q Do you have any evidence that those recommendations in  
23 that survey card were anyone's recommendations other  
24 than Mr. Carthel's?

25 A No.

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1 Q There's been reference in some of the documents in  
2 this case that some people seem to believe that the  
3 county asked Mr. Carthel to withhold or not complete  
4 his report on the floodplain elevation study, are you  
5 familiar with that allegation?

6 A Yes.

7 Q Okay. Do you believe that to be the case?

8 A Absolutely.

9 Q What's your evidence that anyone from the county did  
10 anything to cause Mr. Carthel not to complete the work  
11 he contracted for?

12 A At the August '03 land and water meeting.

13 Q What happened at that meeting that leads you to that  
14 conclusion?

15 A Mr. Mayberry asked Chairman Suhsen at the public  
16 meeting whether or not, let me see if I can get this  
17 correct, Madam Chairman, is it true that you ordered  
18 Carthel not to finish the 100-year floodplain? That  
19 was the question that Mayberry asked Suhsen. Suhsen  
20 responded saying, yes, I thought it would be best  
21 until we figure out what we're going to do with the  
22 water levels on Round Lake, and that's pretty much a  
23 quote.

24 Q Were you at that meeting?

25 A Yes, I was.

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1 Q I don't recall whether that meeting was recorded in  
2 any fashion.

3 A On and off.

4 Q What does that mean?

5 A Because at that meeting Mr. Kafura was supposed to be  
6 there, according to Shirley Suhsen, he was supposed to  
7 be there, and Mr. Kafura didn't think that he needed  
8 to be there. And the meeting was started, stopped,  
9 started again, stopped. Phone calls were made trying

10 to track down Mr. Kafura to see if he was coming, et  
11 cetera. And I kept putting my camera away, getting it  
12 back out, putting it away.

13 Q Do you have a recording of Clerk Mayberry's question  
14 and Ms. Suhsen's answer?

15 A No.

16 Q To your knowledge does anybody anywhere have a  
17 recording of that question being asked and that answer  
18 being given?

19 A I don't know.

20 Q Was your wife present at that meeting?

21 A No.

22 Q Was Mr. Hirschfield?

23 A Yes, he was on the county board.

24 Q And he was present at that meeting?

25 A And he was on that committee, yes.

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1 Q Have you ever talked to Mr. Kafura about that  
2 meeting? Well, let me ask it a different way. It was  
3 your understanding on that date that Mr. Kafura was  
4 expected to attend that meeting?

5 A Correct.

6 Q Have you ever discussed with him whether he was  
7 invited to that meeting?

8 A Yes. After the meeting I'm sure I mentioned or asked  
9 him why he was or was not there, whether he was  
10 invited.

11 Q What did he tell you?

12 A Whatever this letter was that he received, and  
13 apparently it was from Dale Olson on behalf of the  
14 land and water, saying that we request or we would ask  
15 that you attend this meeting to do something. And I  
16 think Frank Dallam was also invited, and Kafura and  
17 Dallam apparently talked and thought that not both of  
18 them needed to be there.

19 Q And did either one attend?

20 A Mr. Dallam did.

21 Q Okay. And so it was a decision by the two of them  
22 that only Mr. Dallam needed to attend.

23 A Correct.

24 Q You're not contending that Ms. Suhsen deliberately  
25 kept Mr. Kafura or anybody else away from that

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1 meeting?

2 A Oh, no, no.

3 Q Okay. You sat through Mr. Carthel's deposition, did  
4 you not?

5 A Yes.

6 Q And he was asked, wasn't he, whether he was told not  
7 to complete the 100-year floodplain study?

8 A I don't know if that question was ever asked of him.

9 Q Okay. You don't remember right now?

10 A No.

11 Q What else, if anything, do you think that Shirley  
12 Suhsen did to keep the truth from property owners or



13 taxpayers in Sawyer County?

14 A Looking back at the records, of course, that have come  
15 out is the fact that Mr. Carthel was subcontracted by  
16 Heather Harrington, paid in advance in the year 2000  
17 to complete a job that shouldn't have taken at maximum  
18 six months, and the job is still not done five years  
19 later.

20 Q And you believe that Shirley Suhsen is the reason the  
21 job has not been completed?

22 A I guess that if I paid you to do a job and it was to  
23 be done within nine months or even a year and now it's  
24 four and a half, five years later, I think I'd be  
25 wanting some answers.

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1 Q Is it your testimony that Shirley Suhsen is the reason  
2 that Dan Carthel has not completed his work?

3 A No.

4 Q Okay. Then why are you telling me when I ask you what  
5 else Shirley Suhsen has done to keep the truth from  
6 the taxpayers and property owners of Sawyer County,  
7 why do you make reference to Mr. Carthel not  
8 completing his work? I don't understand the link, I  
9 don't understand your answer.

10 A You asked examples, and she is on the county  
11 government, she's the one that did this or authorized  
12 this work to be done, this head of forestry, and yet  
13 through her skills, lack of skills, that she has paid  
14 for this 100-year floodplain survey in essence two or

15 three times now and still don't have it.

16 Q What you're saying in lawyer's terms, and tell me if  
17 you don't understand this, but the contractor,  
18 Mr. Carthel, has defaulted on his obligation to  
19 complete the work, would you agree with that?

20 MR. FURLOW: Objection, calls for a  
21 legal conclusion.

22 A No, Heather Harrington has.

23 Q All right. And what is it that the county government  
24 did to cause Ms. Harrington and her subcontractor,  
25 Mr. Carthel, not to complete the work, aside from what

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1 you told me about this statement at the meeting?

2 A Well, from a businessman, I would think that it's just  
3 hiring the wrong people to do the job.

4 Q But how does that factor into what you said Ms. Suhsen  
5 has done, which is that she has kept the truth from  
6 the property owners and the taxpayers in Sawyer  
7 County?

8 A I think just what I said, that this 100-year  
9 floodplain isn't that complicated of a task to do.

10 Q And you think the county is deliberately not  
11 completing that work?

12 A Absolutely, that's my belief.

13 Q And the basis for that belief is the question and  
14 answer that you say you heard at the Land and Water  
15 Conservation Committee meeting?

16 A No, and the records.

17 Q What records?

18 A The payment.

19 Q Pardon me?

20 A The payment and the hiring of Heather Harrington and  
21 Dan Carthel to do this, and then to hire them again to  
22 do this Round Lake survey, and nothing's done.

23 Q Are you saying that they hired them knowing they  
24 couldn't or wouldn't do the work?

25 A No, they hired them and paid them once and didn't get

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1 a product. Three years later then they hire them  
2 again to do the same thing.

3 Q I'm just struggling to understand, sir, why that tells  
4 you that the county is deliberately trying to keep the  
5 truth from taxpayers. Aside from being what you  
6 consider a bad business decision, what is it about  
7 that that leads you to conclude that Mrs. Suhsen is  
8 deliberately trying to keep the truth from taxpayers?

9 A I think taken in the context what I just said, enough  
10 said on that issue. The other part is these public  
11 meetings, supposed to be educational meetings,  
12 investigative type meetings.

13 Q Do you have a belief as to the motivation that causes  
14 Ms. Suhsen to, in your words, keep the truth from the  
15 taxpayers of Sawyer County?

16 A Yes.

17 Q What's her motivation?

18 A I have my belief.

19 Q Well, why do you believe that, what's it based on?

20 A Common sense.

21 Q Well, what in her actions tells you that she's

22 motivated to keep the truth from Sawyer County's

23 taxpayers and landowners?

24 A Real estate.

25 Q Pardon me?

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1 A Real estate development.

2 Q Do you believe she has some interest in real estate

3 development?

4 A I don't believe she does.

5 Q Well, who's she acting for then?

6 A It would be speculation for me to try to answer that.

7 Q Well, you were the one who used the words common

8 sense. What in your common sense tells you that

9 Ms. Suhsen is acting for those interested in real

10 estate or development in Sawyer County?

11 A That high water would benefit certain properties on or

12 around Round Lake.

13 Q Which properties?

14 A Oh, just off the top of my head, literally all of

15 Osprey Lake, the north end of Round Lake.

16 Q What evidence, sir, do you have that there's any

17 connection between anyone who owns property on any of

18 those lakes and Ms. Suhsen's actions with respect to

19 her job in county government?

20 A There again, I think I'll just answer that common  
21 sense.

22 Q Sir, that tells me you have no evidence that there's  
23 any connection between Ms. Suhsen and property owners  
24 who would benefit from high water levels. Can you  
25 point to a single person who has any connection with

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1 Ms. Suhsen who would benefit from high water levels on  
2 Round Lake?

3 A No.

4 MR. FURLOW: Objection,  
5 argumentative, and please don't raise your voice.

6 Q Can you point to any evidence that Ms. Suhsen has  
7 acted other than in what she views as the public  
8 interest in conducting her work with Sawyer County?

9 MR. FURLOW: Can I have that back,  
10 please, Greg?

11 (Reporter reads back last question)

12 MR. FURLOW: Objection, asked and  
13 answered. Go ahead.

14 A I'd have to say that I think through the hearings,  
15 public hearings, evidence, you know, stuff like that,  
16 that she knows that there's been damage, serious  
17 damage done to Round Lake, and yet she chooses to  
18 ignore it hoping that I'll go away.

19 Q Other than that, do you have any evidence that  
20 Ms. Suhsen has been motivated by other than what she

21 views as the public interest in doing her job for  
22 Sawyer County?

23 MR. FURLow: Objection, asked and  
24 answered. Go ahead subject to that.

25 A No.

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1 Q Let me ask you, we started this line of questioning by  
2 my asking you whether you feel you got a fair hearing  
3 from the folks who work for Sawyer County. Other than  
4 Ms. Suhsen, are there other people within county  
5 government that you believe have not given fair  
6 consideration to the concerns that you've raised about  
7 the water levels on Round Lake?

8 A I guess the actions of the committee and the county  
9 board.

10 Q I'm asking you about individuals. Which individuals  
11 do you believe have not given fair consideration to  
12 your concerns about the water levels on Round Lake?

13 A I guess the members of the Land and Water Committee.

14 Q Okay. Do you believe that any of the other members of  
15 the Land and Water Committee besides Ms. Suhsen have  
16 acted in any way to keep the truth from the property  
17 owners and taxpayers of Sawyer County?

18 A Frank Romnes.

19 Q What has he done?

20 A He made a comment about limiting Barr Engineering to a  
21 couple of minutes.

22 Q And --

23 A I don't know if I videotaped that or not.

24 Q By the way, was there anyone preventing you from  
25 videotaping the meeting at the time that Mr. Mayberry

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1 allegedly asked this question of Chair Suhsen and she  
2 gave the answer that you described earlier?

3 A Was anybody preventing me?

4 Q Right.

5 A No.

6 Q With respect to Frank Romnes, other than commenting  
7 that Barr Engineering should be limited to a couple of  
8 minutes, as you put it, what else, if anything, has he  
9 done in your view to keep the truth from the taxpayers  
10 and property owners of Round Lake in Sawyer County?

11 A I don't know of any other thing specifically.

12 Q Any other people, any other individuals that you feel  
13 have attempted to keep the truth from the taxpayers  
14 and landowners of Sawyer County?

15 A No.

16 Q Do you have any evidence that Mr. Mayberry has acted  
17 in other than what he believes is the public interests  
18 in the actions he's taken with respect to the water  
19 levels on Round Lake?

20 A In the public interest, yes.

21 Q What's your evidence with respect to Mr. Mayberry?

22 A Official minutes.

23 Q Okay. And specifically, what actions do you think

24 he's taken that he knew not to be in the public  
25 interest?

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1 A There's some meeting minutes that still aren't  
2 approved from the county that were typed up  
3 incorrectly. There were issues that, and I don't even  
4 know whose responsibility this is in Sawyer County,  
5 but apparently Mr. Mayberry has assumed that  
6 responsibility, of typing up minutes at all of these  
7 meetings. And it's amazing that you can watch a  
8 videotape of a meeting and then what goes into those  
9 minutes.

10 Q Can you point to any specific examples of things that  
11 you felt should have been included in the minutes of  
12 meetings but were not?

13 A One just off the top of my head is the December, '02,  
14 meeting to where I offered Sawyer County \$25,000 to  
15 help fix the problem, and Shirley Suhsen decided not  
16 even to inform the county board of that offer.

17 Q But my question, and we'll get to that, but my  
18 question was --

19 A And that's not in the minutes.

20 Q The offer is not in the minutes, you mean?

21 A Correct.

22 Q Okay. Anything else that you felt should have been  
23 included in the minutes but was not at any meeting?

24 A I would have to go back in the records and look.



25 Q To the best of your recollection today is there

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1 anything else that stands out as something you felt  
2 should have been included in the minutes but was not?

3 A Yes.

4 Q Can you tell me what that is?

5 A Issues of importance that were just ignored, were not  
6 put in the minutes. This is supposed to be the  
7 official record.

8 Q Are you speaking about instances where you spoke to  
9 the committee about your concerns and then you believe  
10 the concerns were not reflected in the minutes, is  
11 that what you mean?

12 A Not just me, other property owners on Round Lake,  
13 other suggestions, other alternatives, a wide gambit.

14 Q At or near the time that the minutes were prepared,  
15 did you review any of the minutes of the meetings?

16 A Usually I went from one month to the next, so I would  
17 see them.

18 Q Did you ever write to anyone at Sawyer County and say,  
19 I don't think these minutes are accurate?

20 A No.

21 Q Did you ever speak to Clerk Mayberry about the  
22 accuracy of minutes that were prepared for meetings?

23 A No.

24 Q Did you ever bring to the attention of the county  
25 board in any way the offer that you'd made of \$25,000?

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1 A To the full county board, no, no.

2 Q Do you have any evidence that leads you to believe  
3 that Clerk Mayberry has any interest in real estate or  
4 development that would benefit from high water levels  
5 on Round Lake?

6 A No.

7 Q Do you have any evidence that any other member of the  
8 Land and Water Conservation Committee acted in the  
9 fashion that they did because they had an interest or  
10 were tied to people that had an interest in real  
11 estate or development around Round Lake?

12 A Can you define the word tied, how you mean that?

13 Q All right, let me break it up. Do you believe that  
14 anyone on the Land and Water Conservation Committee  
15 aside from what we talked about with respect to  
16 Ms. Suhsen, acted because that person had an interest  
17 in real estate or other development around Round Lake?

18 A No.

19 Q Do you have any evidence that anyone on the Land and  
20 Water Conservation Committee acted as he or she did  
21 for the benefit of anyone who had an interest in real  
22 estate or development around Round Lake?

23 A For the benefit, no.

24 Q Okay. Or that they acted in that fashion because of  
25 any link or tie or affiliation with anyone who had an

1 interest in real estate or development around Round  
2 Lake or Osprey Lake?

3 A Now I got the lakes down, but what was the first part  
4 of the question?

5 MR. WRIGHT: Would you read it  
6 back, Greg, please?

7 (Reporter reads back last question)

8 A Do I have any evidence, no.

9 Q Do you have a belief that someone did that other than  
10 Ms. Suhsen, which we already talked about?

11 A I believe that Sawyer County has a very unique  
12 government, that there is this, I don't know what you  
13 want to call it, club that seems like just certain  
14 individuals, certain real estate companies, et cetera,  
15 can do stuff that the average person can't do,  
16 especially on Round Lake.

17 Q Okay. What I want to limit it to right now is the  
18 question of whether you believe that anyone on the  
19 Land and Water Conservation Committee acted in the way  
20 they did with respect to the high water levels that  
21 you were concerned about because of any tie, link or  
22 affiliation with people who had an interest in real  
23 estate or development around Round Lake or downstream  
24 of Round Lake, how's that?

25 A I'm sure that members of the county government, the

1 county board are friends with some of these developers  
2 and land speculators, et cetera.

3 Q Well, my question is pretty specific. Do you believe  
4 that they acted out of any friendship or other tie,  
5 link or affiliation with those who had real estate  
6 development interests on Round Lake or downstream  
7 Round Lake?

8 A Yes.

9 Q Okay. Which members of the county board or Land and  
10 Water Conservation Committee acted on the basis of  
11 those links or ties?

12 A I think that I would -- I don't know how to answer  
13 that, Joe.

14 Q Well --

15 A I mean.

16 Q You've made some pretty serious allegations,  
17 Mr. Hausman, about people not acting in accordance  
18 with their duties as public officials.

19 A You asked me my beliefs.

20 Q And now I'm asking you who you think that about, who  
21 is it that you think acted in the fashion I described?

22 MR. FURLOW: Objection,  
23 argumentative, he's simply answering your  
24 questions.

25 MR. WRIGHT: No, he's not, he's not

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1 telling me who he thinks did that.

2 MR. FURLOW: Well, wait a minute,  
3 this is becoming argumentative. Greg, why don't

4           you read the question back, answer as best you can  
5           and we'll move on.

6           (Reporter reads back last question)

7 A The easiest answer is Shirley Suhsen, because she's  
8 the chair of the Land and Water Committee, and her  
9 actions for whatever inputs she got, wherever she got  
10 her inputs, to take her course of action I guess  
11 would, the responsibility would fall on her shoulders,  
12 wouldn't it?

13 Q Is there anyone else besides Ms. Suhsen that you can  
14 specifically identify as having acted in the fashion  
15 I've described?

16 A No.

17 Q You just made reference to Ms. Suhsen and you said  
18 something to the effect of wherever she got her inputs  
19 from. Do you believe that Ms. Suhsen was getting  
20 information or recommendations from someone that  
21 caused her to act in the way she did?

22 A I would think so, yes.

23 Q Okay. Do you know what information she was provided  
24 and by whom?

25 A No.

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1 Q That's a supposition on your part?

2 A Yes.

3                           MR. WRIGHT: Let me just take a  
4 break, if you don't mind.

5                           (Noon recess is taken)

6 (11:48 a.m. to 12:36 p.m.)

7 Q Mr. Hausman, before we took the break I was talking  
8 with you a little bit about some allegations about the  
9 conduct of different members of the county board and  
10 Land and Water Conservation Committee and I wanted to  
11 finish up that area by just asking you about one more  
12 thing. During the time that you've been concerned  
13 with lake levels at Round Lake, in other words, since  
14 2002 or so, have you ever been the subject of any  
15 personal threats?

16 A Yes.

17 Q Okay. Tell me about that, please.

18 A There's a police report filed that was given to you,  
19 and outside of that it's in the report.

20 Q And I'm sorry, but I don't recall the content of that  
21 report right now. Can you tell me what happened?

22 A Basically, a phone call threatening me the water  
23 levels, going to burn my house down, run me back to  
24 Illinois.

25 Q I know it's in the report, but I'm just asking for

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1 your best recollection, approximately when did that  
2 happen?

3 A Joe, I can't tell you if it was '03 or '04.

4 Q And was this an anonymous call, I assume?

5 A Well, we had caller ID, we knew where the call was  
6 placed from.

7 Q Okay. Where was that from?

8 A A pay phone at the Co-op grocery store.

9 Q Did the call come through live to you or was it a  
10 message left on your machine?

11 A No, live.

12 Q And did you speak with the caller?

13 A Yes.

14 Q Did you recognize the caller's voice?

15 A No.

16 Q You seemed to, the way you answered that makes me  
17 think that you have at least a belief as to who it may  
18 have been, is that fair?

19 A Okay, I understand your statement, but the answer is  
20 still no.

21 Q You don't know who it was?

22 A No.

23 Q Okay. Do you have any reason to believe that it was  
24 anybody who was affiliated with the county government?

25 A No.

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1 Q I'm not going to hear at trial that you think someone  
2 from the county government threatened you?

3 A You might.

4 Q Okay. Tell me what other threat, if any, besides the  
5 one you just talked about has been made against you?

6 A Nate DeLong.

7 Q Who is Nate DeLong?

8 A A county board member on the Land and Water Committee.

9 Q And what did Mr. DeLong do or say that you thought was  
10 a threat?

11 A Just the way he said it in a Land and Water Committee  
12 meeting prior to the meeting starting, prior to me  
13 having my camera, my camcorder out, he leaned over and  
14 asked me what he thought that this lawsuit was going  
15 to cost. And I said probably 500 to \$750,000 if it  
16 goes to trial. And he just leans over and smirks and  
17 says, that's okay, we don't care, we're just going to  
18 raise your taxes.

19 Q Anything else that Mr. DeLong said or did that you  
20 thought was a threat?

21 A Yes, there was one other incident attributable to Nate  
22 DeLong that there's a little note that was put in, I  
23 like to keep notes, and it's in my files but --

24 Q Can you tell me what that was?

25 A He said something to, he didn't know that this guy

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1 happened to be my diving partner and one of my best  
2 friends in Hayward about some person from Illinois  
3 coming up here and telling us how to run our  
4 government.

5 Q Who was that that he said that to?

6 A Joe Kryer, K-r-y-e-r.

7 Q You say diving partner, are you a scuba diver?

8 A Yes.

9 Q And maybe this is a tangent, but I'll ask anyway, have



10 you ever done any diving to inspect part of the Round  
11 Lake or the tributaries?

12 A Yes.

13 Q Where?

14 A Well, in relation to this lawsuit or prior to?

15 Q Well, let's start with in relation to this lawsuit.

16 A Diving, not in investigation to this, no.

17 Q Have you ever observed anything while diving in or  
18 near Round Lake or the associated waterways that you  
19 feel is pertinent or relevant to the lawsuit that  
20 we're talking about here?

21 A Yes, but not in recent time, I mean.

22 Q Tell me what you've observed that is in any way  
23 related to this lawsuit while diving?

24 A Well, I was certified I believe in 1968 diving, and in  
25 that time period I used to dive all over Round Lake,

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1 every fish crib, you know, and I knew that lake fairly  
2 well under water. The sediment that was in the lake,  
3 I could tell you how deep the sediment was in each  
4 bay, stuff like that. And this next year I do plan on  
5 going back in and comparing the two.

6 Q Have you dived on Round Lake since, for example, the  
7 first of the year 2002?

8 A Yes.

9 Q Okay. Have you made any observations during those  
10 dives or that dive that are pertinent to the lawsuit  
11 about sediment, for example, or anything else?

12 A Yes.

13 Q What have you seen that you think is pertinent to the  
14 lawsuit?

15 A It's what I haven't seen.

16 Q Okay. What haven't you seen?

17 A The lake bottom.

18 Q Why is that?

19 A It's completely covered with sediment, and that  
20 visibility in that lake in late '02 from a diving  
21 standpoint was down below six to seven feet.

22 Q And where was that that you were diving that you had  
23 visibility of six to seven feet?

24 A Blue Island Bay.

25 Q And what's the depth you were at?

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1 A I think maximum in that bay is 32 feet.

2 Q Are you open water certified?

3 A Oh, yes.

4 Q Do you have any other certifications?

5 A Advanced. When I was certified I literally had every  
6 reading literally that you could get, underwater  
7 rescue.

8 Q Have you been recertified or had any other  
9 certifications since 1968?

10 A Yes.

11 Q Okay. How often do you dive?

12 A In '02 we dove quite a bit.

13 Q On Round Lake you mean or just generally?

14 A No, around the world and in Round Lake, and I think

15 '02 was the last time that I've dove in Round Lake.

16 Q Other than noticing that visibility is less than what

17 you were used to in years past, any other observations

18 from your dives in Round Lake that you think are

19 pertinent to this lawsuit?

20 A Sediment.

21 Q What have you noticed about sediment?

22 A Just everything is just covered with sediment, now

23 this is in '02. Where I dove before '02 also in the

24 same area, and what the visibility was there and the

25 sedimentation on top of the rocks, et cetera.

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1 Q What was the nature of the sediment that you observed,

2 could you tell what kind of sediment it was?

3 A No, just the kind you even get close and it's, it will

4 blind you.

5 Q Any other observations you've made while diving that

6 you think are pertinent to this lawsuit?

7 A Yes. Can I use a map --

8 Q Sure.

9 A -- of my bay.

10 Q Let me just, just tell me generally what you want to

11 show me.

12 A That northeast of my property on the eastern shore of

13 Blue Island Bay, I don't know what the guy's last name

14 is, I know him as Rudy. In front of his house I've

15 been diving along there for years, okay? And here, I  
16 don't know what year it was, literally discovered what  
17 I called a black hole, that apparently a spring has  
18 broke through and bitter, bitter, bitter ice cold  
19 water is coming up, and when you swim into that it  
20 just, you couldn't see your hand in front of your  
21 face, and that spring was never there before.

22 Q Anything else that you observed while diving?

23 A No.

24 Q Okay. Going back to the issue of threats, which is  
25 how we got off on your diving buddy, are there any

105

1 other threats that you've perceived of any kind that  
2 you associate with anyone from county government?

3 A No.

4 Q Okay. And just so I make sure I tie this up, I think  
5 I did, so I may have asked this, and I apologize if I  
6 have, but do you have any reason to believe that  
7 anyone from county government was the person who made  
8 the phone call to you that you made a police report  
9 about?

10 A No.

11 Q Okay. I want to go back to the time period preceding  
12 the May, 2002 wind and wave event that we've talked  
13 about earlier. You described for me the fact that  
14 sometime, I think you said in April, the lake level  
15 overtopped the riprap in front of your property,

16 correct?

17 A Yes.

18 Q Can you tell me what the lake level was at the  
19 beginning of '02, for example? I think you said,  
20 Matt's pointing out to me that you said earlier, and  
21 I'm not trying to trip you up, I just want to make  
22 sure of sequence here, that in late Winter of '02,  
23 meaning February or March of '02, the water reached  
24 the bottom of the riprap, is that correct?

25 A Say that again.

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1 Q In February or March of '02 the water level was at the  
2 bottom of the riprap in front of your property, is  
3 that accurate?

4 A I believe so.

5 Q Okay.

6 A But I'm not positive without records.

7 Q Okay. And then can you tell me where the water level  
8 was at the beginning of April of '02?

9 A No. I've got photos of, I believe the first week of  
10 April to where the water was up almost to the top.

11 Q By that point the water, whatever the photos show they  
12 show.

13 A Right.

14 Q But your memory right is now that during the first  
15 week of April the water level was at or near the top  
16 of the riprap?

17 A To the best of my memory.

18 Q Okay. Let me ask you to take a look, if you would, at  
19 Exhibit 125 which is the Barr study, the cause of the  
20 shoreline loss at your property, it's in this stack  
21 here if you wouldn't mind. I think it's that one.  
22 Would you turn to the back and take a look at  
23 figure 18, which is a record of measurements of the  
24 Round Lake level. Do you see that?  
25 A Yes.

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1 Q Did you provide data to Barr about lake levels in  
2 April and May of 2002?  
3 A I don't know.  
4 Q Do you remember -- excuse me, go ahead and finish. Go  
5 ahead and add whatever you were going to add.  
6 A I was going to ask you back, April or May of '02, no,  
7 I don't believe, I could have, but without my  
8 records --  
9 Q Let me ask you this way then. Before the wind and  
10 wave event of '02, had you taken any measurements of  
11 the Round Lake level?  
12 A Before the high water event, no.  
13 Q Okay. So does that allow us to eliminate you as the  
14 source of the data that's shown in the first column of  
15 between May 1 -- strike that. Let me start over. So  
16 is it fair for us to assume that you didn't provide  
17 any of the data that resulted in the points plotted  
18 between April 1 of '02 and May 1 of '02 on the

19 figure 18?

20 A I don't know without my records.

21 Q Okay. Let me ask it yet another way. At least during  
22 that month you didn't personally, physically take  
23 measurements of the lake level?

24 A I could have.

25 Q Okay. I thought you just told me you didn't take any

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1 until after the wave event.

2 A No.

3 Q Maybe I misunderstood you. Had you been taking  
4 measurements at any time before that wind and wave  
5 event?

6 A You asked -- I would need to see my records, but you  
7 asked if I took measurements at my property.

8 Q Okay, fair enough. Let me ask it a different way  
9 then. Before the wind and wave event, had you gone  
10 out to make measurements anywhere on Round Lake as to  
11 the lake level?

12 A I believe, yes.

13 Q Okay. When did you first start doing that to the best  
14 of your memory?

15 A As soon as the high water was noticed, and I just  
16 tried to start doing some investigating of why.

17 Q Okay. So it may be that you've provided documents to  
18 Barr from those observations that found their way into  
19 this report?

20 A It's possible.

21 Q Okay. Aside from records of any measurements that you  
22 yourself took at various times both 2002 and beyond,  
23 did you also provide other documents to Barr showing  
24 historical lake level data?  
25 A I don't think I did.

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1 Q Where did Barr obtain the lake level data as far as  
2 you know?  
3 A My best guess on that would be from Lauren and Jon.  
4 Q From your lawyers?  
5 A Right.  
6 Q And to the best of your knowledge, was that data that  
7 you had given to your lawyers and they then gave to  
8 Barr?  
9 A I don't believe it was my data, it was state records,  
10 everything that I did research-wise, I believe, I  
11 don't know.  
12 Q Okay. But it may have been at least records that you  
13 compiled, even if you didn't take the measurements  
14 yourself, you gave them then to your lawyers who gave  
15 them to Barr?  
16 A I believe so.  
17 Q Okay. Do you know whether Barr did any independent  
18 research to determine what the lake levels were at any  
19 given point in time?  
20 A I believe they did.  
21 Q Okay. What were your sources of lake level data



22 besides the measurements that you yourself took?

23 A Can you ask that again?

24 Q Sure. Obviously, we've talked about the fact that you

25 took some measurements at various times of the lake

110

1 levels, right?

2 A Yes.

3 Q And you provided that data to your lawyers?

4 A Yes.

5 Q And you understand that they gave that to Barr, right?

6 A Yes.

7 Q You also provided other records related to lake level

8 data that were records of measurements that somebody

9 else took at various times.

10 A Yes.

11 Q What were the sources of the lake level data that

12 comprised those records that you then passed onto your

13 lawyers?

14 A DNR records, state records here in Madison, some

15 records in Milwaukee.

16 Q Where were the records from in Milwaukee, what agency,

17 DNR?

18 A I think the library, if my memory, or a newspaper

19 maybe, the Milwaukee Sentinel, is that a newspaper?

20 Q Milwaukee Journal-Sentinel?

21 A Yes.

22 MR. FURLOW: A fine publication.

23 Q Now we know who his clients are. In any event, so you

24 had DNR records, you had state records, what other  
25 agency in the state besides the DNR did you have

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1 records from?

2 A Archive, Historical Society or something here in  
3 Madison.

4 Q And whose records did you find at the Historical  
5 Society?

6 A Whose records?

7 Q In other words, the Historical Society wasn't out  
8 measuring the lake level, but they may have had  
9 records from somebody who did.

10 A Oh, it was state stuff that was in the Historical  
11 Society, I guess.

12 Q And do you remember what agencies from the state had  
13 records that you found at the Historical Society?

14 A I thought everything that DNR did went to the  
15 Historical Society, I thought.

16 Q And what I'm trying to figure out is whether there  
17 were other agencies like the PSC, Public Service  
18 Commission whose records you found at the Historical  
19 Society?

20 A Joe, I don't know, I mean.

21 Q Okay. If you don't remember, that's fine. But all  
22 the records that you obtained from any source were  
23 provided to your lawyers?

24 A I believe so.

25 Q Okay. Aside from DNR records, state records and

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1 records you got from the Milwaukee Public Library,  
2 were there other sources of lake level data that you  
3 found during your research?

4 A Yes.

5 Q What other sources did you find?

6 A Sawyer County, the deeds office.

7 Q Register of Deeds?

8 A Yes.

9 Q What did you find at the Register of Deeds office?

10 A Background on property, surveys, stuff like that.

11 Q Did you provide the information you got from the  
12 Register of Deeds directly to your lawyers, or did you  
13 interpret it to try and figure out what the lake  
14 levels were at a given time?

15 A I just, everything that I put in my files I just gave  
16 to the lawyers and gave to you.

17 Q Okay. What other sources besides those you've already  
18 mentioned did you find lake level data from?

19 A To the best of my knowledge I think that's about all.

20 Q And I've seen some records that show that you may have  
21 gotten some lake level measurements from  
22 Mr. Hirschfield, right?

23 A I don't think so.

24 Q Oh, maybe I'm mistaken, but I thought he had taken  
25 some measurements that you provided to your lawyers,

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1 no?

2 A He took pictures one time that I wasn't there, a  
3 disposable camera and then just gave me the camera,  
4 and John accompanied me a couple of times to go take  
5 measurements.

6 Q Okay.

7 A But I don't recall John ever giving me any lake  
8 levels.

9 Q Were there any private individuals who gave you lake  
10 level data?

11 A I don't know how to answer that question.

12 Q Well, you know, was there anybody else who lived or  
13 had a place on Round Lake who might have told you,  
14 yes, here's some notes I have or measurements I made  
15 of lake levels at various times?

16 A Survey markers, yes, people have told me of places,  
17 but not data in the sense that the water level is X on  
18 this day.

19 Q They just pointed out to you where survey markers are  
20 located?

21 A Right.

22 Q All right. The riprap that you had on your property  
23 before the May, 2002 event, did that have any kind of  
24 geotextile barrier behind it?

25 A Yes.

1 Q What was it?

2 A What do you mean?

3 Q What was it made out of?

4 A Plastic?

5 Q Okay.

6 A I don't know.

7 Q Okay, that's fine. After the event in May, 2002, did

8 you place riprap along what was now your new shoreline

9 to protect it from further damage?

10 A After 2002?

11 Q Yes. During 2002 after the wave event, did you put

12 any riprap along that shoreline after the erosion had

13 occurred?

14 A No.

15 Q Okay. Have you yourself, aside from the observations

16 you made while you were diving on Round Lake, done

17 anything to assess or measure the water quality of

18 Round Lake?

19 A Could you give me an example?

20 Q Have you taken any water samples, for example, and

21 sent them off to be examined?

22 A I haven't, no.

23 Q Have you ever talked about the Round Lake water level

24 issue with Dan Tyrolt?

25 A At committee meetings.

1 Q You've heard him speak about it at committee meetings?

2 A Yes.

3 Q Have you ever talked to him privately about any of the  
4 concerns you have with Round Lake water levels?

5 A I don't believe so.

6 Q Have you ever talked with Mr. Hirschfield about his  
7 views on what the county has been doing with respect  
8 to Round Lake water levels?

9 A Yes.

10 Q What has Mr. Hirschfield told you about his views on  
11 what the county has done?

12 MR. FURLOW: With the water level?

13 Q With respect to the water levels on Round Lake.

14 A They've done nothing.

15 Q What has Mr. Hirschfield told you are his views with  
16 respect to what the county has done or not done?

17 A Just that -- I don't know how to answer that, just  
18 that the water level is destroying his property, he's  
19 losing a lot of property to erosion, stuff like that.

20 Q What's your understanding of how much property  
21 Mr. Hirschfield claims he's lost due to erosion?

22 A I don't know. I took, I looked at his property, I've  
23 taken photos of his property, I even had Dave Kafura  
24 over there in my boat at John's property inspecting  
25 the damage.

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1 Q Has Mr. Hirschfield ever given you any reason to  
2 believe that the county officials such as Ms. Suhsen  
3 are attempting to keep the truth from the taxpayers

4 and property owners of Sawyer County?

5 A Has he ever given me reason to believe?

6 Q Yes. Has ever told you anything that reflects a  
7 belief on his part that Ms. Suhsen or the other county  
8 officials are trying to keep the truth from the  
9 property owners and taxpayers of Sawyer County?

10 THE WITNESS: Would you read that  
11 question back?

12 (Reporter reads back last question)

13 A The way I understand the question, you're asking me to  
14 interpret John's beliefs and I can't do that.

15 Q Okay. Well, what I'm trying to get at, maybe the  
16 question was inartfully phrased, but has  
17 Mr. Hirschfield ever told you that he thinks county  
18 officials are trying to keep the truth from property  
19 owners and taxpayers in Sawyer County?

20 A Yes.

21 Q What has he told you in that regard?

22 A I can't think of anything right now that's specific,  
23 that I could repeat.

24 Q I want to ask you about the offer that you made to  
25 donate \$25,000 to the county.

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1 A Okay.

2 Q That offer was conveyed to the Land and Water  
3 Conservation Committee during a public meeting?

4 A Yes.

5 Q That's your testimony?

6 A Yes.

7 Q Is that event or that moment in time recorded on your  
8 videotapes?

9 A I believe so.

10 Q And what reaction did you get from the committee?

11 A You could view the tape and you could see the  
12 reaction.

13 Q Well, I want to hear what your perception of the  
14 reaction was.

15 A I thought the problem was going to be fixed.

16 Q By virtue of a donation?

17 A And we wouldn't be sitting here.

18 Q And what did the members of the committee say?

19 A Well, Dale Olson, you know his position in the  
20 government, he was all excited about it. He thought  
21 that he could put culverts in at Highway NN for a very  
22 small amount of money. And he was like all excited  
23 that this problem maybe could get fixed once and for  
24 all. And he was doing some calculations, and  
25 committee members were asking him how much this would

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1 cost and this would cost and that kind of stuff. And  
2 I believe Shirley Suhsen made some comment, of course  
3 it was done in writing, she was given a letter.

4 Q You mean you made your offer in writing?

5 A Yes, and read it and then gave her the letter. I

6 thought that there was comment made about the letter



7       itself, you know, about the government's  
8       responsibility and infrastructure and protect property  
9       rights, et cetera, et cetera. And I thought Shirley  
10      Suhsen made a comment, but I might be wrong on that.  
11      I'd have to look at the video.

12 Q Well, what's your memory now of what you think she  
13      said?

14 A That it was a very well thought out, prepared letter  
15      that, that's what -- in my mind that's what I kind of  
16      remember, but --

17 Q So she complimented you on the letter?

18 A I think so, but I'm not sure without looking at the  
19      video.

20 Q Did anyone at that meeting -- let me back up. You  
21      mentioned Dale Olson being excited, making notes and  
22      so on, that occurred during that meeting?

23 A Yes.

24 Q And did anyone on the committee during that meeting  
25      tell you that they thought the donation was a bad

119

1      idea?

2 A I thought somebody on that committee said that they  
3      never had anybody in the private sector offer to do  
4      something like that.

5 Q But my question is, did anybody tell you that it was a  
6      bad idea for you to make the donation?

7 A No.

8 Q Did anyone on that committee at that meeting refuse to

9 accept the donation?

10 A No.

11 Q Was there a time when someone on the committee  
12 communicated to you that the county would refuse to  
13 accept the donation?

14 A No.

15 Q You've asserted, I believe, that the donation was in  
16 fact refused. In fact, I think you told the newspaper  
17 that. Who communicated to you that the county refused  
18 to accept your donation?

19 A I think Lauren did, Lauren Azar.

20 Q And I don't want to get into what your lawyer told  
21 you, but did you have an understanding -- well, I can  
22 ask you this. Do you know who told Lauren that the  
23 county refused to accept the donation?

24 A Lauren appeared, this is without my books, I can't  
25 tell you exactly, but I believe it was in February or

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1 March of '03 that Lauren came up to Hayward, I might  
2 be three months off one way or the other, no, I'm not  
3 off that far I don't think, but January, February,  
4 March of '03 appeared in front of the water committee  
5 and reiterated that offer and put a time deadline on  
6 it of X.

7 Q And your understanding was that at that point the  
8 committee refused the offer?

9 A They took no action.

10 Q Oh, so it expired?

11 A Right.

12 Q I see.

13 (Exhibit 129 is marked for identification)

14 Q Mr. Hausman, what's Exhibit 129?

15 (Witness examines document)

16 A I don't know.

17 Q Did you prepare the document that's marked as

18 Exhibit 129?

19 A I don't believe so.

20 Q It's marked with an H meaning it was produced from you

21 by your lawyers, you understand that?

22 A Correct.

23 Q Do you know who prepared Exhibit 129?

24 A I think that these were notes for a county board

25 meeting, I think, I'm guessing for a full county board

121

1 meeting.

2 Q Your notes or?

3 A I believe so.

4 Q So now you think having looked at it that these are

5 notes that you prepared to prepare yourself to make

6 comments at a public county board meeting?

7 A Correct.

8 Q All right. Do you know when you prepared these notes

9 that are Exhibit 129?

10 A No.

11 Q Do you know whether you in fact delivered to the

12 county board orally the comments that you've typed up  
13 in these notes that are Exhibit 129?

14 A These were not given to or stated to the full county  
15 board.

16 Q Okay. Why did you not make these statements or  
17 provide a copy of this to the full county board?

18 A I was not given the -- I was given the opportunity to  
19 appear in front of the full county board at the  
20 chairman's suggestion, and here again I'm guessing,  
21 that it was in April of '03, I believe.

22 Q Okay.

23 A No, it can't be April of '03.

24 MR. FURLOW: Don't think out loud,  
25 Jim. I want you to think about the question and

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1 then give him an answer.

2 A But whenever this county board meeting was, it was in  
3 an evening, I was asked to appear and address the full  
4 county board, and I was not allowed to address the  
5 full county board by Shirley Suhsen.

6 Q Ms. Suhsen wasn't the chair of the county board,  
7 though, was she?

8 A No, she was not.

9 Q And so what happened to prevent you from addressing  
10 the full county board?

11 A I started to speak to the full county board, and  
12 Ms. Suhsen interrupted me and would not allow me to

13 speak or say literally anything. And finally the  
14 chairman said, you know, please be quiet to  
15 Ms. Suhsen, that I invited Mr. Hausman here. And then  
16 he gives me one minute to finish everything, and this  
17 was, I don't believe was ever stated.

18 Q After that meeting and having prepared the notes that  
19 are marked as Exhibit 129, did you do anything to  
20 convey to the full county board the substance of the  
21 notes that you had prepared for that meeting?

22 A Oh, yeah, at committee meetings, yes.

23 Q But I'm asking, did you do anything to convey to the  
24 full county board the substance of the notes that are  
25 Exhibit 129?

123

1 A Yes.

2 Q When did you do that?

3 A In conversations with the chairman of the county and  
4 other county board members individually.

5 Q Okay. So in the end you had an opportunity to convey  
6 to the county board members the thoughts that you  
7 wanted to convey at the public meeting?

8 A Not all of them, no.

9 Q Is there any reason why you didn't send a written up  
10 version of your notes to the members of the county  
11 board?

12 A In essence that's what we did end up doing but did it  
13 through presentation material.

14 Q Okay.

15 (Exhibit 130 is marked for identification)

16 Q Mr. Hausman, what's Exhibit 130?

17 A It appears to be notes again for a meeting, and I  
18 believe that it was probably for the June Round Lake  
19 Property Owners Association meeting is my best guess.

20 Q So these are notes that you prepared to help you  
21 prepare for the Round Lake Property Owners Association  
22 meeting?

23 A To the best of my belief, yes.

24 Q And were you able to deliver the substance of these  
25 notes in presentation or conversation with the

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1 association members?

2 A I don't think I did, I think Barr Engineering did.

3 Q Did you convey the substance of these notes in any  
4 form to the Sawyer County board or to the Land and  
5 Water Conservation Committee?

6 A Oh, yes.

7 Q How did you do that?

8 A Well, through meetings and --

9 Q Okay.

10 (Exhibit 131 is marked for identification)

11 Q Mr. Hausman, what's Exhibit 131?

12 A It appears to be some notes from a conversation that I  
13 had with Hal Helwig.

14 Q Okay. I assume that the larger writing near the top  
15 is just the address of someone you knew in Illinois?

16 A Yes.

17 Q It has nothing to do with this lawsuit?

18 A Correct.

19 Q Okay. Tell me, did you speak with Mr. Helwig on

20 June 17th, 2003?

21 A I believe so, yes.

22 Q Was anybody else on the phone besides the two of you?

23 A No.

24 Q Explain to me what the notes mean, walk me through

25 what tried to, I don't know if it says shut me down or

125

1 shot me down, what does that say?

2 A Shut.

3 Q What does that mean?

4 A The 28th was a, was the public hearing at the high

5 school.

6 Q Right.

7 A The Thursday before that I believe was the Land and

8 Water Committee.

9 Q Okay.

10 A So that would mean to me any reference that it would

11 have been the Thursday before the 28th or the last

12 Land and Water Committee meeting before the 28th.

13 Q And I'm trying to understand what it means when you

14 wrote try to shut me down?

15 A Hal called to warn me.

16 Q What did he tell you?

17 A Of what the committee is going to try to do, that

18 they're going to shut me and Barr Engineering down  
19 from speaking at the 28th public meeting, No. 1; and  
20 that there was a meeting in Sawyer County with county  
21 board officials, that's the last comment, that they  
22 don't want me in Sawyer County, and that I have  
23 exposed so far in my research and how far this has  
24 gone and Barr Engineering, apparently that, you know,  
25 that I'm accomplishing something for the future to

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1 save the lake.

2 Q Okay. So let me back up and parse out what happened  
3 here. Mr. Helwig was in what position at the time you  
4 had this conversation with him?

5 A County board chairman.

6 Q And did you phone him or did he phone you?

7 A He called me.

8 Q And from your perception he was trying to warn you?

9 A Yes.

10 Q And he's trying to warn you that you're going to be  
11 shut down from speaking at the meeting on Thursday  
12 immediately preceding the public meeting on the 28th?

13 A And at the meeting on the 28th.

14 Q And at that meeting?

15 A Correct.

16 Q Had you had any conversations with Mr. Helwig before  
17 that time about what was going on, any private  
18 conversations with him?



19 A I'm sure I did, yes.

20 Q Okay. Did you view Mr. Helwig as an ally?

21 A I didn't view him in any manner, just as county board  
22 chairman and --

23 Q Tell me as best as you can remember what exactly  
24 Mr. Helwig told you was going to be done to you on  
25 Thursday and on the 28th?

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1 A That they're going to limit me from, or Barr  
2 Engineering from speaking or presenting what I call  
3 the truth to the public.

4 Q And did he say to you who they were?

5 A No. The only thing I remember in this is when he  
6 called me that he'd just left a meeting at the  
7 courthouse with other county board members.

8 Q Do you know who was at that meeting?

9 A No, I do not.

10 Q Did he make reference to any particular individuals as  
11 being among those who were trying to shut you down?

12 A Not that I can recall.

13 Q Did you ask him, for example, whether Shirley Suhsen  
14 was part of the group that was trying to shut you  
15 down?

16 A He told me who was there, and I can't remember, I  
17 mean, I can't testify that I can remember right now.

18 Q Okay. What else, if anything, do you remember that  
19 Mr. Helwig said to you during that conversation?

20 A Watch my back.

21 Q What did you take that to mean?

22 A That there's some serious people and serious money  
23 involved in real estate development on Round Lake and  
24 the adjoining lakes, and millions of dollars are at  
25 stake, and that there's some people out there that

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1 don't like what I'm doing.

2 Q So, and I asked you how did you take that, and you  
3 gave me that answer and I appreciate the answer, but  
4 now I want to understand, did Mr. Helwig say anything  
5 more than watch your back? In other words, did he say  
6 anything about the things you just said about millions  
7 of dollars involved, people who don't --

8 A I think we discussed that prior. I mean, I had  
9 meetings with Mr. Helwig and some other county board  
10 members out at the property, and we discussed a lot of  
11 stuff.

12 Q Okay. So on prior occasions you had had Mr. Helwig  
13 visit your property?

14 A I believe outside of Mr. Hirschfield, that Hal Helwig  
15 and one other county board member, and I can't  
16 pronounce it correctly, I'll just screw it up --

17 Q Well, give us your best shot and maybe we can figure  
18 it out.

19 A Trateen. (ph)

20 Q I don't know, but we'll ask Matt afterwards, he  
21 might. Do you know how to spell it?

22 A Not a clue.

23 MR. WRIGHT: Do you know who he's  
24 talking about, do you know the name?

25 MR. DREGNE: No.

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1 MR. FURLOW: What's it start with,  
2 a T?

3 Q In any event, the two county board members came out to  
4 your property, Mr. Helwig and Mr. Trateen, for lack of  
5 a better name right now.

6 A Right.

7 Q And they came out to your property. When was the  
8 first time you met with them out at your property?

9 A It was in '03, and I believe it could have been right  
10 before the construction, the repairs started, and they  
11 couldn't -- well, you ask them.

12 Q Okay. So they came out in the Spring of 2003, and  
13 what did they tell you, and please tell me which of  
14 them said things, that led you to believe that there  
15 were people who didn't want you in Sawyer County or  
16 that there were millions of dollars involved and so  
17 on, tell me what they said in that regard.

18 A I can't think of anything specific or I can't remember  
19 anything specific.

20 Q What was the gist of what they told you at that first  
21 meeting, to the best of your memory?

22 A I can't even tell you if that was the first meeting.

23 Q Okay.

24 A To the best of my memory I think when Hal and this,  
25 his first name is Don, this other county board member,

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1 Don Trateen, I think, when they came by we reviewed  
2 some documents, stuff like that, we talked about the  
3 whole lake system, why this has been going on as long  
4 as it has, why it hasn't been fixed, who's not doing  
5 their job, just the whole gambit like that, I believe.

6 Q Who did they mention as people that they viewed, if  
7 they said, as people who weren't doing their job?

8 A I don't know.

9 Q So you had one or more, and I'm not sure how many  
10 meetings, in 2003 with them at your house. How many  
11 meetings was it?

12 A I think Hal Helwig, I don't believe more than two.

13 Q And then Mr. Helwig after those two meetings called  
14 you at home in Illinois?

15 A No, in Hayward.

16 Q Oh, you were in Hayward when you got that call?

17 A Yes.

18 Q And he told you they were going to try and shut you  
19 down, right?

20 A Yes.

21 Q And he told you that he felt you had exposed a lot at  
22 that point or accomplished a lot?

23 A Yes.

24 Q What else, if anything, did he tell you besides that?

25 A Nothing more of any real substance or I would have

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1 written it down.

2 Q Other than the part you did write down about don't  
3 want me in Sawyer County?

4 A Right.

5 Q Anything else that you can remember now that  
6 Mr. Helwig told you during that phone conversation?

7 A No.

8 Q Did you have any follow-up meetings or phone  
9 conversations with Mr. Helwig about the issues that  
10 we're talking about here in this lawsuit, nonpublic  
11 meetings I guess I would say or phone conferences?

12 A I don't believe so. There might have been some. I  
13 mean, I've had other conversations with Hal even in  
14 Florida when he was down there.

15 Q In person meetings with him in Florida?

16 A No, no, phone conversations.

17 Q What else, if anything, did Mr. Helwig tell you about  
18 how the county was handling the situation that you  
19 were concerned about in private conversations, either  
20 in person or on the phone?

21 A He made comments about Shirley Suhsen, Kris Mayberry.

22 Q What did he tell you about Shirley Suhsen?

23 A I don't recall anything in specific.

24 Q Tell me the general nature of the comments he made.

25 A I can't think of anything in specific or even in --

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1 Q Were they flattering or unflattering from Ms. Suhsen's  
2 perspective?

3 A From her perspective probably not very flattering.

4 Q Okay. Do you remember anything more than they weren't  
5 flattering?

6 A That was about it.

7 Q What, if anything, did Mr. Helwig tell you at any time  
8 about Clerk Mayberry?

9 A Probably in the same jest as Shirley Suhsen. The only  
10 comment, and I cannot -- I guess I've just got to  
11 leave it at that.

12 Q Well, if he made a comment, I'd like to know about  
13 it. What did he say?

14 A I don't know if he made it.

15 Q All right.

16 A I can't sit here and testify that Hal told me this,  
17 but I know other people have, but --

18 Q What else have you heard about Clerk Mayberry that may  
19 or may not have been attributable to Mr. Helwig?

20 A Oh, that he thinks he's got the keys to the county,  
21 that he's got -- this had to come from a county board  
22 member, but I don't know if it came from Hal -- that  
23 he's got us in so many messes up in Sawyer County,  
24 stuff like that.

25 Q Anything else that you can remember that any county

1 board member said about Mr. Mayberry?

2 A That he thinks that he runs the county, that it's his  
3 county, stuff like that.

4 Q Anything else that Mr. Helwig told you at any time  
5 about any of the county personnel or other board  
6 members?

7 A No, I don't believe so.

8 Q Okay. Mr. Hausman, you mentioned that when you met  
9 with Mr. Helwig and Don, I think you said his first  
10 name was, at your property that you and the two of  
11 them discussed why the problem, which I assume meant  
12 the high water levels, had not been fixed, do you  
13 remember that testimony?

14 A Yes.

15 Q Tell me what else was said by them or by you at those  
16 meetings about why the problem hasn't been fixed?

17 A I don't know if they did say or tried to give any  
18 explanation of why they haven't been fixed. It's more  
19 or less that when they left or before they left, I  
20 think they were both scratching their head of why it  
21 hasn't been fixed.

22 Q Okay.

23 (Exhibit 132 is marked for identification)

24 Q Mr. Hausman, what's Exhibit 132?

25 (Witness examines document)

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1 A Notes from a phone call apparently.

2 Q Are these notes from a phone call with Mr. Helwig?

3 A It appears that way.

4 Q And on the top half of the first page you've got

5 Heather Harrington's name and a phone number beneath

6 it?

7 A Yes.

8 Q And then you've written, I'm assuming it's you, you

9 wrote a line across that above the date?

10 A Yes.

11 Q And does the date reflect, as far as you remember, the

12 date on which you spoke to Mr. Helwig?

13 A Usually that's how I make notes.

14 Q Okay. And below that it says, "Prior to board meeting

15 surprising new agenda," do you see that?

16 A Yes.

17 Q Tell me what that meant.

18 A Well, it clarified one of my earlier answers. This

19 apparently was at a meeting, a full county board

20 meeting, because usually they run late in the month,

21 around the 22nd, 24th is usually the full county board

22 meeting, and apparently this was kind of a report of

23 what happened at the county board. And I would assume

24 yeah, the date is right, that Kris Mayberry, that's

25 the next line down says, "Chris describe/point man,"

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1 that Hal described Kris Mayberry's role in putting

2 himself being the point man between you guys and

3 Sawyer County, and apparently Hal's received calls



4 from other board members.

5 Q What does the last notation on the first page mean,  
6 IWASC?

7 A I was -- and I was going to ask you whether this was a  
8 good copy or not.

9 Q I think it is, I don't know what IWASC means, but I'm  
10 assuming this is an accurate copy.

11 A It's sort of two words, and starting on the third one,  
12 but if he was going on real quick, I started writing  
13 the next note. I was -- I don't know.

14 Q All right. We can verify later whether it's an  
15 accurate copy or not, I think it was. On the top of  
16 the second page it says, "Received calls from other  
17 board members," is that calls you received or that  
18 Mr. Helwig did?

19 A That Hal did.

20 Q Okay. What does the next paragraph for lack of a  
21 better word say, "Called Kris yesterday, told Hal is  
22 to be," what does it say?

23 A "Involved 100 percent."

24 Q Who made that call?

25 A Well, apparently from what, how I interpreted what Hal

1 was telling me, Kris Mayberry went off on his own  
2 running this show and kept Hal not informed of what  
3 was, stuff that you guys were doing, stuff that Kris  
4 Mayberry was directing being done as a county clerk  
5 and that Hal was very upset that, well, that Kris

6 Mayberry thought he was running Sawyer County.

7 Q And so this was Hal telling you that Hal told Kris  
8 that he, Hal, had to be involved 100 percent?

9 A Correct.

10 Q Okay. And then Hal told you that there was going to  
11 be a closed meeting in December at Kris' suggestion?

12 A Correct.

13 Q Then the next entry appears to say, "Monday personnel  
14 meeting," is that right?

15 A Yes, that there was a personnel meeting on Monday. I  
16 don't know why, I can't recall why I even wrote that  
17 down. There had to have been something else to it,  
18 but I don't remember.

19 Q Okay. What is the next part mean, "Kris 'no  
20 settlement' look guilty."

21 A Well, I think, I mean that statement speaks for  
22 itself.

23 Q Well, it doesn't to me. Does that mean that  
24 Mr. Helwig told you that?

25 A Yes, that Kris Mayberry told Hal that, oh, we can't

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1 settle this because we'll look guilty, and the  
2 possibility of having a whole bunch more lawsuits.

3 Q What's the next entry below that? I can't read it. I  
4 see, "board will remove," but what's the word before  
5 that, can you read it?

6 (Witness examines document)

7 A No.

8 Q Do you know what board will remove means?

9 A Yes.

10 Q What does that mean?

11 A They were going to remove Kris Mayberry from any  
12 county board meetings.

13 Q That's what Mr. Helwig told you in this phone call?

14 A Yes.

15 Q Were you in Hayward at that time or were you in  
16 Illinois, do you know? I mean, if it helps, Maggie  
17 had been born a couple of months before, all right?

18 A Right. My best guess is that we were in Springfield,  
19 total guess. If I had my books I could tell you.

20 Q Saturday, November 22nd, '03 I can tell you is the  
21 first day of deer season and the Saturday before  
22 Thanksgiving.

23 A That's why I think that I would have been home.

24 Q Okay. Did you have any other follow-up conversations  
25 with Mr. Helwig in '03 that you remember?

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1 A Not that I can remember.

2 Q As to this call, meaning the call that is reflected in  
3 the notes that are Exhibit 132, who called whom?

4 A My best guess would have been I would have made that  
5 call, a total guess.

6 Q What prompted you, if you remember, to call  
7 Mr. Helwig?

8 A Because of this scratched out phone number.

9 Q You were writing down a phone number for him?

10 A Possibly.

11 Q Do you remember why you would have called him in

12 November of '03?

13 A Maybe to get an update after the county board meeting

14 that probably took place the Thursday before the

15 22nd.

16 Q Was anyone else on the call besides you and

17 Mr. Helwig?

18 A I doubt it.

19 Q Did you ever record any phone calls between yourself

20 and Mr. Helwig or any other board member?

21 A I don't believe so.

22 Q Did you ever record any telephone calls between

23 yourself and anyone in county government?

24 A Sawyer County?

25 Q Yes.

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1 A No.

2 Q Let's go to the last page of Exhibit 132. Is this the

3 note you were referring to when you said that it

4 clarified an earlier answer?

5 A Yes.

6 Q What did you mean when you said that?

7 A Well, that statement then is attributable to Hal.

8 Q Okay. So your testimony is that Hal said to you

9 during this phone call in November, '03 that Mayberry

10 thinks he has the keys to the county?

11 A Yes.

12 Q Okay. Mr. Hausman, I want to come back to the lake  
13 levels again and ask you a couple of questions about  
14 what the county has or has not done in your view,  
15 okay?

16 A Fine.

17 Q Barr Engineering has presented a report that describes  
18 what in its view are the shortcomings of the control  
19 structures that are associated with the Round Lake  
20 watershed, true? I mean, among other things, that's  
21 what it said?

22 A Yes, among other things.

23 Q And that also describes various inflows and outflows  
24 and aspects of the watershed, right?

25 A Yes.

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1 Q What I want to ask you about, though, is what you  
2 believe, if anything, the county has done actively, if  
3 you will, to cause high water levels on Round Lake.  
4 Let me explain and then you can answer, let me explain  
5 my question. The control structures are what they  
6 are, and they have been there in most cases for  
7 decades, right?

8 MR. FURLOW: Objection, vague.

9 Q Well, let me clarify and then ask you a question. For  
10 example, the control structure at the Lake Placid dam  
11 has been there for quite awhile, right, as far as you

12 know?

13 A Yes.

14 Q What I'm wondering is, if you have any reason to  
15 believe that Sawyer County, for example, with respect  
16 to the Lake Placid dam has done anything, for example,  
17 with the stoplogs to actively contribute to the inflow  
18 of water into Round Lake.

19 A Well, the easy answer to that question is yes, that  
20 they just don't even maintain it, never inspect it.  
21 You've seen pictures, the water running over the top,  
22 running through it, they don't care.

23 Q Okay. And I understand that's your position. My  
24 question goes a little farther than that. And that  
25 is, do you have any reason to believe that county

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1 employees or anyone else associated with county  
2 government has pulled stoplogs from the Lake Placid  
3 dam in order to raise the water level on Round Lake?

4 A No.

5 Q Do you have any reason to believe that anyone in  
6 county government or a county employee has raised the  
7 sill elevation of any of the outlet structures in  
8 order to maintain water levels on Round Lake at some  
9 higher level?

10 A That I don't know.

11 Q Are there any other instances where you believe that  
12 anyone employed by Sawyer County has taken active

13 steps to increase the water level on Round Lake?

14 A Yes.

15 Q Tell me about that.

16 A Well, the easiest one would be the culverts at

17 Highway NN, that they ripped out a bridge and they put

18 in 72 inches of culverts.

19 Q Other than that, are there other instances where you

20 believe county employees have done things to raise the

21 water level on Round Lake, actively done things as

22 opposed to a failure to maintain?

23 MR. FURLOW: Objection as to form.

24 Go ahead.

25 A I guess like not obtaining the proper permits that

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1 they should have that they were required under the law

2 to obtain, and approvals and stuff like that, is that

3 what you mean?

4 Q That is one of the things that I guess you could say,

5 but let me ask a different question. Do you have any

6 evidence that anyone from Sawyer County put debris or

7 other obstructions in any of the waterways associated

8 with Round Lake in order to maintain the Round Lake

9 level at a higher level than you believe the state has

10 ordered?

11 A That the county employees did it?

12 Q Yes.

13 A No, I don't have any evidence that a county employee

14 did it.

15 Q Or a board member for that matter?

16 A Or a board member.

17 Q Okay. What evidence do you have that there was in  
18 fact a bridge at County Highway NN before any culverts  
19 were first installed there?

20 A I don't know if that's in my records or not, I believe  
21 Barr Engineering found that.

22 Q Okay. You don't have any firsthand knowledge of  
23 whether there was ever a bridge at NN?

24 A Not unless that's in my records, and I can't tell you  
25 that.

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1 Q But I mean, if it's in your records, that doesn't mean  
2 it's your firsthand knowledge. I'm asking you whether  
3 you, for example, ever saw a bridge at Highway NN  
4 where there are now culverts?

5 A As a little kid I'm sure that I went over that bridge  
6 growing up, because that's how we used to come up.

7 Q You don't remember that now?

8 A But I don't remember that now, no.

9 MR. WRIGHT: Okay. Let's just take  
10 a break for a few minutes, I think I'm almost  
11 done.

12 MR. FURLOW: Sure.

13 (A short recess is taken)

14 MR. WRIGHT: I don't have any more  
15 questions for you, Mr. Hausman.



16 MR. FURLOW: Are you done?

17 MR. WRIGHT: Yes.

18 MR. FURLOW: I just have a couple  
19 here, Joe, just give me a second.

20 MR. WRIGHT: Sure.

21 EXAMINATION

22 BY MR. FURLOW:

23 Q Mr. Hausman, you had provided some testimony about  
24 observations on your buildings on your property, do  
25 you recall that?

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1 A Yes.

2 Q And without regard to whether you were going to claim  
3 some damages, have you considered whether that the  
4 cracks and sinking you've described are related to the  
5 high water?

6 MR. WRIGHT: Objection, foundation.

7 Q Let me give you a better question, sorry. Have you  
8 considered, Mr. Hausman, whether the observations  
9 you've made on your structures are related to the high  
10 water on Round Lake?

11 MR. WRIGHT: Same objection.

12 A Have I?

13 Q Yes.

14 A Yes.

15 Q And without regard again to whether you're going to  
16 claim some damages for that, do you believe those are  
17 related?

18 MR. WRIGHT: Same objection.

19 A Yes.

20 Q And why do you believe that there's a relationship  
21 between your observations on your buildings and the  
22 high water?

23 MR. WRIGHT: Objection, foundation.

24 A I don't understand the question.

25 Q Let me make it easier. Do you believe there's some

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1 relationship between the cracks and the sinking of the  
2 deck and the high water?

3 A Yes.

4 MR. WRIGHT: Objection, foundation.

5 Q Just explain to me why you believe that.

6 MR. WRIGHT: Same objection.

7 Q I mean, if you can, in layman's terms.

8 A Well, from the research I've done that as the water  
9 came up and dissolves the shore, the fine particles  
10 and it goes out, you're going to have settling, and  
11 it's trying to level itself out again, the  
12 shoreline. And the soil saturation, especially for  
13 the duration of the soil saturation, I mean, all  
14 Summer the water level was up, and then as the water  
15 level went down, the fine sand particles went out and  
16 caused settling.

17 Q You're not an expert in this, are you?

18 A No.

19 Q From a common sense perspective, though, do you think  
20 settling might be related to what you've observed on  
21 your property?

22 A Oh, yes.

23 MR. WRIGHT: Objection, form and  
24 foundation.

25 Q And from a common sense perspective again, how would

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1 settling be related to what your observations were?

2 MR. WRIGHT: Objection, foundation.

3 A The front of the buildings are going down towards the  
4 lake, the same as that shoreline there got dissolved,  
5 washed away.

6 Q Now, I want to talk just a moment about Hanson  
7 Engineering. Where is that firm located?

8 A Their corporate headquarters is in Springfield,  
9 Illinois.

10 Q And what kind of a firm is that?

11 A A very large engineering firm.

12 Q And had you asked them to do some work with respect to  
13 the water issues on Round Lake?

14 A Yes.

15 Q Did they go out and do an in-depth analysis?

16 MR. WRIGHT: Objection, foundation.

17 Q Well, let me ask you a different question. Did Hanson  
18 Engineering provide you with some written product from  
19 their work?

20 A Yes.

21 Q And that's something you've turned over in this  
22 lawsuit?

23 A Yes.

24 Q And you've had a chance to review that yourself?

25 A Yes.

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1 Q And do you believe that their work is competent and  
2 accurate?

3 A Oh, yes.

4 MR. WRIGHT: Objection, foundation.

5 Q Do you have any reason to doubt the conclusions of  
6 Hanson Engineering?

7 A No.

8 MR. WRIGHT: Same objection.

9 Q Did you provide that to, did you provide -- strike  
10 that. Did you provide the Hanson Engineering product  
11 to Barr Engineering?

12 A I don't think I did, but it would have been you guys  
13 would have, I would have assumed.

14 Q You provided the Hanson work to your lawyers?

15 A Yes.

16 Q And have you ever had a discussion with anyone at Barr  
17 Engineering about Hanson Engineering's work?

18 A Have I ever talked to Barr Engineering --

19 Q Correct.

20 A -- about Hanson's report? Probably.

21 Q Do you know whether Barr Engineering is aware of the

22 Hanson Engineering work?

23 MR. WRIGHT: Objection, foundation.

24 Q If you know.

25 A I don't. I would assume that they do, but --

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1 Q Okay. Why would you make that assumption?

2 A Because I would think that you guys sent them the

3 documents. I can't recall that I ever did.

4 Q Do you have any reason to believe -- strike that. Do

5 you have any reason to hold back from Barr Engineering

6 the Hanson Engineering stuff?

7 A No, no. I think both of the reports were similar.

8 Q Now, you talked a little bit about how well your

9 retaining wall is working on your property, do you

10 recall that?

11 A Okay, yes.

12 Q You recall that testimony this morning?

13 A Yes.

14 Q And what I'd like to ask you is, have you observed any

15 other erosion or damage to your property as a result

16 of what you believe is high water?

17 MR. WRIGHT: Objection, asked and

18 answered.

19 A On my property, no.

20 Q On other property?

21 A Yes.

22 Q Where?

23 A On my road easement. I'm calling it my road easement,

24 but it's technically not my property, my road easement  
25 coming in, that there is some erosion, I guess,

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1 settling, erosion type problem developing right on the  
2 side of the road.

3 Q And where is that in relation to your property?

4 A About 25 to 50 feet south of my property line.

5 Q And when did you observe that?

6 A This last year.

7 Q And can you describe for us what you observed?

8 A You're driving in and one of the wheels, it would be  
9 the right side if you were going in, the right side  
10 goes down, and now you look at that whole area,  
11 there's wetlands behind, of course high water from  
12 Round Lake keeps it at the same elevation, but anyway,  
13 that there's a big depression forming there.

14 Q And when did you first observe that?

15 A I think in '03.

16 Q Now, have you had a chance to examine the public  
17 records with respect to the various orders that we've  
18 been discussing in this case?

19 A Yes.

20 Q And in that review, have you noted anything about --  
21 strike that. In that review have you noted any  
22 comments about the interests of developers in the  
23 water levels?

24 A Yes.

25 Q And what have you seen?

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1 A I found one state document, where it came from,  
2 whether it was out of Madison or Milwaukee, I don't  
3 recall, but one state document, a report that one of  
4 the engineers was sent up there to try to figure out  
5 what's going on. And in his report he wrote that the  
6 well, I forget the exact language, well-to-do  
7 developers, something to keep the water level high,  
8 I'd have to find the document.

9 Q Do you recall any specifics about the document, time  
10 frame, that sort of thing?

11 A No, I can't recall now, but I know it's in there.

12 Q They're documents that you've turned over to your  
13 lawyers?

14 A Yes.

15 Q Okay. Let me go back a moment to the 2002, I guess  
16 we're calling this the wave and wind event?

17 A Yes.

18 Q Where were you when that occurred physically?

19 A When the storm, is that what you're referring to?

20 Q Yes, sir.

21 A I was in Springfield I'm pretty sure.

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

23 EXAMINATION

24 BY MR. WRIGHT:

25 Q Mr. Hausman, just a couple of follow-up questions.

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1 That order that you just mentioned or the state  
2 document that referenced developers, was that from  
3 pre-1990?

4 A My best guess is, yes.

5 Q With respect to the depression that you just  
6 described, is that depression on property that you  
7 own?

8 A No.

9 Q And you described your driveway easement, how wide is  
10 your easement?

11 A Three rods.

12 Q And is that depression within the three rod easement  
13 that you have?

14 A Yes.

15 Q And have you had to expend any money to repair any  
16 part of that easement?

17 A Not yet.

18 Q Okay. Has any engineer or other professional told you  
19 that the depression that you observed is related to  
20 water levels on Round Lake?

21 A No.

22 Q And the wetland area that you described that's  
23 adjacent to this -- well, strike that. The wetland  
24 area that you described, is that adjacent to the  
25 depression?



1 A No, it's close, 50 feet maybe, I've never measured  
2 it.

3 Q Does this depression abut any water at all?

4 A No, I don't believe so.

5 Q What's the closest water to that depression?

6 A It's relative, I guess, to the water level.

7 Q Well, when you observed it how far was the water's  
8 edge from that depression?

9 A Probably 25 feet.

10 Q How big is the depression?

11 A Right now I would say four to six feet in diameter.

12 Q And it's relatively circular in shape? I ask that  
13 because you said diameter.

14 A Yeah, I think more oval.

15 Q And how deep is it?

16 A Probably a foot or so right now.

17 Q Is it kind of like an elongated wide rut?

18 A I don't think so.

19 Q I don't mean it was a rut caused by a vehicle. I'm  
20 just trying to visualize that it sort of looks like a  
21 long, oval-shaped rut?

22 A I think.

23 Q Okay. Has driving over it caused any damage to any  
24 vehicle you own?

25 A No, not yet.

1 Q What's the surface there, is it just gravel?

2 A I don't even know if it's gravel, I think it's dirt.

3 Q It's not asphalt or concrete?

4 A Oh, no, no, a soft surface.

5 MR. WRIGHT: Thanks, that's all.

6 MR. FURLOW: We'll reserve

7 signature.

8 (2:10 p.m.)

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1 STATE OF WISCONSIN )  
 )ss.  
2 COUNTY OF DANE )

3 I, GREGORY GASSEN, a Notary Public in and for the

4 State of Wisconsin, do hereby certify that the above  
5 deposition was taken before me at the offices of Stafford  
6 Rosenbaum LLP, Attorneys at Law, Three South Pinckney  
7 Street, in the City of Madison, County of Dane and in  
8 said State, on January 19, 2005, commencing at  
9 9:00 o'clock a.m.; that it was taken at the request of  
10 the defendant, upon verbal interrogatories; that it was  
11 taken in shorthand by me, a competent court reporter and  
12 disinterested person, approved by all parties in  
13 interest, and thereafter reduced to writing by me using  
14 computer-aided transcription; that said deposition is a  
15 true record of the deponent's testimony; that said  
16 deposition is to be used in the above-entitled action now  
17 pending in Circuit Court; that the appearances were as  
18 shown on Page 3 of the deposition; that reading and  
19 signing was not requested; that the said JAMES R.  
20 HAUSMAN, before examination, was sworn by me to testify  
21 the truth, the whole truth, and nothing but the truth  
22 relative to said cause.

23 Dated January 25, 2005.

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Notary Public, State of Wisconsin