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JAMES HAUSMAN v. SAWYER COUNTY
DEPOSITION OF FRANK ROMNIES
TAKEN MAY 26, 2005
P R O C E E D I N G S
FRANK ROMNIES,

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

* * * * *

EXAMINATION

MS. AZAR:

Q. Mr. Romnies, I'm Lauren Azar I'm the attorney for Mr. Hausman I'm going to be conducting the deposition today?

A. Okay.

Q. I'm going to set some ground rules right here which is going to help out the court reporter and hopefully you for the deposition if you could make all of your answers audible she needs to hear something to put it down in the transcript also if we cannot talk over one another that also assists her in getting things down. If at any point in time you do not understand a question I have asked stop me ask me to rephrase the question I want to make sure you understand the questions. If you ever want to change, correct, amend, revise any of your answers stop the deposition and say I need to change something I gave earlier. I want you to make sure you're comfortable with all the answer you

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2 A. Basically we supervise the staff that's underneath us plus

3 we prepared construction plans and supervised the construction of

4 highway projects.

5 Q. In the State of Wisconsin?

6 A. Right.

7 Q. And how long have you been on the County Board?

8 A. Since 2000.

9 Q. And do you -- were on the Land and Water Conservation

10 Committee, correct?

11 A. Right.

12 Q. Are you still on that committee?

13 A. No. No.

14 Q. When did you serve on that committee?

15 A. From 2002, April 2002 until this year, March.

16 Q. And why did you leave that committee?

17 A. I resigned from the forestry committee.

18 Q. Why did you resign from the forestry committee?

19 A. Conflict of interest.

20 Q. What would that conflict be?

21 A. I didn't like the direction the committee was going.

22 Q. Specifically, could you explain why -- why you didn't like

23 the direction the committee was going?

24 A. Well, I --

25 MR. DREGNE: I'd -- oh just first like to object to the question

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2 on the grounds that it's not really the scope of the questions or

3 the topics on which this witness has been designated to testify.

4 Subject to that objection you can answer.

5 THE WITNESS: Ahm, the committee is composed of five members and

6 the DNR provides advice to us and I felt that the DNR was telling

7 the committee what to do and so I didn't want to be part of it.

8 Q. Is there a specific DNR representative who was giving that

9 advice to the committee?

10 A. Pete Wisdom is his name SP.

11 Q. And so I understand, the forestry committee is the same as

12 the Land and Water Conservation committee so when you resign from

13 the forestry committee you automatically resigned from the Land

14 and Water Conservation commission?

15 A. Right. There's actually three committees. The Agriculture

16 Extension is also a part of that.

17 Q. And the advice that ^ sp Mr. Wisdom was providing the

18 forestry committee did that have any impact on the activities of

19 the Land and Water Conservation committee?

20 A. No.

21 Q. You have been brought here today to answer questions on

22 behalf of Sawyer County and specifically I'd like you to take a

23 look at what's been marked as Exhibit 155. That is the notice of

24 deposition that we sent to the County?

25 A. Hm-hm.

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2 Q. And you have been designated to answer questions on behalf
3 of the County in relation to paragraph 1 Q and 1 R?

4 A. Okay.

5 Q. Would you please read those, to yourself?

6 A. Okay. Oh.

7 (Discussion off the record.)

8 THE WITNESS: Okay. I think I've read them.

9 BY MS. AZAR:

10 Do you understand that your answers today in relation to
11 Paragraphs 1 Q and 1 R of Exhibit 155 will be made on behalf of
12 Sawyer County.

13 A. Yes.

14 Q. Do you understand that your answers will bind Sawyer County?

15 A. Will what?

16 Q. Bind Sawyer County.

17 A. What does that mean?

18 Q. Legally bind them so the answers that you provide will be
19 considered answers by Sawyer County as a defendant in the
20 lawsuit?

21 A. Okay.

22 Q. Do you understand that?

23 A. Yes.

24 Q. How did you prepare for this deposition?

25 A. I reviewed this material here.

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2 Q. Can I see that material?

3 A. Sure. And then there was some pull session minutes of the
4 County Board that I reviewed.

5 MR. DREGNE: Which are privileged. Those closed session minutes
6 involve discussions between the County Board and legal counsel in
7 closed session.

8 THE WITNESS: Right. Yes.

9 MR. DREGNE: Which we would assert our privileged communications.

10 MS. AZAR: All right. We are asking to review them. He waived
11 the privilege when he reviewed them to prepare for this
12 deposition.

13 MR. DREGNE: Well, we'll have to sort that out.

14 MS. AZAR: So we will sort that out after this as well, but
15 consider this a request for copies of all materials that he
16 reviewed in preparation for this deposition and could you -- what
17 closed meetings were they just so that he can write down?

18 THE WITNESS: What dates?

19 Ms. Azar: Yup.

20 THE WITNESS: I don't -- you know, I can't totally tell you.

21 MS. AZAR: What was the context then?

22 THE WITNESS: It was regarding the lawsuit that was brought
23 against the County.

24 MS. AZAR: Okay.

25 THE WITNESS: And the attorneys' recommendations.

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2 MR. DREGNE: If you'll note that -- I believe there's one closed
3 session meeting minutes in there that's previously been produced.
4 He was a non-committee member at that meeting so we understand
5 that was not a privileged discussion.

6 MS. AZAR: Do you mind if I reorganize these?

7 THE WITNESS: No, go ahead.

8 MS. AZAR: Thank you.

9 MS. AZAR: Just put them this chronologic order.

10 THE WITNESS: Okay

11 BY MS. AZAR:

12 Q. I'd like to start off our discussion understanding the lead
13 up to the Land and Water Conservation committee's decision of
14 September 4th, 2003 that the County do nothing. And what I'm
15 going to do is hand you -- you already have it there, the minutes
16 from October 4th, 2002 which has been marked as Exhibit 34?

17 MR. DREGNE: Why don't you set these over here so you have them
18 handy and then you can look at the exhibit.

19 BY MS. AZAR:

20 Q. During this meeting at which you were in attendance Mr. Dan
21 Carthel provided a report concerning his activities investigating
22 the Round Lake water levels. Now the Land and Water Conservation
23 committee is the committee that retained Mr. Carthel to conduct
24 the water-level study, correct?

25 A. Yes.

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- 2 Q. What was the scope of his study?
- 3 A. I think that -- I'm not so sure we retained him or we might
4 have retained NWBE, but, they were working together.
- 5 Q. Understand -- I understand that and when I say Mr. Carthel
6 we'll just assume that it was Mr. Carthel slash NWBE. What was
7 the scope of the study that Mr. Carthel was supposed to provide
8 for the Land and Water Conservation Committee?
- 9 A. Well, he was to give us some information about the watershed
10 area from little Round Lake down to the culverts at Double N.
- 11 Q. And what was specifically involved in the watershed study
12 itself?
- 13 A. Well, we wanted to know elevations. We wanted to know flow
14 characteristics, whatever might be obstructing flow. That was
15 the --
- 16 Q. If I used the term hydrologic and hydraulic study, do you
17 know what that is?
- 18 A. Yeah.
- 19 Q. Was that a yes?
- 20 A. Yes.
- 21 Q. Was it your understanding that Mr. Carthel was going to
22 provide a hydrologic and hydraulic study of the Round Lake
23 watershed?
- 24 A. To some extent, yes.
- 25 Q. And was that kind of study necessary for Mr. Carthel to

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2 provide the recommendations as far as further action goes that
3 the committee was looking for?

4 A. I believe it was, yes.

5 Q. And did Mr. Carthel provide -- conduct -- I'm sorry strike
6 that. Did Mr. Carthel provide -- conduct a hydrologic and
7 hydraulic study in 2002, 2003?

8 A. I don't know if he did a complete study. I think there's a
9 lot involved in the study.

10 Q. Do you know what Mr. Carthel did in 2002 and 2003?

11 A. Well, I think he -- they -- they did some investigating
12 field work. He did some research into the records that existed.
13 What orders existed and things like that. Yes.

14 Q. How in-depth was the scientific study that Mr. Carthel
15 conducted?

16 A. I have no idea.

17 Q. Now, in the document that's been marked as Exhibit 34,
18 Mr. Carthel apparently gave an oral presentation to the committee
19 and when I say the committee I'm referring to the Sawyer County
20 Land and Water Conservation committee. In here he states that
21 there are a number of different possibilities that he's looking
22 into, said there was a discussion concerning quote anticipated
23 results of dredging, in that channel, namely that was the -- I
24 believe the channel between Little Round and Osprey Lake. He
25 also talks about changing the dam structure, lowering the water

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2 contacted Mr. Carthel about whether remedial options should be?

3 A. No, I didn't.

4 Q. You have no information?

5 A. No.

6 Q. Did you have any conversations with anybody else on the
7 Sawyer County Land and Water Conservation committee concerning
8 what the remedial options should be?

9 A. Not that I recall, you mean at this time, at this time of
10 the.

11 Q. Let's say in 2002, 2003?

12 A. Well, I think we might have discussed some of the options.

13 Q. And was changing the dam structure one of the options that
14 you discussed with other members?

15 A. I don't think so, no.

16 Q. And why wasn't that not discussed.

17 A. I guess I didn't have all the information-t time to discuss
18 it. This study was just starting, in the process going on.

19 Q. And when was this study completed?

20 A. Well, we got this report in December 4th of 2002.

21 Q. All right. Let's jump to that report that you got in
22 December 4th of 2002. That's been marked as Exhibit 24. Just so
23 you know?

24 A. Okay.

25 Q. You have your own copy in front of you. I tell you what I'm

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2 going to go get what's marked as Exhibit 1 because it's a nice
3 map of the area.

4 MS. AZAR: Okay. Mr. Romnies you indicated that when we were
5 discussing what remedial options were deliberated on, you
6 indicated that you had not yet received Mr. Carthel's final
7 report.

8 A. Hm-hm.

9 Q. And you pointed to what's been marked as Exhibit 24. Is
10 Exhibit 24 Mr. Carthel's final report that you were just
11 referring?

12 A. Yes.

13 Q. And did this provide you with the advice you were looking
14 for in relation to what the remedial options could be?

15 A. I think he gave us four or five different options of what we
16 should do, yes.

17 Q. And what's your understanding of the options that
18 Mr. Carthel provided here?

19 A. Well, Option No. 1 was to do nothing and continue to operate
20 that as suggested by the DNR or PSC official back in 1961. And
21 then the second option was to create a new water level with the
22 input from the DNR. The third option was to improve this outlet
23 I think from here down to here.

24 Q. And let the record reflect you just pointed to improving --

25 A. Improving the Osprey Lake outlet I guess that would be down

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2 here then.

3 Q. Just so you know we've been calling this Osprey Creek?

4 A. Okay.

5 Q. Okay.

6 A. And then the final option was to abandon the Round Lake Dam
7 and the Lake Placid Diversion Dam.

8 Q. And what did the committee decide to do?

9 A. At what time? At that time, nothing.

10 Q. At that time being September 4th?

11 A. December -- December 4th. 2002.

12 Q. Okay. So, when you received this report on December 4th,
13 2002. The committee did not do anything?

14 A. No.

15 Q. When is the first time the committee did anything in
16 relation to this report?

17 A. Well I think we --

18 MR. DREGNE: Objection. Vague as to did anything. Subject to
19 objection if you can manage to determine what that means, go
20 ahead.

21 THE WITNESS: I mean it was an ongoing process through -- through
22 this date until we did decide to do something and it was a
23 process that involved a public meeting that we had in June.

24 Q. Let's walk through the process that the Committee took.

25 A. Okay.

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2 Q. So you received -- when was the first time you received this
3 report?

4 A. Well, I would say it was probably at a December meeting but
5 I -- I can't -- don't know that for sure.

6 Q. Walk me through what the Committee did with this report
7 after that?

8 A. I don't think we did a lot -- I mean -- you mean from what
9 point in time to what point in time are you talking about.

10 Q. Let's start with December 4th, 2002 and I want you to just
11 describe what happened in 2003 up until the point in time you
12 made a decision about this report which I believe according to
13 Exhibit 69 on September 4th, 2003 the committee decided to accept
14 Mr. Carthel's recommendation to do nothing. Correct?

15 A. Okay. Yes.

16 Q. So if you could please describe for me what the committee
17 did between December 4th, 2002 and September 4th, 2003?

18 A. Well, we have some minutes here that I reviewed. I didn't
19 review them all but it was a topic of our discussion in every
20 Land and Water Conservation committee meeting and it was decided
21 that we should do a survey of the property owners on Round Lake
22 and then it was decided that we should hold a public hearing, not
23 hearing, a public meeting and discuss the Round Lake. The issues
24 on Round Lake.

25 Q. And so you conducted a survey and how was that survey

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2 conducted?

3 A. I think they mailed post cards out to I think all the

4 residents, the people that owned land along there.

5 Q. And what was the results of that survey?

6 A. I think there was a two -- the -- the questions asked were

7 the same as what were here. Do nothing was one, all -- all of

8 the above options -- the options we talked about.

9 MR. DREGNE: Let the record reflect the witness is pointing to

10 options 1 through 4 in Mr. Carthel's report Exhibit No. -- 24.

11 MS. AZAR: Mr. Romnies I'm handing you what's been marked as

12 Exhibit 81. That's the survey that was sent out that you were

13 just describing?

14 MR. DREGNE: Why don't you take a look at it.

15 THE WITNESS: I believe it -- is yes

16 BY MS. AZAR:

17 Q. So what was the results of the survey? You got some

18 responses back on the survey?

19 A. Right. What do you mean what are the results.

20 Q. Well, how did people respond?

21 A. They responded in all different manners.

22 Q. Was the -- did the committee conclude anything from the

23 responses they received?

24 A. Ahm, I don't think I did.

25 Q. What about the committee? Because unfortunately or

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2 fortunately you're here to respond to the committee's actions?

3 A. Okay.

4 MR. DREGNE: I would object to the form of the question. The
5 reference to the committee conclude anything. It's vague.

6 MS. AZAR: All right. Let me rephrase that then.

7 BY MS AZAR:

8 Q. After receiving the responses to the survey that's been
9 marked as Exhibit 81, what conclusions did the committee draw
10 from the responses received?

11 A. Ahm, I believe there was a time frame to get these responses
12 back and it was -- I don't know exactly what the date was and I
13 don't think that we -- we saw much of those responses until that
14 deadline was over.

15 MS. AZAR: Would you read the question back please.

16 (The pending question was read.)

17 MS. AZAR: Please answer the question.

18 THE WITNESS: After the next step we took?

19 BY MS. AZAR:

20 Q. No, you received the responses?

21 A. Yup.

22 Q. What conclusions did the committee draw from the responses?

23 MR. DREGNE: Again I object to form of the question. The
24 phrase -- or -- conclusions, what conclusions did the committee
25 draw is ambiguous.

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2 dictates.

3 Q. I'm going to hand you what's been marked as Exhibit 156. Is
4 that one of pieces of correspondence?

5 A. Yeah.

6 Q. You received?

7 A. Yeah, that's -- the September 3rd, 2003.

8 Q. And in this letter, the Round Lake Property Owners
9 Association states in that second Paragraph there that they
10 expect quote Sawyer County and the DNR will maintain and manage
11 the waterway systems in and out of the lake in a responsible
12 manner so as to the quickly control the extreme and that's
13 underlined. Circumstances of high or low water period, unquote.
14 That's an accurate reading of that, correct?

15 A. I would assume so, yes.

16 Q. Now, is it your understanding that Sawyer County has the
17 ability to maintain and manage the Round Lake water system in a
18 way as to quickly control extreme circumstances?

19 MR. DREGNE: Objection, vague as to extreme. Object to form of
20 the question. If you understand the question, then you can
21 answer.

22 THE WITNESS: Yeah, well, what does extreme mean? I don't
23 know -- don't know what that means.

24 BY MS. AZAR:

25 Q. Okay. Well, why don't you define extreme and then go ahead

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2 and answer it?

3 A. If you had a -- if you had a six-inch rainfall and rapid
4 snow melt all at the same time is that extreme and the water
5 level came up a foot. I would say that's extreme. I don't know.

6 Q. Well, why don't we say this. First of all, Mr. Dale Olson
7 is actually the staff to the Land and Water Conservation
8 committee, correct?

9 A. Hm-hm.

10 Q. And I'm going to make a representation to you that we
11 deposed Mr. Olson yesterday and we talked about this very same
12 document and Mr. Olson described -- used the five-year storm
13 event?

14 A. Okay.

15 Q. As the demarcation point between where Sawyer County can
16 control levels and where they cannot? Okay. I'm making that
17 representation to you right now. Okay. So let's -- let's use
18 that as the guideline. You trust Mr. Olson don't you?

19 A. Hm-hm, yes.

20 Q. Is Sawyer County able to prevent the water levels on
21 Round Lake -- strike that. Do you understand that under the 1941
22 Order Sawyer County is responsible for managing the water level
23 so as not to exceed 77.25 on Round Lake?

24 MR. DREGNE: Objection to the form of the question it calls for a
25 legal conclusion.

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2 BY MS. AZAR:

3 Q. So now I want to jump back to what's been marked as Exhibit
4 No. 156, the Round Lake Property Owners Association was providing
5 some guidance to the Sawyer County Board of supervisors and the
6 committee. And Round Lake Property Owners Association asked the
7 County that it be able to quickly control extreme circumstances,
8 correct?

9 A. I guess it does, yes. It says in a responsible manner?

10 Q. Yes, absolutely.

11 A. Not to quickly control.

12 Q. Well, it says responsible in a matter so as to be able to
13 quickly control the extreme circumstances?

14 A. Okay. Yeah.

15 Q. I'm assuming that you received a copy of this letter?

16 A. I didn't -- I -- I reviewed that just now when -- it was in
17 my packet of stuff to review, yes.

18 Q. And we were just going through the different things the
19 committee had done in anticipation of it's September 2003
20 decision, correct?

21 A. Hm-hm.

22 Q. And one of the things you said was that the Round Lake
23 Property Owners Association had also submitted comments that were
24 considered, correct?

25 A. Yes.

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2 Q. And these were one of the sets of comments, correct?

3 A. Yes.

4 Q. Did the committee discuss this letter?

5 A. I don't believe they did to a great extent.

6 Q. Do you recall them discussing it at all?

7 A. I -- I recall getting this letter and -- and myself reading

8 it. I don't recall us discussing this at all.

9 Q. I'd like to hand you what's been marked as Exhibit No. 29?

10 A. Do you want this back?

11 Q. You can keep that for right now. We'll be discussing that.

12 Have you ever seen this document before?

13 A. I don't believe I have.

14 Q. Did the committee use this document in rendering its

15 decision on September --

16 A. No, no.

17 Q. -- 2000? I'd like to hand you what's been marked as

18 Exhibit No. 27. Have you ever seen this document before?

19 A. No.

20 Q. No?

21 A. No.

22 Q. Did the committee use this document in rendering its

23 decision on September of 2003?

24 A. No.

25 Q. Now, so far we have walked through what the committee did

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2 after receipt of its December 2002 Carthel report up until its

3 decision on September 4th, 2003 to do nothing. I want to make

4 sure I got all of the activities. You surveyed the public and

5 you received response cards to the survey that was sent out

6 through Exhibit 81. You held a public hearing and received oral

7 comments?

8 A. Public meeting I would call it public meeting.

9 Q. Okay. Thank you, the public meeting and that was held at

10 the?

11 A. High school.

12 Q. High School; you asked Dave Kafura to come in to provide the

13 committee with information but they he never did that?

14 A. Right.

15 Q. You received written comments from the Round Lake Property

16 Owners Association. What else did the committee do in

17 preparation for it's decision of September 4th, 2003 to do

18 nothing?

19 A. I don't believe we did a lot more than that.

20 Q. I'm going to hand you now what's been marked as Exhibit 69.

21 Yeah, that -- these are the minutes from the September 4th, 2003

22 meeting when the committee decided to do nothing, correct?

23 A. Yes.

24 Q. And we'd been using the phrase to do nothing differently

25 this morning. Right now when I'm saying to do nothing. This is

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2 MR. DREGNE: And' that's --

3 MS. AZAR: To adopt Option No. 1 in Mr. Carthel's report. Now if
4 you're making representations right now that his answers are the
5 reasons for the committee, that's fine. If they're not, we're
6 going have him back.

7 MR. DREGNE: The witness is answering your questions properly in
8 my view. If you want to restate your question, we'll take
9 another crack at it.

10 MS. AZAR: Would you like to repeat the question,
11 please.

12 (The pending question was read.)

13 MR. DREGNE: Let me also note for the record that in response to
14 your notice of deposition we stated among other things that the
15 September 4, 2003 action referred to in your notice was a
16 legislative decision made by a committee that no single person
17 knows the mental impressions that each committee member had and
18 the reasoning process that each committee member used on that day
19 to make a decision. This is the witness that we have presented
20 to answer questions about the decision that was made and to the
21 extent that he can the reasons for the decision.

22 MS. AZAR: And as you know, Mr. Dregne we also responded
23 indicating that hat was an improper objection and that County has
24 an obligation to produce somebody that can bind Sawyer County the
25 defendant in this lawsuit in relation to the questions that were

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2 BY MS. AZAR:

3 Q. Did Mr. Carthel provide the committee any advice on whether
4 or not the County was able to control the water levels below
5 77.25?

6 A. Below 77.? Yes I think he hid.

7 Q. And what advice did he provide the committee?

8 A. How far below 77.25. I mean is it -- I think in his report
9 he said if it dropped lower than 77 we could put stoplogs in
10 there and raise the level back up.

11 Q. And did Mr. Carthel give any opinions whether or not the
12 County could prevent the water level from rising above 77.25?

13 A. I think he did, yes.

14 Q. And what opinion did he give you?

15 A. I think he gave us the opinion that -- that -- conditions
16 out there that exist cannot do that.

17 Q. And are those -- under what circumstances -- strike that.
18 Giving you an example of going back to the five-year storm event
19 do you know what I'm referring to when I say the five-year storm
20 event?

21 A. Hm-hm.

22 Q. Yes?

23 A. Yes, more or less.

24 Q. All right well, let's then define it. The five-year storm
25 event is the -- the most severe storm event that is likely to

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2 occur once every five years?

3 A. Okay.

4 Q. Using that as a benchmark, you would call that a rather

5 normal event. Correct?

6 A. I don't know if I would or not.

7 Q. Okay. Well, why don't you tell me what you would call a

8 normal storm event then?

9 A. I think, how about a two-year storm event.

10 Q. Okay. Let's use a two-year storm event. Is Sawyer County

11 able to control the water levels from exceeding 77.25 in the

12 two-year storm event?

13 A. I guess it depends upon what the event is.

14 Q. Its a two-year event?

15 A. Hm-hm but you can have -- you can have a big event and a two

16 year event.

17 Q. Okay, let's then define what a 2 year event is?

18 A. Something -- well, you said something that can happen once

19 every two years.

20 Q. Correct.

21 MR. DREGNE: And I would object the question is vague in that it

22 does not define other pertinent circumstances that might be

23 relevant to the -- the water level at the time of the two-year

24 storm event.

25 BY MS. AZAR:

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2 Let me ask it this way. Based on what Mr. Carthel advised the
3 committee, under what circumstances can Sawyer County control the
4 levels from exceeding 77.25.

5 A. Ah, very little at this time.

6 Q. Things will go much more quickly if we can figure out how to
7 get -- get to things like that. Now, we had --

8 MR. DREGNE: If you need a break you can ask for one to go to the
9 bathroom.

10 MS. AZAR: Do you want one right now.

11 THE WITNESS: Indicating

12 BY MS. AZAR:

13 Q. We had talked earlier about an oral presentation Mr. Carthel
14 had given prior to report of December 4th, 2002. In that oral
15 presentation he had talked about the option of changing the
16 control structure at the Little Round Lake Dam do you recall that
17 discussion that we just had?

18 A. Yes.

19 Q. Now when you got the report in December 4th, 2002,
20 Mr. Carthel no longer acknowledged that changing the control
21 structure was a remedial option, correct?

22 A. Hm-hm.

23 Q. Do you know why that remedial option was removed?

24 A. No, I don't.

25 Q. And when you were deliberating over what the County should

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2 do was there a discussion as to whether or not changing the dam

3 structure was an appropriate response?

4 A. I don't believe there was, no.

5 Q. There was no discussion?

6 A. No.

7 Q. And you're an engineer, correct?

8 A. Yes.

9 Q. Were you personally curious as to why no one had suggested

10 that the dam structure should be changed?

11 A. No.

12 Q. And why not?

13 A. There was other conditions that affected the flow besides

14 just the dam.

15 Q. Did the dam, though, does the dam affect the flow?

16 A. Apparently it does, yes.

17 Q. How significantly does the dam affect the flow?

18 A. I don't know.

19 Q. And what other conditions affect the flow?

20 A. This -- this channel here.

21 Q. That would be -- you're pointing to Osprey Creek?

22 A. Right. Well, let's see. This right here.

23 Q. That would be -- just so you know it's?

24 A. Little Round Lake whatever you call it.

25 Q. We're calling that the northern?

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2 A. North channel?

3 Q. Yes North channel. So what are the conditions in North
4 channel that are affecting the flow?

5 MR. DREGNE: Let me just object the first question is beyond the
6 scope of the topics on which the witness is designated to testify
7 and object to foundation.

8 MS. AZAR: Just for the record I'm trying to understand why you
9 made the decision to do nothing and part of that is to understand
10 what you believe are the problems out there.

11 MR. DREGNE: Well, the witness has already testified as to the
12 basis for the decision.

13 MS. AZAR: Go ahead and answer.

14 MR. DREGNE: Subject to the objections stated.

15 THE WITNESS: As I recall there was a -- this channel itself
16 could not carry sufficient flow to keep the water level above and
17 the same was true of this channel here. There were debris dams,
18 beaver dams and so forth.

19 Q. What other conditions were impeding the flow?

20 MR. DREGNE: Same objections.

21 THE WITNESS: I don't know of any other conditions.

22 BY MS. AZAR:

23 Q. Do you know if the culverts at NN are impeding the flow at
24 all?

25 A. Could be.

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2 A. Depends upon what the decision is.

3 Q. And -- are there common facts that suggests that you would
4 predict for instance there wouldn't be a lot of discussion, how
5 do you explain that. I'm trying to understand?

6 A. Well, these people are lay -- oh you know they're
7 representing the citizens of Sawyer County and they do not have a
8 lot of technical expertise and they're going to go along with
9 what's been presented to them -- in a report or what the experts
10 say.

11 Q. Okay. Well, so in this situation the folks on the committee
12 were -- I'll say laymen?

13 A. Yeah.

14 Q. And they received this report?

15 A. Hm-hm.

16 Q. And they didn't have technical expertise so they didn't
17 necessarily understand the background that led to the remedial
18 options, is that?

19 A. I don't know if they understood it or not.

20 Q. But the idea is there was not a lot of discussion because
21 they didn't know what questions to ask or because they were going
22 to be accepting what the recommendations were?

23 MR. DREGNE: Objection asked and answered the witness has already
24 testified.

25 MS. AZAR: Go ahead.

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2 A. I can't answer that why there was not a lot of discussion.

3 MS. AZAR: We're going to go off the record for a minute.

4 (Discussion off the record.)

5 BY MS. AZAR:

6 Q. So let's go back and I'm trying to understand why there was
7 not a lot of discussions about Mr. Carthel's December 4th, 2000
8 report when the committee made the decision to do nothing and if
9 I can summarize your testimony it's that the members of the
10 committee with -- I think the exception of yourself or laymen
11 don't necessarily understand the science that went behind
12 Mr. Carthel's report and therefore they would not have a lot to
13 discuss with regards to this report; is that correct?

14 A. I think that's probably true.

15 Q. Then you said that they were most likely ready to accept a
16 recommendation from somebody that they did perceive as an expert,
17 correct?

18 A. I didn't say that. I said that -- from Mr. Carthel, they
19 could be. I assume you're not talking about me because I'm no
20 expert.

21 Q. Did Mr. Carthel recommend that the committee do No. 1?

22 A. Not that I recollect.

23 Q. I guess I'm trying to understand how the committee members
24 decided to do number 1?

25 A. I can speak for myself.

1 ROUGH DRAFT ASCII

2 Q. Hm-hm?

3 A. Okay, we went through this process. We got the survey, we
4 had the public meeting and we had been operating like this for
5 many many years and that was the decision to make.

6 Q. And did you talk -- had you talked in advance to any of the
7 other members about what motion you were going to be making that
8 day?

9 A. No.

10 Q. Had not. And so after you made the motion to do nothing
11 what sort of discussion did ensue at that point?

12 A. I think it's in the -- in the following minutes, somebody
13 made a suggestion that -- somewhere along the line, I don't know
14 the chronology there but somebody made the decision that we
15 should get --

16 MR. DREGNE: Do you want to find the minutes?

17 THE WITNESS: Yeah. --

18 MR. DREGNE: That's not.

19 THE WITNESS: August 5th; yah, this is when we made the decision,
20 right? I'm talking about after that. I guess I don't
21 understand.

22 MR. DREGNE: Well, the question can be read back to you.

23 THE WITNESS: Okay.

24 MR. DREGNE: Would you read back the question, please.

25 (The pending question was read.)

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2 THE WITNESS: At that meeting or the -- at that same meeting or.

3 Q. Correct when you made the motion as shown on Exhibit 69

4 you're the one who made the motion?

5 A. Yeah.

6 Q. Usually there's a motion and there's a second and then

7 there's a discussion and there's a vote, correct?

8 A. No.

9 Q. You made the motion. Ms. Suhsen seconded it was there then

10 a discussion that occurred?

11 A. No.

12 Q. The vote was pretty immediate thereafter?

13 A. Yes.

14 Q. I'd like to hand you what's been marked as Exhibit 98. And

15 these are the September 18th, 2003 minutes of the full County

16 Board meeting and Mr. Bill Whitlock from the Round Lake Property

17 Owners Association asked for a clarification of the do nothing

18 decision that the committee had taken on September 3rd?

19 A. Hm-hm.

20 Q. Do you know -- you were in attendance at this meeting?

21 A. I believe I was. Yes.

22 Q. What sort of -- response was given to Mr. Whitlock?

23 A. According to the minutes, nothing. Other than the -- the --

24 the do-nothing option in the Carthel report.

25 Q. Do you recall this meeting?

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2 A. No.

3 Q. I'd like to just go back and ask you a few more questions
4 about things that the committee may have considered when it made
5 its do nothing -- do nothing decision and again when I say do
6 nothing I'm talking about Mr. Carthel's Option No. 1. I'm
7 handing you what's been marked as Exhibit 31 which is a letter --
8 from the DNR to Ms. Suhsen dated September 5th, 1995?

9 A. Hm-hm.

10 Q. Had you ever seen that letter before?

11 A. I don't believe so.

12 Q. Did Mr. Carthel or anyone else ever describe to you the
13 DNR's stance that being unable to control the water levels below
14 77.25 ^ ck was a taking of property?

15 A. No.

16 Q. I'd like to hand you what's been marked as Exhibit 97. This
17 is dated December 4th, 2002, which is the exact same date as
18 Mr. Carthel's report so it's likely that the committee received
19 it on the same date. Have you ever seen that document before?

20 A. I don't believe I ever have.

21 Q. Were you --

22 A. I remember a discussion at a meeting about Mr. Hausman
23 giving the County money to put in additional culverts, but as far
24 as the letter goes I -- I don't think I ever saw that letter.

25 Q. And did the committee consider Mr. Hausman's donation of

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2 donations?

3 A. I've never been involved where we've considered any

4 donations.

5 Q. Have you ever been offered a donation like that before?

6 A. No.

7 Q. I know you're going to have speculate but why do you think

8 the donation was never formally deliberated upon by the

9 committee?

10 MR. DREGNE: Same objection and object -- same objection.

11 MS. AZAR: Go ahead and answer.

12 A. Okay. This is my personal opinion.

13 BY MS. AZAR.

14 Q. Yeah.

15 A. How many culverts does it take to put in County truck NN to

16 solve the solution to solve the problem and is that going to

17 solve the problem. That was my -- that was my -- thought. You

18 know how many culverts can you put in for \$25,000? Not a whole

19 lot.

20 Q. And so you didn't think it then could really solve the

21 problem?

22 A. No.

23 Q. And therefore why discuss it if it wasn't going to solve the

24 problem?

25 A. Right.

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2 subject to the objection, if you can.

3 THE WITNESS: Repeat the question then.

4 (The pending question was read.)

5 THE WITNESS: Yeah, Paragraphs three and four, four and five

6 sounds like he's used a discussion there but whether he relied on

7 it heavily, I don't know.

8 Q. All right well, then let's just talk about the do-nothing

9 option since that is the option that you moved and I apologize if

10 I've asked these questions before but I want to understand why

11 you moved to adopt Option No. 1.

12 A. My reason for adopting Option No. 1 was that was what was

13 being done in the past, that -- you know that's what exists now

14 and without getting any input from the DNR in Option No. 2 it was

15 the only decision I could make at that time.

16 Q. Okay, so really then you were personally only considering

17 options 1 and 2?

18 A. Right.

19 Q. And you decided to do, to recommend Option 1 even though at

20 least one person was alleging damage was occurring under the

21 current circumstances?

22 A. Yes.

23 Q. And so did Mr. Carthel's report have any bearing on your

24 thought processes?

25 A. Yes, it did.

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2 MR. DREGNE: Objection calls for speculation.

3 MS. AZAR: Go ahead and answer.

4 THE WITNESS: Would you repeat the question again.

5 (The pending question was read.)

6 THE WITNESS: Okay, I think he did a field survey of the

7 conditions that existed in the watershed and that he also did

8 some research into what orders were written regarding the

9 watershed and he gave us four options that -- that we could

10 consider.

11 (Discussion off the record.)

12 BY MS. AZAR:

13 Q. Mr. Romnies I've just handed you what's been marked as

14 Exhibit No. 100 and these are the minutes from December 4th, 2003

15 Land and Water Conservation Committee meeting. Could you

16 describe for me what happened at that meeting? With regards

17 to -- actually just describe for me what happened at that

18 meeting?

19 A. Well, we received a telephone call from Mr. Dregne regarding

20 a lawsuit that was filed and -- and there was a conference call

21 with all the Board members there and he recommended to us some of

22 the actions that we should take.

23 Q. And what did Mr. Dregne recommend?

24 A. That the County should initiate a process leading to the

25 filing of a petition with the Wisconsin DNR to establish normal

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2 maximum levels for Round Lake and potentially Little Round lake
3 and Osprey Lake pursuant to Sections 3102 of Wisconsin Statute.
4 No. 2, the County staff, engineering and legal consultants should
5 be directed to advise the Land and Water Conservation Committee
6 and the County board regarding the issues that may be addressed
7 in the proceedings before the Department of DNR and the policy
8 decisions that need to be made with the County in connection with
9 the Department of DNR. And 3 the Land and Water Conservation
10 committee should be directed to prepare a petition through the
11 Department of Natural Resources and recommendations regarding
12 policy decisions for review by the County Board.

13 Q. And why did Mr. Dregne recommend the Land and Water
14 Conservation committee adopt this position?

15 MR. DREGNE: Objection calls for speculation.

16 BY MS. AZAR:

17 Q. What did Mr. Dregne say during the discussion on December
18 4th, 2003 as to the reasons why the Land and Water Conservation
19 committee should be adopting these positions?

20 A. I don't recall.

21 Q. How much discussion occurred during the meeting on December
22 4th, 2003 about whether the committee should adopt?

23 A. I don't think there was a lot. This was our legal counsel
24 that was representing us and this was his -- this was his idea
25 to -- to go for this so.

1 ROUGH DRAFT ASCII

2 that the Land and Water Conservation Committee made on December

3 4th, 2003?

4 A. Well, I think this is a step right here.

5 Q. Do you know why it took --

6 MR. DREGNE: Let the record reflect that the witness was pointing

7 to Exhibit No. 134.

8 BY MS. AZAR:

9 Q. Did the Land and Water Conservation Committee discuss

10 Exhibit 134 before it was submitted to the DNR?

11 A. I don't believe so.

12 Q. Mr. Helwig was deposed a few days ago?

13 A. Hm-hm.

14 Q. And during his deposition he had mentioned the Land and

15 Water Conservation committee plays a very active role right now

16 in the water level issue and in relation to the petition and in

17 fact my recollection is that he said the members of the Land and

18 Water Conservation committee are quite important on the County

19 board in relation to this litigation and the actions that the

20 County has taken ^ ck need to be the water levels on Round Lake?

21 A. Hm-hm.

22 Q. So that's where I'm coming from right now. I'm trying to

23 understand the role of the Land and Water Conservation Committee

24 in relation to actions such as Exhibit 134. Is that number

25 right?

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2 A. 134.

3 Q. You were on the Land and Water Conservation committee until?

4 A. March -- March of 2005.

5 Q. 2005 and so was this petition presented to the Land and

6 Water Conservation committee before it went to the full County

7 Board?

8 A. I don't believe it did.

9 Q. As a general rule did issues concerning this litigation or

10 the levels on Round Lake and the dispute about the levels on

11 Round Lake, do they get deliberated in the Land and Water

12 Conservation Committee before they go to the full County Board?

13 A. Legal issues?

14 Q. Sure. Let's start with that.

15 A. I would say generally something like this maybe, but a lot

16 of it goes to the full County board, legal issues.

17 Q. Legal issues go to full County Board?

18 A. Yes.

19 Q. Rather than come through the committee first and then to the

20 County Board?

21 A. Yes.

22 Q. And how does the Land and Water Conservation Committee get

23 briefed on -- No, let me ask it this way. Given the response

24 you just gave. Does the Land and Water Conservation Committee

25 get briefed on litigation issues independently of the County

1 ROUGH DRAFT ASCII

2 Board? And don't tell me topics. I need just yes or no.

3 A. At times.

4 Q. Okay. Going back to Exhibit No. 100. This is a

5 recommendation to the full County Board, correct?

6 A. At this time it's to the Land -- yeah. It was to go to the

7 full County Board right.

8 Q. Did indeed the issue go to the full County Board for action?

9 A. Yes.

10 Q. And did the full County Board also adopt these

11 recommendations?

12 A. Yes.

13 Q. I'm going to hand you what's been marked as Exhibit No. 99.

14 These are the minutes from the March 5th, 2003 Sawyer County Land

15 and Water Conservation committee?

16 A. Okay.

17 Q. And at this meeting you were in attendance I noted.

18 Mr. Hausman had attended and he had presented a letter and a

19 report from Hansen Engineers?

20 A. Hm-hm.

21 Q. Which is all attached here. Right now, I'm going back to

22 try to understand the facts that the committee used in rendering

23 its decision in September of 2003 to accept Mr. Carthel's Option

24 No. 1, to do-nothing. You had testified earlier today that the

25 sole professional advice upon which the committee rendered that

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2 decision was Mr. Carthels' December 4th, 2002 report do you

3 recall that testimony?

4 A. Yes.

5 Q. Now Mr. Hausman during this meeting -- strike that. Do you

6 understand that Hausman has retained some consulting services to

7 assist him with his house on Round Lake?

8 A. Yeah.

9 Q. And he had retained Hansen Engineering as a consultant and

10 he's also retained Barr Engineering as a consultant. Do you

11 understand that?

12 A. Yes.

13 Q. And do you recall seeing this report from Hansen

14 Engineering?

15 A. No.

16 Q. Did you attend the -- the June public meeting at which Barr

17 Engineering gave a presentation?

18 A. Yes.

19 Q. On it's conclusions?

20 A. Yes.

21 Q. Did you use any of the information provided by Barr

22 Engineering in rendering your decision on September 9th, 2003?

23 A. I don't believe I did.

24 Q. And why not?

25 A. Because our engineer was Carthel and I was relying on his

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2 work.

3 MS. AZAR: We're done. Are you done?

4 MR. DREGNE: I think I just had one question which you already
5 kind of covered.

6 * * * * *

7 EXAMINATION

8 MR. DREGNE: Couple questions really

9 BY MR. DREGNE:

10 Q. At the public meeting that was just referred to there was
11 reference made to Barr Engineering making a presentation did Mr.
12 Hausman also make a presentation at that meeting?

13 A. Yes, he was there.

14 Q. Did Mr. Hausman also make presentations at other meetings of
15 the Land and Water Conservation committee?

16 A. He attended all of them.

17 Q. You testified earlier that at the September 3, 2000 --
18 September 4, 2003 meeting of the Land and Water Conservation
19 committee -- let's make sure I get that date right.

20 THE WITNESS: There you go.

21 BY MR. DREGNE:

22 Q. You testified regarding the amount of discussion that ensued
23 at that meeting regarding the decision. Had there been -- how
24 many months had the committee been involved in the process of
25 evaluating Round Lake water level issues before that meeting

1 ROUGH DRAFT ASCII

2 occurred?

3 A. I think that process started for me well, I'm sure it
4 started in April of 2002.

5 Q. Were there numerous meetings of the committee leading up to
6 that September 4, 2003 meeting at which Round Lake water level
7 issues were discussed?

8 A. Yes, we met at least once a month in our monthly meetings
9 and it was discussed at every one of them, I believe. We had
10 another special meeting at the courthouse in a courtroom, and
11 there were lots of individuals there at that meeting, too,
12 including DNR and I can't remember who all was there.

13 Q. Prior to that September 4, 2003 meeting of the all of the
14 members of the committee had received copies of the Carthel
15 engineering report?

16 A. Yes.

17 Q. How far in advance of that meeting did you receive copies of
18 that report. Do you recall?

19 A. Well, the date on the meeting is December 4th, 2002 is the
20 date of the report. And we probably received it at the meeting
21 that day.

22 Q. You mean December 4 -- or in December of 2002?

23 A. Yes.

24 MR. DREGNE: That's all the questions I have.

25 MS. AZAR: Not quite Mr. Romnies unfortunately.

1 ROUGH DRAFT ASCII

2 THE WITNESS: I thought you were done

3 MS. AZAR: When your counsel asks additional questions,
4 I have the opportunity to ask questions about issues that were
5 just raised.

6 MR. DREGNE: Sorry Frank.

7 THE WITNESS: That's okay

8 * * * * *

9 EXAMINATION

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11 BY MS. AZAR:

12 Q. You received the Carthel report in December 2002 and
13 rendered your decision in September 2003 and you indicated that
14 you had monthly meetings at which time you would discuss the
15 Round Lake water issues. At how many meetings did you discuss
16 the Carthel report?

17 A. I don't recall. Maybe one or two.

18 Q. And if -- if the committee discussed the options recommended
19 by Mr. Carthel they would be reflected in the minutes of the
20 committee. Correct?

21 A. I'd assume there would have been some.

22 Q. Reference to it?

23 A. Reference, yes.

24 Q. Let's just take a five-minute break and I'm going to pull
25 out the minutes and we're going to go through 'em?

1 ROUGH DRAFT ASCII

2 MR. DREGNE: Go ahead.

3 (There was a recess.)

4 BY MS. AZAR:

5 Q. Mr. Romnies I during the break went through the minutes that
6 have been produced by Sawyer County we had asked them to produce
7 minutes from the Land and Water Conservation committee that
8 involved the Round Lake water levels and here in my files I only
9 have two sets of minutes between the period of December 2nd, 2002
10 and September 2003. I'm not going to make the representation
11 that there weren't any other discussions. Neither of these sets
12 of minutes refers to the Carthel report, one was Exhibit 72 and
13 the other was Exhibit 99?

14 A. Okay.

15 Q. So I'm not going to ask any more questions because I don't
16 want to make a misrepresentation about what happened or didn't
17 happen but just wanted to confirm if indeed the Carthel options
18 were discussed at a meeting it would be reflected in the minutes
19 and I can go back annual look at the minutes to see where the
20 committee discussed the Carthel options, correct?

21 THE WITNESS: I would think if they were discussed they would be
22 in the minutes.

23 Q. Thank you. One last question during the meeting on December
24 4th, 2003 when the Land and Water Conservation committee decided
25 to petition the WDNR for some assistance was there a discussion

1 ROUGH DRAFT ASCII

2 about delaying the Hausman lawsuit?

3 A. I don't recall any decision to delay.

4 Q. Any discussion about delay?

5 A. No. No.

6 MS. AZAR: That's all my questions.

7 MR. DREGNE: One more question. At the public meeting at the

8 high school that you referred to earlier?

9 THE WITNESS: Yeah.

10 BY MR. DREGNE:

11 Q. Did Mr. Carthel make a presentation at that meeting?

12 A. Yes, I believe he did.

13 Q. Did his presentation include a description of the options

14 that are described in his December 4, 2002 report?

15 A. Yes.

16 MS. AZAR: Thank you very much.

17 THE WITNESS: Okay.

18 MR. DREGNE: You wanted to clean up a couple things on the

19 record.

20 MS. AZAR: I do.

21 MR. DREGNE: And I know, I wanted to do one thing as well.

22 MS. AZAR: Go ahead Matt.

23 MR. DREGNE: I'd simply like to ask the court reporter to make --

24 to provide to us the transcripts of the depositions of all of the

25 witnesses that the County produced as soon as possible so that

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2 the witnesses can review the transcripts and also request a copy
3 of the Kafura deposition and the Al Reineman depositions as soon
4 as you can make those available to us.

5 MS. AZAR: Is that it. Just wanted to talk about the -- Hellwig
6 issue in the discussions that Mr. Dregne and Mr. Helwig had while
7 Mr. Helwig was under oath. I understand, Matt, you have not yet
8 had the opportunity to talk with Mr. Wright about his taking a
9 position in an earlier deposition and let me just clarify what
10 position Mr. Wright took. In Mr. Hausman's deposition, I had
11 taken a break and was going to speak with Mr. Hausman and
12 Mr. Wright advised me that I was prohibited from talking to my
13 client while he was under oath and the decision was made that I
14 was going to talk with my client and that Mr. Wright could ask
15 any questions about the discussions during that break and that
16 none of the materials would be privileged. I know you have not
17 yet had the opportunity to speak with Mr. Wright about Sawyer
18 County's position on this matter but Mr. Helwig did write down
19 the topics of the discussions that he had with you during your
20 breaks and once it's resolved to the extent that it is decided
21 that we do have access to Mr. Helwig. The County will be
22 producing Mr. Helwig again to discuss those issues again under
23 oath.

24 MR. DREGNE: I agree with Ms. Azar's summary of the status of
25 that issue.

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(The deposition concluded at 11:41 a.m.)