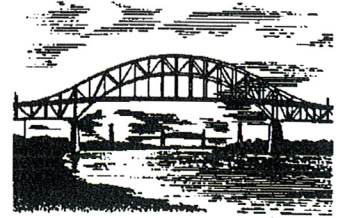


Terri A. Guarino
Health Agent

TOWN OF BOURNE BOARD OF HEALTH

24 Perry Avenue
Buzzards Bay, MA 02532
www.townofbourne.com/health
Phone (508) 759-0600 ext. 1513
Fax (508) 759-0679



Remote Meeting & Hearing MINUTES February 2, 2022

Meeting was called to order at 04:12pm

Mr. Andrews stated that the Hearing was being recorded and televised by Bourne Community TV. Registered Professional Reporter, Janet Wynne, CSR No. 131793 from Beacon Court Reporting Services acknowledged that she was recording. Proceedings transcribed by Janet Wynne of Beacon Court Reporting Services as attached as Exhibit B.

1. Attendance.
2. Town of Bourne Department of Integrated Solid Waste Management (ISWM) -- 201 MacArthur Boulevard (Route 28), Bourne—Public hearing to consider proposed application for major modification of the existing Board of Health site assignment to allow the vertical and horizontal expansion of the Bourne landfill pursuant to M.G.L. c. 111, §§ 150A - 150A ½, and 310 CMR 16.00: Site Assignment Regulations for Solid Waste Facilities. [The original, published, public notice for this proceeding is attached to this agenda] - Please see attached Public Notice labeled as Exhibit A.
3. Introduction to Hearing Officer.
4. Confirm February 16, 2022 as date for continued hearing. Vote to adjourn and continue to February 16, 2022.

Public Notice

Town of Bourne
Board of Health
Town Hall, 24 Perry Avenue,
Buzzards Bay, MA 02532

In accordance with Massachusetts General Laws, Chapter 111, Sections 150A and 150A 1/2 and the regulations promulgated thereunder, 310 CMR 16.00 "Site Assignment Regulations for Solid Waste Facilities," an application for major modification of a site assignment has been filed with the Bourne Board of Health for the modification of a site assignment of two parcels of land for solid waste landfilling. The parcels are located at 201 MacArthur Boulevard (Route 28), Bourne, Massachusetts and are the locations of the current Bourne Sanitary Landfill and Waste Handling Facilities. The Applicant is the Bourne Department of Integrated Solid Waste Management (ISWM), 201 MacArthur Boulevard (Route 28), Bourne, Massachusetts.

The Bourne Board of Health has scheduled a public hearing to consider the proposed major modification of the existing site assignment to allow the vertical and horizontal expansion of the landfill. The public hearing has been scheduled for February 2, 2022 at 4:00 p.m. and will be conducted exclusively through a virtual public hearing format. The video conference zoom hearing can be accessed by the zoom link contained on the Board of Health Website.

The area under consideration encompasses approximately 99-acres, which consists of a 74-acre parcel that is currently site assigned for landfilling and a 25-acre parcel that is currently site assigned for solid waste handling. The waste acceptance rate shall remain as it exists for the current landfill and solid waste handling operations with a maximum permitted waste acceptance rate of 825 tons per day.

The Massachusetts Department of Environmental Protection has issued a Site Suitability Report in which it has determined that the above-described place is suitable for the proposed expansion of solid waste landfilling operations. The Department's Report, the Application for Site Assignment and other relevant documents are available for review on the ISWM web page at <https://www.townofbourne.com/integrated-solid-waste-management/pages/landfill-expansion-permitting-documents>. The Bourne Board of Health shall receive comments on the proposed site assignment modification application for 14 days from the date of the publication of this public notice. All comments regarding the modification application for this site should be mailed to the Board's address above and by electronic mail address at: health@townofbourne.com received no later than 5 p.m. on January 26, 2022.

The Board of Health requests that any party seeking to intervene or participate in the public hearing pursuant to 310 CMR 16.20(9) submit to the Bourne Board of Health a written petition for leave to intervene or participate by electronic mail to: health@townofbourne.com or by mail at the address listed above for receipt no later than January 26, 2022 at 5:00 p.m. Copies of the site suitability criteria (310 CMR 16.00) are available at <https://www.mass.gov/doc/310-cmr-1600-site-assignment-for-solid-waste-facilities/download>.

Bourne Board of Health

RECEIVED
JAN 26 2022
TOWN CLERK
BOURNE

In The Matter Of:

*Bourne Board of Health Public Hearing
Before Hearing Officer John F. Shea*

Remote Public Hearing

Vol. I

February 2, 2022

Beacon Court Reporting Services

100 Independence Drive, Suite 7

Hyannis, Massachusetts 02601

www.beaconcourtreporting.com

(774) 678-4255

Original File 2022-0202_Bourne.txt

Min-U-Script® with Word Index

1 COMMONWEALTH OF MASSACHUSETTS
2 TOWN OF BOURNE
3 BOARD OF HEALTH
4 *****
5 IN RE:
6 BOURNE BOARD OF HEALTH PUBLIC HEARING
7 TO CONSIDER PROPOSED MAJOR
8 MODIFICATION OF THE EXISTING SITE
9 ASSIGNMENT TO ALLOW THE VERTICAL AND
10 HORIZONTAL EXPANSION OF THE LANDFILL
11 *****
12 TOWN OF BOURNE BOARD OF HEALTH
13 REMOTE PUBLIC HEARING
14 BEFORE HEARING OFFICER JOHN F. SHEA
15 (conducted exclusively through remote
16 participation)
17 Recorded and Televised by Bourne Community TV
18 February 2, 2022, 4:12 p.m.
19 First Day
20 Pages 1 - 161
21 reported by: Janet L. Wynne, CSR No. 131793
22 Registered Professional Reporter
23 Beacon Court Reporting Services
24 100 Independence Drive, Suite 7
Hyannis, Massachusetts 02601
www.beaconcourtreporting.com

Page 2

1 REMOTE APPEARANCES:
2 BOARD MEMBERS:
3 Stanley Andrews, Chairman
4 William Meier, Clerk
5 Donald C. Utti
6 Barbara Princiotta
7 FOR THE APPLICANT:
8 Michelle N. O'Brien, Esq.
9 Pierce Atwood LLP
10 100 Summer Street, Floor 22
11 Boston, Massachusetts 02110
12 (617) 488-8146
13 mobrien@pierceatwood.com
14 FOR THE BOARD:
15 Steven A. Torres, J.D.
16 Victoria Rosa, Esq.
17 West Group Law, PLLC
18 4 Richmond Square, Suite 350
19 Providence, Rhode Island 02906
20 (401) 371-3636
21 storres@westgrouplaw.com
22 vrosa@westgrouplaw.com
23 FOR THE TEN CITIZEN GROUP:
24 Lisa Gianelly, Esq.
Conservation Law Foundation
62 Summer Street
Boston, Massachusetts 02110
(617) 350-0990
SPEAKERS:
Daniel Thomas Barrett, GM, ISWM
A. Raymond Quinn, PE, SITEC
David Murphy, PE, Tighe & Bond

1 REMOTE APPEARANCES, continued
2 ALSO PRESENT:
3 Terri Guarino, R.S., C.H.O, Health Agent
4 Kaitlyn Shea, Health Inspector
5 Philip A. Goddard, ISWM
6 Asa Mintz, ISWM
7 Ken Ryan, SITEC
8 Mike Quatromani, SITEC
9 Jennifer McGrail, Bourne Community TV
10 MacKenzie Ryan, Bourne Enterprise
11 Richard Jordan
12 Kim Hazarvatian
13 Glenn Cannon
14 Kirstie Pecci, CLF
15 Steve Zemba
16 Thomas Yeransian
17 Amy Ball
18 MJ Mastrangelo
19 Steven McNally
20 Patricia Taylor
21 Chris Powicki
22
23
24

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1 PROCEEDINGS
2 FEBRUARY 2, 2022, BOURNE BOARD OF HEALTH MEETING
3 AND HEARING REPORTED REMOTELY FROM HYANNIS,
4 MASSACHUSETTS, ON FEBRUARY 2, 2022, AT 4:12 P.M.
5 *****
6 MR. CHAIRMAN: Okay. Good
7 afternoon. It is 4:12, February 2, 2022. My name
8 is Stanley Andrews, Chair of the Bourne Board of
9 Health. I am calling to order this public hearing
10 on the Bourne integrated solid waste management
11 application for a major modification of the
12 existing site assignment for a proposed vertical
13 and horizontal expansion of the 99-acre solid waste
14 management facility.
15 Note, this public hearing is being
16 recorded and televised by Bourne Community TV. All
17 members are participating remotely. If anyone
18 participating in the hearing is also recording,
19 they need to acknowledge such at this time.
20 Janet, you're recording as well?
21 THE STENOGRAPHER: I am recording
22 for my own work product, steno benefit, that's it,
23 no other way.
24 MR. CHAIRMAN: I just need to have

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1 it acknowledged for the record.
2 THE STENOGRAPHER: Okay. Thank you.
3 MR. CHAIRMAN: In compliance with
4 open meeting law regulations on remote
5 participation and COVID protocols, I ask for a roll
6 call vote to open this Zoom public hearing. My
7 colleagues, who, together with me, will evaluate
8 the request for a site assignment, are -- Galon
9 Barlow will not be participating due to health
10 reasons -- William Meier --
11 MR. MEIER: Yes. Present.
12 MR. CHAIRMAN: -- Don Utti --
13 MR. UTTI: Here.
14 MR. CHAIRMAN: -- Barbara
15 Princiotta.
16 MS. PRINCIOTTA: Present.
17 THE HEARING OFFICER: The board
18 members who acknowledged their presence, are they
19 voting to open the hearing?
20 MR. CHAIRMAN: Do I have a motion to
21 open the hearing by one of the members?
22 MR. MEIER: I make a motion to open
23 the meeting.
24 MR. UTTI: Second.

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1 MR. CHAIRMAN: I have a motion from
2 Don Utti, a second from William Meier.
3 Roll call vote: William Meier?
4 MR. MEIER: Yes.
5 MR. CHAIRMAN: Don Utti?
6 MR. UTTI: Yes.
7 MR. CHAIRMAN: Barbara Princiotta?
8 MS. PRINCIOTTA: Yes.
9 MR. CHAIRMAN: Stanley Andrews, yes.
10 The proposed expansions are on two
11 parcels of land. The first area is a 25-acre
12 parcel that is currently site-assigned for solid
13 waste handling and is proposed to be used for a
14 horizontal landfill expansion of about 17.34 acres
15 of the new landfill cells.
16 The second area is a 74-acre parcel
17 that is currently site-assigned as a landfill and
18 is proposed for a 40-foot vertical expansion over
19 the existing landfill areas. The landfill is
20 currently permitted to receive an average of
21 600 tons per day, with a maximum of 700 tons per
22 day, a weekly cap of 4,900 tons, and a yearly cap
23 of two thousand -- 219,000 tons. The overall ISWM
24 facility tonnage, including recycling, composting,

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1 and disposal, will remain at a maximum material
2 acceptance rate of 825 tons per day.
3 The applicant is not proposing any
4 additional tonnage capacity in this application.
5 The proposed expansion would extend the life of the
6 landfill until approximately 2024.
7 THE HEARING OFFICER: Could you
8 state that again.
9 MR. CHAIRMAN: 2040. I'm sorry.
10 This public hearing will be
11 conducted under Massachusetts General Laws
12 Chapter 111, Section 150A and 150A 1/2 and the
13 MassDEP site assignment regulation at 310 CMR,
14 Section 16. The board of health will review the
15 application, the MassDEP site suitability report,
16 and written and oral testimony, and issue a written
17 decision.
18 By way of additional introductions,
19 we have Terri Guarino, the Town's health agent,
20 registered sanitarian, and certified health agent.
21 Steve Torres, Esquire, of West Group Law is the
22 board's legal counsel. David Murphy, Professional
23 Engineer of Tighe & Bond, is the board's review
24 engineer.

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1 On January 3, 2022, the MassDEP
2 Southeast Regional Office issued a positive report
3 on site suitability for the expansion of the solid
4 waste landfill. The public hearing notice of the
5 proposed site assignment major modification was
6 published in the Cape Cod Times on January 10,
7 2022. Certified mail notices were mailed to
8 abutters and others in compliance with the MassDEP
9 regulations. Notice was posted under the open
10 meeting law.
11 The MassDEP site assignment
12 regulations set out the procedures for reviewing
13 site assignment applications and for conducting
14 public hearings. Under the regulations, the board
15 of health selects a hearing officer who is
16 responsible for conducting the public hearing. Our
17 board still has the sole responsibility and
18 authority to evaluate the evidence received during
19 the hearing to vote on whether to grant the site
20 assignment and issue a written decision.
21 It is with my pleasure to introduce
22 our hearing officer, John F. Shea of the Boston
23 environmental law firm Mackie Shea Durning PC.
24 Attorney Shea has acted as a hearing officer in

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1 over 30 site assignment applications throughout
2 Massachusetts. He was a hearing officer to this
3 board in 2005. He has practiced environmental law
4 for over 40 years. He is recognized for
5 environmental law and litigation by Best Lawyers,
6 Chambers Lawyers for Business, Martindale-Hubbell,
7 and Super Lawyers. The board of health welcomes
8 Attorney Shea. I now turn this public hearing over
9 to him.

10 Mr. Shea.

11 MS. O'BRIEN: Mr. Shea, before you
12 begin, if I may, I just noticed in the chat -- I
13 don't know if anybody else noticed -- that there is
14 a reference to someone who is recording the
15 proceeding. I'm not sure -- I don't think it's the
16 same person who identified herself earlier. The
17 stenographer said she is recording, but I see in
18 the chat an additional person. "I am recording.
19 Mackenzie Ryan from the Bourne Enterprise." So I
20 just wanted to make sure that was noted for the
21 record and acceptable to the board, I guess.

22 MR. CHAIRMAN: Who was that that --

23 MS. RYAN: My name is Mackey Ryan,
24 from the Bourne Enterprise.

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1 MS. O'BRIEN: It says "Mackenzie
2 Ryan, Bourne Enterprise."

3 MR. CHAIRMAN: Can he acknowledge
4 such, please. I had actually asked for that at the
5 beginning of the hearing.

6 THE HEARING OFFICER: I think he
7 responded, and it was on a message at the bottom of
8 the screen.

9 MS. PRINCIOTTA: Mr. Stanley, he
10 didn't verbally confirm. He did it in the chat
11 room. I don't know if that's acceptable.

12 MR. CHAIRMAN: No. It has to be
13 recorded verbally.

14 MS. RYAN: I'm sorry, I wasn't aware
15 that it has to be recorded verbally. I thought I
16 was able to do it in the chat as well. I've done
17 that in previous meetings at other boards. I am
18 sorry.

19 MR. CHAIRMAN: It is unacceptable
20 for this board. Please state your name, who you're
21 affiliated with, and that you are recording, for
22 the record.

23 MS. RYAN: Sure. My name is
24 Mackenzie Ryan. I am with the Bourne Enterprise,

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1 and I am just audio recording --

2 MR. CHAIRMAN: Thank you.

3 MS. RYAN: -- for the purpose of the
4 newspaper.

5 THE HEARING OFFICER: Thank you,
6 Chairman Andrews.

7 Good afternoon to the board and
8 welcome to all of you who are here virtually on
9 Zoom for the Bourne integrated solid waste
10 management, ISWM, application for a major
11 modification of the existing site assignment for a
12 vertical and horizontal expansion of the 99-acre
13 solid waste management facility. It is my pleasure
14 to collaborate again with the Bourne Board of
15 Health.

16 I have some introductory remarks
17 that will cover the hearing schedule, the hearing
18 officer responsibilities, the uniqueness of the
19 site assignment hearing, a short history of the
20 site assignment process, and rulings on legal
21 matters.

22 And in a couple of preliminary
23 matters, I -- although we have the ability to mute,
24 I ask everyone to please keep background noise to a

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1 minimum because we are conducting this via Zoom
2 technology. I conducted a Zoom hearing in
3 September of 2021, and although the background
4 noise from children and MeTV was sometimes
5 humorous, it was certainly distracting and, for
6 some participants, annoying. So thank you for
7 muting the noise.

8 Please be patient with the Zoom
9 hearing process. Glitches happen on occasion.
10 Terri Guarino has conducted a successful Zoom dry
11 run. She will control access to participants and
12 for screen-sharing of documents. I am sure we
13 share a desire to return soon to in-person
14 meetings, but this is a new age for communications,
15 and it works reasonably well.

16 This is a message primarily for the
17 board members: You need to hear each and every
18 syllable of testimony that's offered in the case;
19 so that, if you need to take a break for whatever
20 reason, if you need to get up and step away from
21 the hearing, let us know and we'll pause the
22 hearing for whatever time is necessary.

23 I conducted three prehearing
24 conferences by telephone with Steve Torres, counsel

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1 to the board, and Michelle O'Brien, counsel to
2 ISWM, on December 15, 2021; January 5, 2022; and
3 January 13, 2022. The results of those
4 consultations are contained in my prehearing
5 conference order and report dated January 18, 2022.
6 It orders, amongst other things, the schedule for
7 the public hearing; the use of Zoom technology; the
8 submission of prefiled direct testimony and the
9 review engineer's report; and the evaluation and
10 rulings on any petitions or requests to intervene
11 or participate.

12 The board, with my concurrence, has
13 elected to conduct a bifurcated public hearing as
14 follows: Today, February 2nd, the hearing has
15 opened and has commenced. The applicant will
16 present its case-in-chief on the major modification
17 application and will answer questions from the
18 board and the hearing officer. The board's review
19 engineer and any approved intervener will submit
20 their report and prefiled testimony on February 9,
21 2022.

22 The hearing will be continued to
23 February 16th at 4:00 p.m. The applicant may
24 present additional evidence, if any, in response to

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1 tonight's remaining questions from the board and
2 will answer questions from the board, the hearing
3 officer, and any approved intervener.

4 The board's review engineer will
5 present its report and will answer questions from
6 the board, the applicant, the hearing officer, and
7 any approved interveners. Any approved intervener
8 will present its case and be subject to questions
9 from the applicant, the board, and the hearing
10 officer. The applicant may present rebuttal
11 evidence.

12 At the conclusion of the
13 February 16th hearing, the hearing can either be
14 continued to receive further evidence or closed.
15 If it is to be closed, I will provide some closing
16 instructions. The board will deliberate and vote
17 at a noticed public meeting, not a hearing. A
18 written decision must be issued within 45 days of
19 tonight's commencement or on March 21, 2022,
20 because the 45 days expires on March 19, 2022,
21 which is a Saturday and is, by operation of
22 regulation, extended to Monday.

23 A little bit about my
24 responsibilities: It's my responsibility to ensure

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1 a full and fair hearing on the application for
2 major modification and that the board of health
3 considers all relevant, material, and reliable
4 evidence on whether the site is suitable for the
5 proposed modification.

6 I am like a judge in a civil jury
7 trial ruling on the admissibility of evidence, on
8 motions, on requests to intervene and participate,
9 and procedural issues. I am charged with making
10 sure there is an orderly presentation of evidence
11 and argument and may also question witnesses to
12 help produce a clear and comprehensive record of
13 the hearing.

14 The MassDEP site assignment
15 regulations circumscribe the scope of my authority
16 and powers at 310 CMR 16.20, paragraph 11. If I am
17 like a superior court civil judge, then the board
18 is the jury, charged with making the final decision
19 on the site assignment modification.

20 I will conduct the hearing
21 impartially. I am not related to any board member;
22 I have no financial interest in the board's
23 decision; and I am not an employee or agent of the
24 application -- of the applicant.

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1 The public hearing itself: This
2 public hearing, as the chairman mentioned, is being
3 conducted under Mass General Laws Chapter 111,
4 Sections 150A and 150A 1/2, which governs site
5 assignments for solid waste facilities. And under
6 the MassDEP site assignment regulations at
7 310 CMR 16, which establish the procedures and
8 criteria for submission and review of site
9 assignment applications, it is a formal process,
10 different in procedures and safeguards from typical
11 meetings or hearings before local boards and
12 commissions. I'll give you a few examples.

13 First, I conduct the hearing,
14 instead of the Chair, who can now focus solely on
15 listening to the testimony and on asking questions
16 of witnesses.

17 Secondly, under the regulations, I
18 am retained by the board but the applicant pays for
19 my services. The applicant also pays for the
20 services of the board's review engineer.

21 Witnesses are sworn and testify
22 under oath and are subject to cross-examination by
23 the lawyers, the board, and the hearing officer,
24 and any interveners if they are allowed.

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1 Under the MassDEP regulations, the
2 hearing can be recorded electronically or by
3 stenographer. The applicant has retained a
4 stenographer. We are fortunate to have Janet
5 Wynne, who spent some great time setting this up.
6 If you need anyone to speak more clearly or slowly
7 or if a witness uses an unusual term or fact,
8 please tell me. If I forget to take a break,
9 please remind me and I will call for a recess.

10 The fifth difference is that general
11 participation from the audience is not allowed
12 under the MassDEP regulations. The board can hear
13 only the testimony from recognized parties or
14 participants who are identified in the regulations.
15 This restriction is designed to minimize personal
16 agendas and to focus presentations on the relevant
17 issues and siting criteria.

18 A little bit about the site
19 assignment process: Not many boards of health have
20 been involved in site assignment reviews. And even
21 though this board and maybe some of its members
22 were involved in a 2006 site assignment proceeding
23 with the same applicant, the board and the Zoom
24 audience might benefit from a brief historic

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1 perspective on the site assignment process.
2 In the broadest sense, local control
3 over the siting of solid waste facilities dates
4 back to colonial times. Boards of health
5 traditionally had authority to regulate certain
6 places for activities that are deemed potentially
7 dangerous to the public, the so-called noisome
8 trades; for example, latrines, outhouses,
9 piggeries, turkey and chicken farms, fish/gurry
10 processing plants, and dumps.

11 In 1955 the legislature identified
12 solid waste facilities as needing special siting
13 procedures and enacted General Laws Chapter 111,
14 Section 150A, which required solid waste facilities
15 to receive an assignment by the board of health
16 with conditions, quote, as may be necessary to
17 protect the public health, comfort, and
18 convenience, end quote.

19 This early law was deficient in a
20 number of respects, not the least of which was its
21 failure to provide objective siting criteria. The
22 law was also flawed in that the board of health did
23 not have sufficient technical or financial
24 resources for a proper site review; and state and

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1 environmental public health agencies were
2 insufficiently involved in the siting process, and
3 there was too little formality in the hearing
4 process. All of these shortcomings resulted in
5 many unreviewable and unenforceable decisions.

6 In 1987 Chapter 111, Section 150A,
7 was substantially rewritten to address certain
8 problems with the site assignment process. The
9 revised statute strengthened the role played by
10 MassDEP in evaluating the suitability of the
11 proposed site. It required the applicant to pay
12 substantial fees to aid the board of health in its
13 analysis of the proposal and in conducting the
14 public hearing. It directed review under the
15 Massachusetts Environmental Policy Act, known as
16 MEPA, at the site assignment stage, rather than at
17 the later MassDEP permitting stage. The revised
18 law provided greater procedural safeguards during
19 the site assignment hearing. Section 150A also
20 directed MassDEP to formulate objective siting
21 criteria, which are now codified at 310 CMR,
22 Section 16.40.

23 Under the improved and current law,
24 solid waste applications like the landfill major

Page 20

1 modification application by Bourne ISWM requires
2 three steps: MEPA review, MassDEP site suitability
3 evaluation, and a board of health site assignment
4 hearing.

5 I will leave it to the applicant to
6 describe in more detail, if necessary, how it has
7 proceeded through the site assignment process to
8 date. I note only that the applicant submitted an
9 expanded notice of project change to the MEPA
10 office in the Executive Office of Energy and
11 Environmental Affairs in February 2020.

12 On November 13, 2020, the applicant
13 submitted a single supplemental environmental
14 impact report, an SSEIR. The secretary of EOEEA
15 issued a certificate determining that the SSEIR
16 adequately and properly complies with MEPA and its
17 implementing regulations.

18 MassDEP issued a positive site
19 suitability report on January 3, 2022, pursuant to
20 310 CMR 16.13, paragraph 3.

21 Today ISWM is undertaking the final
22 step in the site assignment process -- the public
23 hearing and review by this board, which must decide
24 whether a site assignment modification is

Page 21

1 appropriate using the siting criteria in the
2 MassDEP regulations and as presented in the
3 application and by MassDEP in its report.
4 The applicant, the board's review
5 engineer, and any allowed intervener will present
6 evidence on compliance with the relevant siting
7 criteria.
8 If the board grants the site
9 assignment modification, the ISWM must still obtain
10 two permits from MassDEP: An authorization to
11 construct and an authorization to operate in
12 compliance with operations and maintenance
13 requirements. If it chooses to do so, the board
14 can participate in these reviews.
15 Finally, I'm going to make some
16 rulings on certain legal matters. First,
17 commencement: The site assignment statute and
18 regulations require the commencement of the public
19 hearing within 30 days of receipt of the MassDEP
20 report on suitability. The report was received on
21 January 3, 2022; therefore, this hearing, commenced
22 today, February 2nd, is in compliance with the
23 statutory and regulatory deadline.
24 Secondly, notice: I have reviewed

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1 the newspaper notice, the MassDEP regulatory
2 written notifications, and the open meeting law
3 posting. I find that the notices were properly
4 made.
5 Rulings on evidence: Under the
6 MassDEP regulations, the administrative record in
7 the site assignment hearing includes documents
8 reviewed by MassDEP during its site suitability
9 review and documents received by the board of
10 health during the public hearing. At my request,
11 the applicant has prepared a preliminary list of
12 exhibits, to which I am sure there will be
13 additions.
14 Included on the list are written
15 comments on the application received by the board
16 prior to the commencement of this hearing pursuant
17 to 310 CMR 10.20(7)(c), specifically a January 17,
18 2022, email comment from Richard Jordan; a
19 January 26, 2022, comment letter from the
20 Conservation Law Foundation, originally submitted
21 to MassDEP on November 3, 2021, during its site
22 suitability review; and a January 31, 2022, ISWM
23 response to the CLF comment letter.
24 I have reviewed the list of exhibits

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1 and determined that, as it stands now, the listed
2 exhibits are relevant, material, and reliable, and
3 I will admit them en mass before the hearing
4 concludes, so not tonight but maybe on
5 February 16th.
6 I also will rule then on the
7 admissibility of documents offered during the
8 hearing. Please remind me to do so. Counsel will
9 prepare a final exhibit list for my review and
10 approval.
11 I want to talk a little bit about
12 the site suitability report. The MassDEP
13 suitability report dated January 3, 2022, is
14 important evidence in this proceeding. In a
15 five-page transmittal letter and a 55-page
16 analysis, MassDEP evaluated the proposed
17 modification against the facility's specific site
18 suitability criteria at 310 CMR 16.40(4) and the
19 general site suitability criteria for -- oh, just
20 general site suitability criteria at 310 CMR
21 16.40(4). I think I misspoke. The facility's
22 specific site suitability criteria are at
23 16.40(3)(a); the general site suitability criteria
24 are at 16.40(4); and, finally, the general site

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1 suitability criteria for a landfill are at 310 CMR
2 16.40(5).
3 Based upon its review of the
4 application and 63 documents listed as part of the
5 administrative record, MassDEP determined the site
6 is suitable for the purpose of establishing an
7 expanded municipal solid waste disposal facility.
8 This positive suitability report is
9 persuasive evidence that the site is suitable for
10 the proposed expanded solid waste disposal
11 facility; however, the positive finding is not
12 absolutely binding on the board of health. The
13 board may disagree in whole or in part if the board
14 receives contrary compelling evidence that the
15 modification will present a threat to the public
16 health, safety, or the environment based on the
17 application of relevant siting criteria.
18 Requests to participate and
19 intervene: The board has received two
20 registrations. Mr. Steve McNally, who lives in
21 Bourne, has registered as a participant by email
22 dated January 26, 2022, from Lisa Gianelli,
23 Esquire, Senior Fellow at the Conservation Law
24 Foundation. She filed 13 individual party

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1 registration statements to register as a ten
2 citizens group.
3 Based upon the review of the
4 registrations, the MassDEP site assignment
5 regulations at 310 CMR 16.20, paragraph 9, and with
6 input by counsel for the applicant, counsel for the
7 board, and counsel at the Conservation Law
8 Foundation, I find and rule as follows:
9 As to Mr. McNally, his registration
10 as a participant demonstrates that he is a person
11 specifically affected by this public hearing.
12 Permission for him to participate is limited to the
13 right to present testimony; to argue orally at the
14 close of the hearing; and to file a brief. The
15 requirements and limitations in 310 CMR 16,
16 paragraph 20, subparagraphs 9 and (d), shall apply,
17 and I hereby grant his request to be a participant.
18 As to the written request for leave
19 to intervene as a ten citizen group, I earlier --
20 well, before the commencement of the hearing this
21 afternoon, I conditionally granted the request to
22 intervene as follows, and I issued a written
23 decision on this. Although the written request to
24 intervene is not styled as a pleading, it does

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1 correctly refer to 310 CMR 20, subparagraphs
2 9(a)(2) and (b), governing ten citizen group
3 registrations.
4 The email forwarding 13 individual
5 statements does not directly reference them as a
6 collective registration as a party. The ten
7 citizen group should have submitted one
8 registration statement with the information;
9 however, the intent to be a collective ten citizen
10 group is evident on the face of the email and the
11 documents.
12 The registration statement from
13 Sarah Goodwin was not signed. Her name was
14 typewritten on the form. It was not an electronic
15 version of her signature; however, this defect can
16 be cured. However, if it is not signed, the ten
17 citizen group will still have the requisite number
18 of individuals to comprise a legal group.
19 The registration statements
20 improperly identified CLF as the authorized
21 representative. Pursuant to 310 CMR 16.20,
22 paragraph 3, the authorized representative must be
23 an individual. This defect can be remedied if an
24 individual is designated, for example, Lisa

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1 Gianelli, who filed the registrations, or a member
2 of the group first identified by date, I presume,
3 pursuant to 310 CMR 16.20, subparagraph 9B.
4 Excuse me for a minute. I have to
5 turn on a light in here.
6 The ten citizen group shall file its
7 written prefiled direct testimony on February 9,
8 2022. CLF, on behalf of the ten citizen group, has
9 expressed a concern about submitting its direct
10 case without reviewing the review engineer's
11 report, which will be filed on that same day,
12 February 9, 2022.
13 I believe that concern is misplaced.
14 The ten citizen group will have adequate time to
15 review the applicant's prefiled direct testimony to
16 meet the February 9, 2022, submission deadline.
17 The ten citizen group should have adequate time
18 from February 9th to submit testimony on the review
19 engineer's report before the February 16, 2022,
20 continued hearing. This same deadline applies to
21 the applicant as well.
22 We can discuss later today whether
23 there are reasonable alternatives to complete the
24 evidentiary proceeding that will allow the board

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1 sufficient time to deliberate and issue a decision
2 by March 21, 2022. The ten citizen group is
3 reminded that its prefiled written testimony,
4 quote, shall be limited to the issues of impacts to
5 public health, safety, and damage to the
6 environment and the elimination or reduction
7 thereof, end quote. Such testimony shall be
8 limited to probative evidence using the siting
9 criteria at 310 CMR 16.40 to address those issues.
10 Counsel for the applicant and the
11 board, are there any other preliminary issues that
12 I missed?
13 Hearing no response --
14 MR. TORRES: Mr. Hearing Officer,
15 Steven Torres for the board. No additional items.
16 THE HEARING OFFICER: Okay. Thank
17 you.
18 MS. O'BRIEN: Sorry, I didn't hear
19 that.
20 THE HEARING OFFICER: Mr. Torres has
21 no additional items.
22 MS. O'BRIEN: Thank you. Nor do I.
23 Thank you.
24 THE HEARING OFFICER: Okay.

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1 So, after that long-winded
2 introduction, I now turn it over to Attorney
3 O'Brien to present the applicant's affirmative
4 case, and I remind you that I will be swearing each
5 of the witnesses.
6 MS. O'BRIEN: Thank you. Thank you
7 for those remarks, Mr. Hearing Officer. It's very
8 helpful to have that background.
9 Good afternoon, Mr. Chairman,
10 Members of the Board, and others who are
11 participating today. My name is Michelle O'Brien.
12 I'm an attorney at Pierce Atwood in Boston. It's
13 my pleasure to represent the applicant, the
14 Department of Integrated Solid Waste Management of
15 the Town of Bourne, fondly referred to as ISWM
16 because we love acronyms.
17 As you know from the chairman's
18 opening remarks and the hearing officer's remarks,
19 ISWM is requesting a modification to its existing
20 site assignment to allow a vertical expansion of
21 the existing landfill -- and that's referred to in
22 the materials as Phase 9 -- and a horizontal
23 expansion of the landfill on a 25-acre parcel that
24 is currently site-assigned for solid waste handling

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1 facilities, and that's referred to as Phases 7 and
2 8.
3 As was mentioned already, the
4 request for modification of the site assignment
5 must be evaluated using the siting criteria
6 contained in the site assignment regulations 310
7 CMR 16.40. And under those regulations, the board
8 of health must find the site suitable unless the
9 siting would constitute a danger to the public
10 health, safety, or environment.
11 And, as you know, MassDEP examined
12 the application under the site assignment
13 regulations and the site suitability criteria and
14 found that the site will not pose such a danger and
15 issued a positive site suitability report. And the
16 site suitability report will be referenced and be
17 part of the board of health record in this
18 proceeding, along with the many documents that
19 MassDEP relied on in issuing its decision.
20 The applicant, ISWM, submitted
21 prefiled written direct testimony, at the order of
22 the hearing officer, from two witnesses, Daniel
23 Barrett, the general manager of Integrated Solid
24 Waste Management Department, and Raymond Quinn,

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1 professional engineer of SITEC Environmental; and
2 you will hear from each of them this afternoon.
3 They will each testify and give presentations that
4 essentially summarize the information that was
5 provided in the prefiled written testimony.
6 They're not going to reiterate
7 everything that's in the written testimony,
8 obviously, but try to provide some information for
9 you, to help you understand what the application is
10 all about; what the facility is all about; and how
11 the site suitability criteria apply to the proposed
12 expansion into the site.
13 With the hearing officer's
14 permission, I would actually ask that we be allowed
15 to present both witnesses. I know that usually a
16 witness testifies and then is subject to questions
17 or cross-examination. Perhaps it would be more
18 efficient to allow Mr. Barrett and then Mr. Quinn
19 to testify on behalf of the applicant and then open
20 it up for questions by the hearing officer and the
21 board. Perhaps in that way some of the questions
22 that they may have will be addressed through the
23 testimony of the second witness. So I would first
24 ask if that's acceptable to the board and the

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1 hearing officer.
2 THE HEARING OFFICER: Well, I'd ask
3 for the input from the board first, whether they
4 want to have the ability to ask a question
5 immediately after Mr. Barrett or immediately after
6 Mr. Quinn. Either way of conducting the
7 questioning of the witnesses is acceptable to me.
8 MS. O'BRIEN: Do you have any
9 preference, Mr. Chairman? You're muted. There you
10 go.
11 MR. CHAIRMAN: I would prefer to
12 hear from both. I do not want to start asking
13 questions that would be answered by the
14 presentation of the second speaker. I think it
15 would be more efficient to listen to both before
16 the questions.
17 MS. O'BRIEN: Fair enough. That
18 sounds good to me. That's what we proposed and
19 suggested. So thank you for that.
20 And at the conclusion -- not today,
21 obviously, but at the conclusion of all the
22 testimony and all the evidence in the public
23 hearing, we will ask the board to approve the
24 modification of the site assignment that is being

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1 requested for the landfill expansion.
2 So, with that, I would ask -- I
3 believe Mr. Barrett's microphone is on; so I would
4 ask the hearing officer to swear in the first
5 witness, Daniel Barrett, please.
6 DANIEL THOMAS BARRETT, sworn.
7 THE HEARING OFFICER: Counselor.
8 MS. O'BRIEN: Thank you, Mr. Shea.
9 Thank you.
10 So just a few preliminary questions
11 to sort of set the stage, if you will, Mr. Barrett.
12 And for those who are looking at the
13 screen, it says "ISWM Department" because obviously
14 there are a number of members of the group there,
15 but Mr. Barrett is in the front with the argyle
16 vest.
17 Thanks for waving your hand so we
18 can see you.
19 If you would first please state your
20 full name for the record.
21 MR. BARRETT: My name is Daniel
22 Thomas Barrett.
23 MS. O'BRIEN: And if you would
24 please state for the board and the record your

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1 current employment.
2 MR. BARRETT: My current employment
3 is general manager of the Town of Bourne's
4 Department of Integrated Solid Waste Management.
5 MS. O'BRIEN: How long have you been
6 working at the department?
7 MR. BARRETT: I was hired in 2000 as
8 the operations manager and then promoted to general
9 manager in 2009.
10 MS. O'BRIEN: Would you describe,
11 just very generally or briefly, if you would, what
12 your responsibilities are as a general manager of
13 the department.
14 MR. BARRETT: I'm in charge of all
15 operations/maintenance of the facilities at
16 201 MacArthur Boulevard as well as financial and
17 decisions needed to be made.
18 MS. O'BRIEN: You said 201 MacArthur
19 Boulevard. That's the location of the landfill and
20 other solid waste facilities; is that right?
21 MR. BARRETT: Yes, ma'am.
22 MS. O'BRIEN: And MacArthur
23 Boulevard is also known as Route 28; correct?
24 MR. BARRETT: Correct.

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1 MS. O'BRIEN: Okay.
2 Did you prepare written prefiled
3 testimony in this matter?
4 MR. BARRETT: Yes, I did.
5 MS. O'BRIEN: And I don't know if my
6 camera is going to --
7 Mr. Hearing Officer, how do you want
8 to do that? The lights are going off here, too.
9 Yeah, you can't see that because I'm
10 too far away from the camera, but I would ask you,
11 just again for the record, to identify -- is your
12 prefiled testimony, a five-page document entitled
13 "Prefiled Direct Testimony of Daniel T. Barrett,"
14 signed under the penalties of perjury on the 26th
15 day of January?
16 MR. BARRETT: Yes.
17 MS. O'BRIEN: And, Mr. Hearing
18 Officer, at your direction, we'll be, I guess,
19 holding off on offering these as evidence, but we
20 would obviously intend to include the prefiled
21 testimony of Mr. Barrett in the record.
22 THE HEARING OFFICER: That's
23 correct.
24 MS. O'BRIEN: Thank you.

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1 Mr. Barrett, in addition to your
2 prefiled written testimony, did you prepare a
3 presentation to share with the board today?
4 MR. BARRETT: Yes. I prepared a
5 PowerPoint presentation to provide a summary of my
6 written testimony.
7 MS. O'BRIEN: Excellent. And if
8 you, or whoever is running the screen over there,
9 would proceed to pull up that PowerPoint
10 presentation, if you would run through that, that
11 would be great.
12 MR. BARRETT: Good evening, Ladies
13 and Gentlemen. I'll be as brief as I can.
14 Obviously, I have a bad cold; so, if there's
15 something that you don't understand, please let me
16 know and I'll repeat it. We'll move along as
17 quickly as possible, as we have a lot to do.
18 I just want to acknowledge this
19 evening that we have the chairman of the board of
20 selectmen for the board in the audience, obviously
21 not participating, along with the acting town
22 administrator.
23 In this room with me tonight I have
24 the ISWM staff -- the manager of facility

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1 compliance and technology development, Philip
2 Goddard, and also Asa Mintz, who's the operations
3 manager. I'll let Mr. Quinn --
4 MS. O'BRIEN: Sorry, could you just
5 advance the slides, please.
6 MR. BARRETT: Certainly.
7 MS. O'BRIEN: You're still on the
8 cover slide.
9 MR. BARRETT: Sorry. What happened
10 here?
11 THE HEARING OFFICER: Before he
12 advances the -- I was going to say, before he
13 advances the slide, are we going to see that one
14 again so that he can point out distinguishing
15 features of --
16 MS. O'BRIEN: He has a better map
17 for you to be able to do that.
18 THE HEARING OFFICER: Thank you,
19 Counselor. Thank you.
20 MS. O'BRIEN: Yes.
21 MR. BARRETT: It will be in the
22 slide, sir.
23 And right to the pictures. This is
24 a Bourne landfill obviously taken in 1959. For

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1 your benefit and to put things in perspective, I
2 would like you to see the -- at the top of the
3 photograph, along the -- what appears to be like a
4 power easement, is Donnely Pond. That ribbon road
5 that runs underneath it, which in this case will be
6 directed south of Donnely Pond, keep an eye on
7 that. And at the bottom of your screen, which will
8 be the far west, you'll notice the divided highway,
9 which is Route 28.
10 Now we'll zoom ahead to 2020 and see
11 what we have. Again, to orient yourself, here's
12 Donnely Pond up at the top; at the bottom, on the
13 west side is Route 28 south. You'll notice the
14 landfill is larger in the south, then moves its
15 way -- or, larger in the north, then moves its way
16 towards the south. But we'll get to the
17 explanation of those areas in a moment.
18 The ISWM facility -- let me give you
19 a little bit of background, as the hearing officer
20 had thought would be a good idea. The Bourne --
21 the Town of Bourne began operations on that site in
22 1967. The board of health issued an original site
23 assignment on June 16, nineteen -- sorry -- 1972 in
24 response to continuing development of solid waste

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1 regulations.
2 In the early 1980s the Town of
3 Bourne opted to continue site development. It was
4 a big decision, as you might imagine, for the Town,
5 a small town taking on a task -- onerous task like
6 this. Mr. Goddard Whitney was there during that
7 decision process and informs me that they made it
8 knowing exactly what they were going to do.
9 As a result of that and as a result
10 of special legislation, in 1999 the Department of
11 Integrated Solid Waste Management was formed. This
12 is a -- this signified Bourne's commitment to the
13 establishment of a state-of-the-art integrated
14 solid waste management facility that was previously
15 operated by the DPW as kind of a side operation to
16 what they did every day. The Town of Bourne wanted
17 to move forward.
18 What does that mean? They have a
19 separate, focused department with trained,
20 experienced staff with solid waste management
21 credentials; upgraded, specialized equipment and
22 techniques; focused on environmental and personnel
23 health and safety; built-in flexibility for the
24 department to react quickly to market

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1 adjustments -- as you might imagine, that's a
2 little bit different for municipalities, and it's a
3 chore -- continuous necessary infrastructure
4 upgrades, including a new scale system and new
5 scale house and transfer station. That's just a
6 few of the examples.
7 It's worth noting here that the Town
8 of Bourne -- the Town of Bourne was the first
9 landfill in the state of Massachusetts to have a
10 double composite liner. It gives you an idea of
11 what the Town's thoughts are on moving forward and
12 running a safe facility, obviously focused on safe
13 and sustainable future development and expansion.
14 To kind of give you an idea of what
15 this application is trying to do, it is the intent
16 of this application to complete the site master
17 plan and give Bourne the flexibility to provide
18 Cape Cod and Southeastern Massachusetts with
19 multiple environmentally sound solid waste options
20 and a sustainable revenue stream for years to come.
21 A little bit more about that in a moment.
22 Let's talk about the facility
23 parcels, and we can see that coming up on the next
24 view. If you remember, to the right I pointed out

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1 the 74-acre site-assigned parcel that is the
2 original parcel utilized for landfilling since 1967
3 and is the location for the proposed Phase 9
4 vertical expansion.
5 A 25-acre parcel, which we'll see
6 here in a minute -- a 25-acre parcel was purchased
7 in 2001, which was site-assigned for solid waste
8 handling in 2005 and is the area for proposed
9 Phase 7 and Phase 8 horizontal landfill expansions.
10 Obviously, that's where one of the modifications of
11 the site assignment comes, changing it to have the
12 ability for landfilling.
13 There is a small, 12-acre parcel
14 purchased in 2016, which is the proposed location
15 for new offices, maintenance facilities, and,
16 pending successful site suitability, the solid
17 waste handling and transfer operations will be
18 displaced -- which will be displaced by the
19 landfill expansion over time. We hope to move
20 those operations out there -- and we'll talk a
21 little bit about that later -- to fully take
22 advantage of that area.
23 And here's the map. Again, you'll
24 remember this same geometry from the previous map.

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1 The 74-acre parcel right here, that's the oldest
2 one. That's where the 9 -- Phase 9 is going to go.
3 It's taken out of order numerically, but it's going
4 to go up there. It will be on top of completely --
5 landfilled on top of double composite lining.
6 Moving to the south, currently
7 undeveloped for landfilling space, this currently
8 houses our transfer stations/our offices.
9 And then, if you look to the green
10 parcel, the 12-acre parcel, that's a future parcel.
11 That's not the subject of this site assignment.
12 And, you know, we're working on that. It would
13 allow us to take advantage of some more space out
14 on the facility and allow us to continue operations
15 into the future.
16 Current benefits: Local disposal
17 and transfer operations for MSW, C&D, and
18 single-stream recyclable, as well as yard waste and
19 brush management, emergency capacity for systems
20 disruptions. For those of you in the business, or
21 maybe for those of you who aren't, with the
22 shrinking capacity that we're seeing in the state
23 of Massachusetts, small disruptions in any of these
24 facilities' incoming waste stream, in other words,

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1 something breaks at the facility -- particularly
2 susceptible are the waste energy facilities -- it
3 sends a ripple effect through all of the
4 facilities. Most of us are running it currently at
5 capacity, and we don't have the extra capacity to
6 absorb those type of things. Another reason why
7 this expansion is important.
8 It provides competition in a limited
9 marketplace. The folks on the Upper Cape enjoy
10 having us here because we are able to add a little
11 bit of competition to the surrounding facilities.
12 And this is the most important of
13 all: Potential host site for new technologies and
14 transfer options well beyond the life of the
15 landfill. You'll notice that -- I know, when I
16 came here 21 years ago, the first thing the
17 selectmen said to me was, We don't want a landfill.
18 Find something better. And if you were to look at
19 our transition and what we've done with this
20 facility, we've retooled four times. We went from
21 raw C&D and moved into MSW. And we continue to
22 move forward.
23 Our goal is -- and we have
24 demonstrated this already, but our goal would be to

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1 find a parcel that does not require landfilling,
2 and we will use that land to the south to build
3 that facility.
4 We thought about anaerobic
5 digestion. We weren't able to get it. We did get
6 a host agreement with the company, but it just
7 didn't happen. So it's always worthwhile to keep
8 in mind -- notice we move from north to south. The
9 south is where the virgin property is, and that's
10 where we hope someday to build something that is
11 better than landfilling.
12 It's worth mentioning that -- the
13 board of selectmen brought this up -- well, we'll
14 get to that in a group meeting. We'll move ahead.
15 ISWM's role on Cape Cod: In 2007
16 SEMASS closed because of a catastrophic fire.
17 Overnight ISWM filled the void and accepted all MSW
18 from the towns on Cape Cod, with no financial
19 impact and absolutely no backup in service.
20 I was involved at that point -- you
21 know, I was walking out of the shower on April 1st
22 and had about five phone calls already. We spent
23 the night, a whole bunch of solid waste people,
24 putting together a plan to move that waste out.

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1 3,500 tons a day, we've got to move it somewhere.
2 Again, with diminishing capacity, it's not as easy.
3 66 percent of towns rely on ISWM
4 either directly or indirectly. The following
5 communities utilize SEMASS, which brings residual
6 ash to the Bourne landfill: Brewster, Chatham,
7 Dennis, Eastham, Harwich, Sandwich, Truro, and
8 Yarmouth. Additionally, ISWM directly manages the
9 household waste from the town of Falmouth, through
10 a long-term contract, and the trash from the
11 residents in the town of Bourne.
12 A very important point here, and
13 you'll see are made in a couple of points in my
14 presentation, regional leader in diversion efforts
15 such as mattress, latex paint, and boat shrink wrap
16 recycling. That's just to name a few. That's
17 Mr. Goddard's specialty. He does a fantastic job.
18 And we are -- we tout -- we look at ourselves as
19 the leader on Cape Cod. We have the facilities and
20 we'd like to keep that moving, and we will continue
21 to do so. We are an integrated solid waste
22 management facility.
23 Consensus plan from leadership: We
24 had a joint meeting in 2019. We had an earlier

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1 joint meeting of the same group in 2010. 2019 was
2 the most recent. It included the board of health,
3 board of selectmen, the finance committee, and the
4 energy advisory committee. There was no formal
5 vote taken that night, but we took notes, as we did
6 in 2010. We were at a crossroads. What do you
7 folks want us to do at this facility?
8 In 2010 they instructed us that they
9 didn't want a landfill municipal solid waste. We
10 switched over to ash, which represents the
11 irreducible minimum at this point.
12 The board of selectmen in November
13 of 2019 voted unanimously to support the expansion,
14 which allowed us to move forward, maximizing full
15 use of the landfill up to 2035. But I will point
16 out to you, that's why we did it -- so that we had
17 that option under our belt where we could continue
18 to provide that service. What we would like to do
19 is find something in the interim that will not make
20 landfills necessary.
21 Maximizing all of the site for
22 potential solid waste handling operations beyond
23 the life of the landfill, that's what we want to
24 do.

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1 Researching innovative technologies
2 to provide benefits to Cape Cod over the long-term:
3 Again, I keep saying the same thing, but these were
4 our orders from the board of selectmen and the
5 board of health and the finance committee. They
6 want us to move through and make sure that we can
7 find a technology that would allow to us abandon
8 landfilling at some point.
9 Decades of environmental review:
10 I'll tell you that we changed this slide. It's
11 small font. I'll read it. But originally it
12 contained all of the -- it was a smaller font and
13 it was not really meant to be read, but it showed
14 you, over the last 20 years, how much regulatory
15 review we had had. And it was only a
16 representation of MEPA and the Cape Cod Commission.
17 It didn't show anything about DEP, ATO's and ATC's
18 authorizations to construct and operate, or any of
19 the other things that we do -- quarterly
20 groundwater monitoring, air emissions, bimonthly
21 inspections.
22 Since 1999, the facility development
23 and operates -- and operations have undergone
24 continuous environmental review and approval from

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1 state and regional environmental agencies,
2 including the Massachusetts Department of
3 Environmental Protection, the Massachusetts
4 Environmental Policy Act Office, and the Cape Cod
5 Commission.
6 I think the hearing officer, in his
7 explanation of what we had gone through thus far,
8 may have missed the Cape Cod Commission. It's
9 another layer of regulatory authority. We needed
10 to file an application for development of regional
11 impact. The reason is, that's triggered by, any
12 time MEPA sees an EIR, we have to come to and file
13 with these folks, which we did. These are local
14 people. This is their backyard. Each town is
15 represented. We had four subcommittee meetings,
16 and we were approved by the full committee.
17 In its review of the proposed
18 expansion in August of 2021, the Cape Cod
19 Commission staff stated: The Bourne ISWM facility
20 is a regional infrastructure that serves a critical
21 role in managing the region's waste. While it is
22 not a long-term solution for regional waste
23 management, it is essential until the region can
24 transition to higher recycling rates, composting,

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1 and a zero waste system. It is a sensible and
2 efficient -- it is sensible and efficient to make
3 use of expanded and existing facilities where
4 resources and infrastructure are already in place,
5 provided that regional resources can be protected.
6 And they did a thorough investigation to make sure
7 we were going to do that. So, again, they mention
8 that they want us to move on and get out of the
9 landfill business.

10 A quick overview of the expansion,
11 and then I'll turn it over to Ms. O'Brien.
12 5,175,000 cubic yards of airspace.
13 What you're seeing on that map that I showed you
14 are -- that's where that airspace is contained.
15 We'll have it there. Hopefully, we won't need to
16 use it.

17 Phase 9 is a vertical expansion up
18 to 225 feet -- a 40-foot vertical expansion. The
19 current height limit is 185.

20 Phases 7 and 8 are horizontal
21 expansions to the south up to 225 as well -- mean
22 sea level. I'm sorry.

23 Potential to last into the early
24 2040s. Annual tonnage, 219,000 tons. No change.

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1 No change to traffic. Daily site tonnage, 825. No
2 change. No change. We did that on purpose.

3 And that's it. A view of our front
4 gate with the flag and the moon in the background.
5 I'll turn it over to Ms. O'Brien.

6 MS. O'BRIEN: Sorry, my bad, I went
7 onto mute there.

8 Thank you, Dan. And I'm sorry you
9 aren't feeling well, but thank you.

10 So we're going to turn to Mr. Quinn.
11 Mr. Hearing Officer, if you would swear in
12 Mr. Quinn.

13 And, yes, Ray, thanks for moving up
14 because now I can see you. You were a little out
15 of the camera view a minute ago. So I think
16 that's -- I think that's good. I think everyone
17 can see you now.

18 For those who are looking at
19 Mr. Quinn, he is also in the ISWM Department block,
20 if you will, on the screen opposite where
21 Mr. Barrett is sitting.

22 So, if you would please swear the
23 witness, then we can get going. Thank you.

24 A. RAYMOND QUINN, sworn.

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1 MS. O'BRIEN: Thank you, Mr. Quinn.
2 If you would please just state your name for the
3 record, and we'll run through a few preliminary
4 items before you conduct your presentation.

5 MR. QUINN: Yes. My name is
6 A. Raymond Quinn. I'm employed by SITEC
7 Environmental. My position is as a senior project
8 manager. I've gone into semi-retirement four or
9 five years ago. I had been the majority owner and
10 president of the company until five or six --

11 MS. O'BRIEN: Did -- I'm sorry, I
12 didn't mean to cut you off. I'm sorry, you were
13 president for how long?

14 MR. QUINN: I was probably president
15 for about six or seven years. And I went into
16 semi-retirement about six years ago.

17 MS. O'BRIEN: So you've been trying
18 to retire for a while now.

19 MR. QUINN: I've been trying.

20 MS. O'BRIEN: I get it. Yes.
21 Did you attend a college?

22 MR. QUINN: Yes. I went to
23 Northeastern University and graduated with a
24 bachelor's in civil engineering in 1971.

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1 MS. O'BRIEN: Do you hold any
2 professional licenses or certifications?

3 MR. QUINN: Yes. Originally, prior
4 to semi-retiring, I had seven state professional
5 engineering licenses and a Massachusetts Licensed
6 Site Professional license. I let several of those
7 expire with my semi-retirement. I remain a
8 professional engineer in Massachusetts and
9 Rhode Island.

10 MS. O'BRIEN: What type of projects
11 have you worked on, generally speaking, in your
12 professional career?

13 MR. QUINN: Well, water projects,
14 waste water collection and treatment, water
15 treatment, site development work, hazardous waste,
16 remediation and assessment, site assessment work.
17 Most of my work, say in the past couple of decades,
18 a majority has been relative to solid waste
19 projects.

20 MS. O'BRIEN: And when you say
21 "relative to solid waste projects," what was your
22 involvement? Again, generally speaking, what do
23 you do -- what did you do?

24 MR. QUINN: I prepared reports, I

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1 designed facilities, both starting with MEPA
2 applications, site assignment applications, design
3 of facilities, so preparing the authorization to
4 construct and authorization to operate
5 applications.
6 MS. O'BRIEN: Have you worked with
7 ISWM regarding the solid waste facility located on
8 MacArthur Boulevard, Route 28, in Bourne?
9 MR. QUINN: Yes, I have. Since
10 2001.
11 MS. O'BRIEN: 2001. Have you been
12 involved in ISWM's efforts to expand the facility
13 over time?
14 MR. QUINN: Yeah, going back to
15 2005, with the site assignment application for the
16 25-acre parcel, and then planning the working --
17 the concepts for this proposed expansion for
18 Phases 7, 8, 9 and, again, the future one for the
19 12-acre parcel.
20 MS. O'BRIEN: As part of your recent
21 work that you just mentioned, working with ISWM
22 regarding the currently contemplated expansion, did
23 that include preparing an application for
24 modification of the site assignment?

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1 MR. QUINN: Yes.
2 MS. O'BRIEN: And I'm far away from
3 the camera; so maybe I'll actually step up and put
4 it in front of the camera. But I just want to
5 identify for the record what the title is. Is that
6 the BWP SW 38 application for site suitability for
7 a major modification of an existing site assignment
8 dated March 29, 2021?
9 MR. QUINN: Yes, it is. Yes, that
10 looks like it.
11 MS. O'BRIEN: Everyone can see it.
12 It's a nice, thick document; right?
13 MR. QUINN: Yes.
14 MS. O'BRIEN: So at the appropriate
15 time we will be introducing this into the record as
16 well, Mr. Shea.
17 THE HEARING OFFICER: Yes.
18 MS. O'BRIEN: Mr. Quinn, did you
19 also prepare written testimony for the hearing?
20 MR. QUINN: Yes, I did.
21 MS. O'BRIEN: And is that your
22 prefiled direct testimony of A. Raymond Quinn, PE,
23 dated -- sorry, probably you can tell me -- dated
24 January 25, 2022?

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1 MR. QUINN: Yes. Yes, that is.
2 MS. O'BRIEN: Okay. Thanks.
3 Are there -- is your resume an
4 exhibit or an attachment to that prefiled written
5 testimony?
6 MR. QUINN: Yes. It's Exhibit 1.
7 MS. O'BRIEN: Are there other
8 exhibits to your prefiled direct testimony?
9 MR. QUINN: There is an Exhibit 2,
10 which is the plans that were originally included in
11 the application, with some modified plans dating as
12 late as December 9, 2021.
13 MS. O'BRIEN: And, again, I'll just
14 mention for the record, obviously the prefiled
15 direct testimony will be included in the board's
16 record of this proceeding; but, also, ISWM provided
17 a set of plan-size, 24-by-36, if I've got that
18 right, of the plans just so that the board has
19 those in the office. They're often a little bit
20 easier to read than the 8 1/2-by-11 or even
21 11-by-17 versions of those plans and figures.
22 Mr. Quinn, did you also prepare a
23 presentation to share with the board this
24 afternoon?

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1 MR. QUINN: Yes, I did. It's a
2 PowerPoint presentation, as Dan's.
3 MS. O'BRIEN: Excellent. If you
4 would pull that up. And you're welcome to go
5 through the PowerPoint presentation.
6 MR. QUINN: Thank you very much. I
7 appreciate the opportunity to speak with the board
8 and make this presentation.
9 The project background: As you've
10 been given, it's a landfill facility that occupies
11 99 acres on two parcels, a 74-acre and a 25-acre
12 parcel. The 74 acres is currently site-assigned
13 for landfilling, but we're seeking a modification
14 in order to do a vertical expansion from an
15 elevation of 185 to 225 Mean Sea Level. And this
16 would constitute the Phase 9 expansion.
17 Then the 25-acre parcel, which is
18 immediately to the south of the 74-acre, is
19 site-assigned currently for handling solid waste.
20 We are seeking to modify a portion of that parcel
21 in order to construct Phases 7 and 8.
22 There is the additional 12-acre
23 parcel which was referenced. This is not a part of
24 this current site assignment application but would

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1 be in future plans.
2 As Dan has mentioned, the total
3 capacity increase -- this is just the increase --
4 with the modification is for 5,175,000 cubic yards,
5 which will extend the landfill life into the 2030s
6 or early 2040s.
7 This is a busy plan, as opposed to a
8 picture of the site. The left is to the north, the
9 seventy -- if you can see my pointer pointing down,
10 this is the property line between the 74-acre
11 parcel, which is here, within that area there with
12 green shading, which is the area that has been
13 closed and capped for landfill, and the gray areas,
14 which are either intermediate cover or are active
15 landfilling.
16 The Phase 9 footprint follows kind
17 of the plateau of this area, which will be placed
18 on the existing landfill as well as the future
19 build-out of the active Phase 6 landfill, which is
20 immediately south and part of the existing process.
21 The 25-acre parcel is immediately
22 south. You can see the existing structures: The
23 transfer station, the single-stream handling
24 facility that exist there, and the Phase 7 and

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1 Phase 8 footprints as designated at this point.
2 In order to do that, we have to move
3 these facilities, and that's going to the 12-acre
4 parcel, which is conceptually laid out here. In
5 order to get down to subgrade so we maximize our
6 use, there has to be about a half a million cubic
7 yards of clean, natural material excavated from
8 within this area.
9 The facility design will be subject
10 to review and approval by DEP and authorization to
11 construct, permit applications for each sequence of
12 landfill development; and this will be consistent
13 with and compatible to the existing facilities,
14 which will improve groundwater protection, leachate
15 collection in storage facilities, using a double
16 composite liner system with interstitial leak
17 detection.
18 And within that liner system,
19 leachate is collected through a system of piping
20 that go to sumps, where it's pumped to leachate
21 collection tanks and then subsequently hauled
22 offsite for disposal at licensed wastewater
23 treatment facilities.
24 Landfill gas collection and

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1 treatment: The system will be expanded with the
2 landfill by expanding the existing collection
3 network, putting in new horizontal and vertical
4 collection wells into the existing and proposed
5 expansion of the facility and then pumping that
6 gas -- that collected gas to the existing and
7 adequately sized flare treatment system. This
8 provides gas destruction and odor control as well.
9 And, as well, our environmental
10 monitoring system will be expanded to match the
11 expansion of the landfill, which consists of a
12 series of groundwater monitoring and landfill gas
13 monitoring wells that will be expanded into the --
14 particularly into the Phase 7 and 8 areas, at least
15 downgradient.
16 The site suitability evaluation is
17 primarily consisting of two categories of site
18 suitability criteria that must be evaluated for the
19 facility to be site-assigned. As Mr. Shea
20 identified to you, it is these criteria that the
21 board is to base their decision on. And the types
22 of facility criteria, facilities specific to
23 landfills, these generally relate to the location
24 and setback distances of waste deposition areas

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1 relative to environmentally sensitive areas or
2 receptors.
3 And then there are general site
4 suitability criteria that apply to all types of
5 solid waste facilities and generally are relative
6 to potential impacts on different sources.
7 All of this criteria has been
8 reviewed and determined by our firm, SITEC,
9 within -- beginning with the MEPA process, the
10 Cape Cod Commission process, and the site
11 assignment application process. And MassDEP has
12 determined that the site meets all of the criteria
13 required for the proposed site assignment
14 modification.
15 There's a group here of the
16 site-specific criteria that I have listed.
17 Generally, these are relative to resource areas
18 where the answer can be given either at the site it
19 is within or not within these resource locations.
20 Such resources are Zone IIs and IWPA's of existing
21 public water supplies and of proposed water
22 supplies, also upgradient of water surfaces by
23 almost 3 miles.
24 The discharge of the facility is not

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1 to pose a danger. The waste deposition is not
2 within the zone of existing water supplies or
3 proposed drinking water source areas or recharge
4 area of surface water supplies. And the area of
5 waste deposition would be within the zones of a
6 surface drinking water supply. And, also, waste
7 deposition upgradient by 400 feet of a river
8 course that drains to a certain water supply and
9 deposition within 1,000 feet upgradient of an
10 existing private water supply. All of these
11 criteria are answered by, no, we're not in these
12 areas.

13 Plus, all of these criteria, as
14 shown, are -- next -- and as shown on our water
15 resource plan, which is included in the application
16 and has been given to you, which you can look at a
17 more legible version up here, you will see -- in
18 the areas where there are marks and the colored
19 things, those are the areas that are within a
20 half-mile radius of the site, such as wetlands, the
21 green. The blue is surface waters. And this blue
22 hatching is a Zone II, a well that's quite a
23 distance away from there. These are -- the
24 radiuses from the landfill are 500 feet, a thousand

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1 feet, and a half a mile.

2 One of those criteria we've marked
3 that was listed as "See later" is 6, which is waste
4 deposition over the recharge area of the sole
5 source aquifer, unless the US -- in fact, the US
6 EPA and the Massachusetts Contingency Plan define
7 Cape Cod as being a sole source aquifer, so within
8 that area, however, with exceptions, one being no
9 existing water supplies or proposed drinking water
10 areas are downgradient of the site.

11 The Bourne Board of Health 20 years
12 ago, in its wisdom, prohibited water supply wells
13 downgradient of the facility, and that was without
14 any consideration at the time of Phase 7, 8, and 9.
15 So the site meets that criterion.

16 And there are no existing potential
17 private water supplies downgradient of the site
18 or -- of the site or the applicant can supply water
19 to those sources.

20 And the Bourne Board of Health and
21 the Town has prohibited supply wells downgradient,
22 and the Town connected all its users to the public
23 water supply system so that they are supplied with,
24 again, public water not relative to groundwater

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1 downgradient of the land.

2 The third condition is there exists
3 a sufficient existing public water supply or
4 drinking water source areas to meet the
5 municipality's needs. In fact, the Bourne Water
6 District supplies water for this side of town.
7 Water is supplied by ten different sources,
8 including part of the Upper Cape Regional Water
9 Supply Cooperative. And the cooperative allows the
10 Bourne Water District to provide -- to obtain
11 additional water as needed.

12 The cooperative has wells that are
13 rated for three hundred -- 3 million gallons a day
14 but which, in fact, can provide 6 million gallons a
15 day. And the conclusion is we meet that and the
16 other criteria for this.

17 And number 10 on the site
18 suitability specific criteria is any waste
19 deposition would be within a potentially productive
20 aquifer unless the designated area is improperly
21 labeled as a potentially productive aquifer.

22 The aquifer cannot now or in the
23 reasonably foreseeable future be used for a public
24 water supply due to contamination or the area has

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1 been excluded as a non-potential public drinking --
2 non-potential drinking water supply.

3 Again, the facility is within a
4 potentially productive aquifer, as determined by
5 DEP. There are two closed unlined landfills
6 downgradient of the site which would preclude any
7 use of that downgradient area for a water supply.

8 MassDEP has also determined portions
9 of the aquifer west and downgradient of the site as
10 non-potential drinking water source areas. This is
11 primarily along the Route 28 corridor and further
12 west.

13 And, again, the board of health has
14 prohibited wells downgradient of the landfill; thus
15 the aquifer cannot be used as a public water supply
16 and is best characterized as being a non-potential
17 drinking water source. Again, the site meets this
18 criterion.

19 Number 12 on the site-specific is a
20 maximum groundwater table separation between the
21 bottom of the liner and the maximum water table --
22 groundwater table in an area. The groundwater
23 elevations have been monitored here for over
24 30 years, starting with the US Geologic Survey

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1 monitoring a well for 25 of those years and
2 Cape Cod Commission monitoring another well for the
3 past five. So there is certainty on what the
4 maximum groundwater elevation is at this area.
5 Our job, then, is to design the
6 bottom of the liner, which will be the waste
7 containment area, to be 4-foot separation. We have
8 our preliminary design, and we will be making sure
9 that we establish a conservative separation.
10 Other simple -- one other criterion
11 is that we are not within an area protected by the
12 Wetlands Protection Act, including the hundred-year
13 floor -- floodplain. The waste deposition area and
14 leachate contaminants are not within an area
15 protected by the Wetlands Protection Act; thus the
16 site meets this criterion, as shown on the attached
17 land use plan.
18 Any area of waste deposition or
19 leachate containment greater than four -- within
20 400 feet of a lake or 200 feet of the water -- a
21 riverfront area -- should not be sited. Again, the
22 waste deposition area and leachate containment are
23 not within 400 feet of a lake or 200 feet of a
24 riverfront area. The site meets this criterion, as

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1 shown on the following land use plan.
2 15 is any area of waste deposition
3 would be within a thousand feet of occupied
4 residential dwellings, health care facilities,
5 prisons, day care centers, or senior or youth
6 facilities. The site meets the criterion, as shown
7 on this plan.
8 This is the land use plan that is
9 shown -- included in the application and which the
10 board has been provided with a full-size, 24-by-36.
11 The site-specific criteria we noted are residential
12 units and health care.
13 There is a residence contained here
14 within the campgrounds. The campground -- tents,
15 trailers, other facility -- other temporary,
16 seasonal units are not considered occupied
17 residential facilities, only a single building
18 which is their store --
19 (Stenographer requests
20 clarification.)
21 MR. QUINN: -- which is a store -- a
22 permanent structure on the campground that has a
23 store with an apartment on the second floor above
24 the store.

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1 The other receptor noted in the area
2 is the Bourne Manor. It's outside the
3 thousand-foot separation buffer criteria, which is
4 this dash line around it. Beyond here, we have
5 mild upset, and inside is a 500 upset.
6 I'll point out on this map -- we'll
7 be discussing some other land use identifiers on
8 other criteria. I just want to point out, this
9 kind of orange hatch line is a soils line that is
10 designated by the U.S Department of Agriculture,
11 which we'll discuss. This blue hatch line is a
12 conservation area designated for the Joint Base
13 Cape Cod area. And this gray line is a drainage
14 area that goes to an area of critical environmental
15 concern. But we will address those criteria as we
16 go along.
17 Waste deposition on the site -- this
18 is still site-specific. The waste deposition on
19 the site would result in the threat of an adverse
20 impact from groundwater -- to groundwater through
21 discharge of leachate unless it is demonstrated to
22 the satisfaction of DEP that a groundwater
23 protection system will be incorporated to prevent
24 such a risk.

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1 The groundwater protection system is
2 the liner system that will be a double composite
3 liner, which Dan referred to, with -- knowing that
4 the Bourne landfill had the first in the state and
5 has been conducting double composite liners since
6 about 2000. So we will meet the requirements of
7 any stipulation, whether current or upgraded, by
8 DEP.
9 And as stated in the Cape Cod
10 Commission review, its design is consistent with
11 federal requirements for hazardous waste and soil,
12 which is a greater construction than their solid
13 waste facilities. The DEP, as well, recommends
14 that. So we do meet that site criterion as well.
15 Now we move into the general site
16 suitability criteria, again which applies to all
17 facilities, and it's -- it's a series of different
18 impacts that we have to address.
19 The first one is any land within
20 prime, unique, state, or determined to be important
21 USDA Natural Resource Conservation -- as recognized
22 by Natural Resources Conservation. This is land
23 that is deemed to be suitable for agricultural
24 purposes and is effective.

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1 The second one is the land is deemed
2 actively devoted to agriculture uses.
3 And, third, that a hundred-foot
4 buffer must be provided between that area
5 identified as soils suitable for agricultural use
6 and any waste deposition.
7 In fact, as I showed you on the land
8 use plan, USDA did determine that their original
9 soils here did consist of soils that are suitable
10 for farmland of statewide importance on the 25-acre
11 parcel.
12 ISWM has contracted licensed
13 certified soil scientists from LEC Environmental to
14 conduct the site-specific soil survey that
15 indicated limited soils remain within the 25-acre
16 south -- along the western perimeter and southern
17 perimeter and that the other soils, due to historic
18 operation on the site, have been removed, where, in
19 fact, that line on the USDA map is not accurate.
20 We have also provided the 100-foot
21 offset from areas that do have those specific soil
22 types. And, as is obvious for anyone traveling the
23 site, it's not devoted to any current agricultural
24 use. Thus the site meets the criterion.

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1 And as shown on the following plan
2 which provides the specific location that we're
3 seeking to amend the site assigned, it's this blue
4 area now that consists of 17.34 acres that is
5 outside of the hundred-foot property line and it's
6 outside of the hundred-foot offset from the
7 agricultural services. That agricultural line is
8 determined by the soil scientists, in conjunction
9 with the USDA mapping with this inner dashed line,
10 with a hundred-foot offset.
11 The green area is an area where
12 there is no proposed change to the site assignment
13 status in that area on the 25-acre parcel. That
14 means that the handling -- the solid waste handling
15 site assignment will remain in effect, and on the
16 12-acre parcel there will be no site assignment.
17 The yellow hashed area is the
18 current -- the anticipated potential area where we
19 will seek a site assignment for the new handling
20 operation at the site.
21 (Stenographer admonishment to slow
22 down.)
23 MR. QUINN: Sure.
24 Our next criteria relates to traffic

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1 and access to the site, and it stipulates that no
2 site shall be determined suitable where traffic
3 impacts from the operation constitute a public
4 safety and hazard to the environment, taking into
5 consideration, one, traffic congestion. That
6 allows -- I'll say first, based on the original
7 traffic study and an update we've made, which was
8 conducted just last year, the criteria is met by
9 traffic congestion. One, there is no change to
10 waste or traffic volume from the original and the
11 updated studies; thus there is no change to traffic
12 conclusions.
13 Two, pedestrian and vehicle safety:
14 There is no pedestrian traffic access allowed on
15 Route 28, and a review of the Mass Highway
16 Department's collision records show that the area
17 along Route 28 is below state average for accident
18 occurrences.
19 Three, road configuration: Access
20 is limited from Route 28 by Mass highway
21 constructed and designed access -- dedicated
22 entrance lines and exit lines, in other words,
23 deceleration to enter and acceleration lanes to
24 exit.

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1 Additionally, not too long ago, the
2 entire internal access road system was upgraded,
3 the scale system was relocated, and it provides a
4 significant amount of queuing space should trucks
5 start to back up on-site. As far as alternative
6 routes, there are no other alternative routes that
7 are required or available off of the state highway.
8 And there is no change in vehicle
9 volume because there is no change in the waste,
10 which is produced -- which produces the traffic
11 volume. Thus we assert that the site meets this
12 criterion.
13 The next general site-suitability
14 criteria relates to wildlife and wildlife habitat,
15 that no site shall be determined to be suitable
16 where such siting would have an adverse impact on
17 endangered, threatened species of concern; listed
18 by the National -- Natural Heritage and Endangered
19 Species Program to have an adverse impact on
20 environmentally significant communities, as
21 determined by NHESP in its database; or have an
22 adverse impact on the wildlife habitat in a
23 management area.
24 Basically --

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1 THE HEARING OFFICER: Mr. Quinn --
2 MR. QUINN: Yes.
3 THE HEARING OFFICER: -- I'd ask you
4 to slow down a little bit. I'm having a hard time
5 following, and poor Janet --
6 (Stenographer admonishment to slow
7 down.)
8 MR. QUINN: I do apologize. It's
9 somewhat difficult to change natural tendencies.
10 The conclusion, the Natural Heritage
11 and Endangered Species Program determined, in
12 correspondence which is included in the
13 application, that the area delineated within the
14 25 acres is exempt from any further review by
15 NHSEP, the Massachusetts Endangered -- Protection
16 of Endangered Species Act. Sorry. So the site
17 meets this criterion.
18 Relating to areas of critical
19 environmental concern, no site shall be determined
20 to be suitable where such siting would be located
21 within an ACEC or would fail to protect the ACEC if
22 located adjacent to an ACEC.
23 The ISWM facility is not within an
24 ACEC. The closest ACEC is the Bourne Back River,

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1 which is located across from the Route 28 facility
2 and was the gray line I tried to point out on the
3 land use plan. And this will not be impacted by
4 the facility; thus the site meets this criterion.
5 The next facility [sic] is
6 protection of open space, and no site shall be
7 determined to be suitable where such siting would
8 have an adverse impact on the environment of
9 protected sites or on the use and enjoyment of such
10 sites as state forests, municipal parks, MDC
11 reservations, even though they no longer exist,
12 lands with conservation, preservation, agricultural
13 land, and conservation land owned by private
14 nonprofit land public organizations, which would
15 include the adjacent Joint Base Cape Cod.
16 ISWM has worked over the years with
17 Joint Base Cape Cod and other abutters to the site
18 to make sure the operations do not have adverse
19 impacts on their property. And we have worked
20 thoroughly with them and closely with them on such
21 potential impacts as odor, litter, noise, and those
22 impacts do not affect the abutters. Thus the site
23 meets this criterion.
24 Potential air impacts: No site

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1 shall be suitable where anticipated emissions from
2 the facility would not meet required state and
3 federal air quality standards or would constitute a
4 danger to the public health, safety, or the
5 environment, taking into constant -- taking into --
6 part of this is blocked out; so I don't see it --
7 UNIDENTIFIED SPEAKER: Consideration.
8 MR. QUINN: -- considering the
9 concentration and dispersion of emissions; the
10 number and proximity to sensitive receptors; and
11 the attainment -- oh, status -- attainment status.
12 In 2003 -- well, first of all, I
13 should say potential air quality impacts are
14 treated by the active gas collection system and
15 treatment -- and destruction by flare that has been
16 operating on the site for 20 years.
17 In 2003 there was a cumulative
18 impact assessment that was conducted, and at DEP's
19 request a 2021 update was conducted. These are all
20 in the documentation of the record. And those
21 site -- impact assessments concluded that there are
22 no unacceptable health risks over this conduct.
23 Emission of landfill gas, including
24 hydrogen sulfide, just even the production of

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1 those, have decreased significantly since 2010. In
2 fact, the hydrogen sulfide did cause problems years
3 ago receiving pretreatment going into the flare
4 system, but we were able to shut that system down,
5 demonstrating we had fallen below the concentration
6 of hydrogen sulfide that needed to be pretreated.
7 In addition to the MEPA and Cape Cod
8 Commission process, there was a great deal of study
9 regarding greenhouse gases and climate change,
10 and the -- as now required within the MEPA process
11 for such facilities as needed. Again, there was
12 quite a bit of analysis for this, and we presented
13 it in the application and request for additional
14 information. And Barnstable County has attained
15 national ambient air quality standards.
16 The potential for the creation of
17 nuisances: No site shall be suitable where the
18 establishment or operation of the facility would
19 result in nuisance conditions which would
20 constitute a danger to the public health, safety,
21 and the environment.
22 Regarding noise, the site is well
23 buffered, and it also had a sound level survey that
24 was performed in 2001, which is included in the

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1 application as Attachment 11. The conditions of
2 the procurement of the study in that survey have
3 not changed.

4 Two, litter: Litter is controlled
5 by fencing around the active area and regular,
6 meaning daily, litter patrols to go around the
7 site.

8 Vermin, or rodents, are controlled
9 by cover materials to keep them from burrowing into
10 the waste. Again, most of that waste, 85 percent,
11 is ash, which is not attractive to rodents. And,
12 also, the site contracts a licensed exterminator
13 just to make sure other areas aren't attracting
14 rodents.

15 Odors: Again, odors are controlled
16 by cover materials -- daily cover materials that
17 will cover the municipal solid waste. It is
18 limited in the area on a daily basis where it is
19 exposed; so that its covering is -- it is covered,
20 again, significantly on a daily basis. And, more
21 importantly, the gas collection system, which draws
22 any gas, is generated in the landfill through the
23 flare system for destruction.

24 Bird hazards relate to airplane

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1 interference. While Joint Base Cape Cod, Otis Air
2 Force, is -- the runway areas are 4 to 5 miles
3 away; so they do not -- the seagull population, it
4 does exist; it doesn't credit a risk to those
5 facilities. And since we are not changing any
6 waste or operations, that lack of impact should not
7 change.

8 The other impact that we've
9 identified is dust, which is -- can occur during
10 the long, dry months by water trucks and sweeping
11 access roads. And any trucks that come or leave
12 the site are required to be covered, per law. The
13 site meets this regulation and this criterion.

14 This is -- the size of the facility:
15 No site is suitable if the size of the site is
16 insufficient to properly operate and maintain the
17 proposed facility. The minimum distance between
18 waste handling and a property boundary shall be
19 100 feet. A 100-foot buffer, as I showed you in
20 the site plan, will be maintained between the waste
21 deposition and the area's site perimeter.

22 Additionally, adequate space: If
23 you've been there, you know it's a large site.
24 There is a lot of room for vehicles to maneuver

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1 onto the landfill within the residential area and
2 plenty of room for material storage around the
3 site. Thus the site meets this criterion.

4 Areas previously used for solid
5 waste disposal: Where there's an adjacent -- where
6 an area adjacent to the site of a proposed facility
7 has been previously used for solid waste disposal,
8 the following factors shall be considered by the
9 department in determining whether a site is
10 suitable by the board of health in determining
11 whether to assign a site, which -- I'm
12 paraphrasing -- is that the site -- previous
13 landfill sites have been -- are not going to be
14 impacted by the expansion of the existing facility,
15 to which we did a structural analysis for the
16 geotechnical engineer on Phase 9, where we are
17 putting the additional vertical expansion on.

18 The other areas, Phase 7 and 8, are
19 adjacent to the existing landfill and will be on
20 natural solid ground, which is a conventional
21 horizontal expansion process, which is what has
22 been done for all the other phases that have been
23 horizontal expansions up against the existing. The
24 site will meet this criterion.

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1 MR. CHAIRMAN: John Shea?
2 THE HEARING OFFICER: Yes, sir.
3 MR. CHAIRMAN: I believe it's time
4 that the board can have a five-minute break. I've
5 noticed other people have been able to leave the
6 meeting. There's members of the board that would
7 like to take a short recess for personal reasons.

8 THE HEARING OFFICER: All right.
9 Well, it's approximately 6:00 p.m., and I'd ask you
10 to be back by 6:10. Is that possible? Or do you
11 need 6:15?

12 MR. CHAIRMAN: I think 6:15.
13 MR. UTTI: Well, let's make it
14 short.

15 MR. QUINN: Mr. Hearing Officer, I
16 only have three more slides, if you want me to just
17 flip through them.

18 MR. UTTI: Five minutes is enough.
19 THE HEARING OFFICER: All right.
20 So, notwithstanding the brevity you expect for your
21 next few slides, I think -- nature is calling; so I
22 think we need to take a break until 6:10.

23 MR. CHAIRMAN: Thank you, John.
24 (Recess from 6:00 p.m. to 6:09 p.m.)

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1 THE HEARING OFFICER: Mr. Quinn?
2 MS. O'BRIEN: The ISWM group, you
3 guys are still on mute. And, Ray, you'll have to
4 move a little closer to the camera again, please.
5 THE HEARING OFFICER: I wish I knew
6 sign language. You guys.
7 MS. O'BRIEN: I know. Like, who
8 is -- I'm not sure who is controlling the mute.
9 Ray, you're still muted. And we
10 can't see you in the video; so you need to move up,
11 please. There you go.
12 THE HEARING OFFICER: There you go.
13 MS. O'BRIEN: You're halfway there.
14 You're unmuted, but we can't see you.
15 Thank you. Sit up -- sit up tall.
16 You're sort of sliding in and out of the view here.
17 Okay, a few more criteria to go
18 through.
19 THE HEARING OFFICER: Go ahead,
20 Mr. Quinn.
21 MS. O'BRIEN: Ray, you can go ahead,
22 I think John just said, when you're ready.
23 MR. QUINN: Our fault. We had the
24 TV muted. Sorry.

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1 Ready? Should I continue now?
2 THE HEARING OFFICER: Please.
3 MS. O'BRIEN: Please do.
4 MR. QUINN: Okay.
5 General site suitability,
6 Criteria J, relates to existing facilities when
7 evaluating proposed sites for new solid waste
8 management facilities within communities where the
9 department and the board of health shall give
10 preferential consideration to sites, which has
11 never been well defined. But, to begin with, this
12 is not a new solid waste management facility; so it
13 is not applicable.
14 K, general site suitability, is
15 consideration of other sources of contamination or
16 pollution. The determination of whether the site
17 is suitable and should be assigned shall consider
18 whether the projected impacts of the proposed
19 facility pose a threat to the public health,
20 safety, or the environment, taking into
21 consideration any impacts within existing
22 facilities or sources of pollution or contaminant
23 as determined by DEP; basically, will a new
24 expansion create a contamination issue or will our

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1 proposed facility mitigate or reduce those sources
2 of pollution or contamination.
3 The overall conclusion of the 2003
4 cumulative impact study and its 2021 update is that
5 there will be no significant impact to receptors.
6 We have just an extension of an existing facility
7 that is proven not to be a risk to the environment,
8 safety, or public health. Thus we me this
9 criterion.
10 L is regional participation. And
11 the department and the board of health shall give
12 preference -- preferential consideration, again not
13 well decide -- defined. Given its interpretation
14 that it would be preferential against a competing
15 facility, there isn't really much applicability to
16 this, but the department and the board of health
17 shall weigh such preferences against the following
18 considerations: The extent to which the proposed
19 facility meets the municipal's regional solid waste
20 management; the existing and proposed facility that
21 contributes to the town's and the regional solid
22 waste management needs of half a decade are
23 proposed to continue to do so; and the extent to
24 which the proposed facility incorporates recycling,

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1 compost, and waste management.
2 (Stenographer requests
3 clarification.)
4 MR. QUINN: Certainly.
5 Again, the proposed facility will
6 allow for continued local recycling and composting
7 programs for the town and the region. The site
8 meets this criterion.
9 And, the final slide, in determining
10 whether the site is suitable for a combustion
11 facility or a landfill, the department and the
12 board of health shall consider the extent to which
13 the proposed use of the site directly incorporates
14 recycling and composting techniques or is otherwise
15 integrated into recycling and composting activities
16 in the geographic area which the site will serve.
17 This is really a separate, third,
18 almost, set of criteria, and only sub-criterion B
19 applies to the board of health. The others are
20 designated as to the department --
21 (Stenographer requests
22 clarification.)
23 MR. QUINN: The MassDEP, for their
24 consideration only.

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1 With the proposed landfill expansion
2 the facility will continue to incorporate all of
3 the existing recycling and composting operations
4 and will continue to provide regional recycling
5 capabilities. Again the site meets this criterion,
6 as it has all of the others.

7 This, again, goes to all of the
8 applicable site-suitability criteria that the ISWM
9 facility must address in its site assignment
10 location. We propose that the facility does meet
11 all of these and that the board of health, in
12 effect, should grant the site assignment
13 modification as proposed by ISWM.

14 I thank you for your patience, your
15 endurance. I'm sorry if I couldn't announce
16 clearly enough. I hope I was understood. Thank
17 you.

18 MS. O'BRIEN: Thank you, Mr. Quinn.
19 I know it's a little boring for some
20 and a little challenging to go through the siting
21 criteria one by one, but obviously it's important
22 for you to have done so for the board's benefit.
23 And certainly the prefiled written testimony goes
24 into more detail about how the site of the proposed

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1 expansion meets each of those siting criteria for a
2 landfill and -- pardon me -- the general criteria.

3 So, with that, Mr. Hearing Officer,
4 those are the two witnesses that the applicant is
5 presenting this evening. We welcome questions from
6 you and from the board for as long as the board
7 wants to go, recognizing, of course, that it's
8 dinnertime and it is getting late.

9 We would reserve the right to
10 provide additional testimony. I know in your
11 earlier remarks you mentioned that at our next
12 session on the 16th we would have time for
13 additional testimony; but depending what the nature
14 of the questions is and any information that we
15 receive in the additional materials that will be
16 filed next week, the board may -- I'm sorry, not
17 the board -- the applicant may wish to present
18 additional testimony from Mr. Barrett or Mr. Quinn
19 or perhaps additional witnesses we would identify,
20 if necessary.

21 But at this time that concludes the
22 two presentations.

23 THE HEARING OFFICER: Well, I
24 have -- I just have one question, and it isn't

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1 directly relevant to a specific criteria. But in
2 DEP's site suitability report there was an
3 extensive discussion about looking into
4 environmental justice concerns, and -- could that
5 be addressed in some way?

6 MS. O'BRIEN: Yes. I would ask
7 Mr. Barrett to respond because he has some
8 information in his prefiled written direct
9 testimony that addresses that issue.

10 MR. BARRETT: Yes.
11 So it was recognized during our
12 application -- we had put our application in
13 already, and DEP had recognized in a letter to us
14 that we did not apply -- an updated EJ materials
15 did not apply to us, but they respectfully
16 requested that we make the effort to submit the
17 things as if they were, so we did.

18 We set out -- we did exactly what
19 they asked to us do. There were a few -- a couple
20 of applicable EJ communities around us, most
21 notably over at Joint Base Cape Cod.

22 We contacted those folks. We got it
23 into their local group for distribution, including
24 the United States Coast Guard and the separate

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1 commands at the base. So it was done. We were
2 kind of proud of that. We didn't really have to do
3 it, but it seemed like the right thing to do; so we
4 did it.

5 MS. O'BRIEN: So if I --
6 THE HEARING OFFICER: Go ahead,
7 Michelle.

8 MS. O'BRIEN: Well, I was just going
9 to say, if I may mention, that in the exhibit to
10 Mr. Barrett's direct testimony, written testimony,
11 is a copy of the communication to Joint Base Cape
12 Cod regarding this particular hearing. It's among
13 the outreach being done to Joint Base Cape Cod and
14 the environmental justice community on the base,
15 but most recently, and more specifically, they were
16 notified of this particular site assessment hearing
17 that the board would be conducting. That's
18 Exhibit 1 to Mr. Barrett's prefiled direct
19 testimony.

20 THE HEARING OFFICER: And I just
21 would add, what was the result of this outreach?
22 What was the feedback from the EJ community?

23 MR. BARRETT: To be honest with you,
24 I don't think we got a whole lot of feedback. As I

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1 had mentioned to you, Mr. Goddard knows a whole lot
2 of the folks over there; so he got the
3 communications out to the commands. And I don't
4 believe we heard anything from him.
5 UNIDENTIFIED SPEAKER: They just
6 distributed it.
7 MR. Barrett: Right, they just
8 distributed it, but we didn't hear any comment.
9 I guess what you're asking is if we
10 had been contacted by any of the residents, and we
11 didn't.
12 THE HEARING OFFICER: Okay. Thank
13 you.
14 Does the board or its counsel have
15 any questions?
16 MR. TORRES: Thank you, Mr. Hearing
17 Officer. We do have some between Mr. Murphy and
18 myself and the members of the board who may have
19 individual questions. So, with leave of the
20 hearing officer, we'll begin.
21 THE HEARING OFFICER: Please do.
22 MR. TORRES: Thank you. And, again,
23 for the record, I'm the board's counsel, Steven
24 Torres, West Group Law. Can you hear me well?

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1 (Stenographer requests
2 clarification.)
3 MR. TORRES: I can just speak up a
4 littler louder. Is that better for you?
5 THE STENOGRAPHER: Yes, better.
6 Before there was some background noise as well, but
7 that's better.
8 MR. TORRES: Okay, yeah. So we'll
9 try to have some of the background noise cut, which
10 means I may have to put a sweater on because I
11 believe that's the ventilating system heating us
12 here. I'll just speak a little bit louder. So
13 thanks.
14 So to the ISWM team, whoever can
15 answer this one I'll start with. I understand from
16 the modification that the peak volume for -- daily
17 volumes will not change. And I would assume that
18 that was factored into the trip generation for
19 traffic model; correct?
20 MR. QUINN: Yes.
21 (Stenographer requests
22 clarification.)
23 MR. TORRES: The traffic model. The
24 traffic modeling. When we do traffic modeling, we

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1 have a thing called trip generation. I abbreviated
2 it, calling it trip gen; so I apologize.
3 MR. QUINN: Yes, it was. A number
4 of variables were taken into account. Whether it
5 was the load -- the waste generation, it remains
6 the same with 85 percent ash and the remaining
7 15 percent MSW, or whether it goes to a hundred
8 percent MSW.
9 There was also some evaluation done
10 back in the early stages of analysis, where the
11 facility was looked at as a 1,200-ton-per-day, or a
12 thousand-ton-per-day, facility. And there was an
13 analysis that showed that there was adequate
14 capacity for traffic at the site.
15 MR. TORRES: Mr. Quinn, you actually
16 are somewhat clairvoyant. You actually just
17 answered Part B of my question as well, which was,
18 if we switched from the ash model to a strictly MSW
19 model serving regional packers, would the nature
20 and number of the vehicles coming in increase that,
21 knowing that you'd bringing in packers, as opposed
22 to the long-haul trucks with the ash --
23 (Stenographer requests
24 clarification.)

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1 MR. TORRES: Long-haul trailers.
2 MS. O'BRIEN: So, Mr. Quinn, do you
3 want to address that issue as part of the traffic
4 criteria analysis, please?
5 MR. QUINN: I thought I had.
6 MR. TORRES: He did. That's why I
7 said he was somewhat clairvoyant. That was the
8 Part B.
9 MS. O'BRIEN: Oh, okay. I didn't
10 know if you needed him to clarify anything. Thank
11 you. Sorry, I'll be quiet now.
12 MR. TORRES: Excellent. So thank
13 you.
14 So I want to just clarify with
15 respect to the Phase 9 vertical expansion. We can
16 see it in the -- we can see it in the
17 cross-sections. I just want to clarify it for the
18 board's purpose.
19 The Phase 9 vertical expansion goes
20 over just the original cells, and the height is
21 then matched in the 7 and 8 phases, which are the
22 new cells; correct?
23 MR. QUINN: Correct.
24 MR. TORRES: And then the follow-up

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1 to that is that the Phase 9 -- I think you've made
2 it clear in your testimony -- although it goes over
3 some portion of the earlier phase -- that, in one
4 portion of landfill, that there is a double liner
5 between the newly built expansion area.

6 MR. QUINN: The double liner of the
7 existing landfill will be the liner for the Phase 9
8 landfill. We will remove any interstitial blockage
9 liner system, either an intermediate cover or the
10 geo membrane on the green area that I showed on my
11 initial plan where a final cover has been applied,
12 but it will be altered so that there will be a
13 vertical hydraulic pathway to leachate generated
14 within 9 to pass through the existing landfill and
15 reach their double composite liner systems.

16 MR. TORRES: I'm going to use an
17 acronym for the stenographer, LFG, but for the
18 record, that stands for landfill gas system. With
19 the LFG collection system we know that there's a
20 flare system.

21 And maybe, Dan, this one's for you
22 with the history of the site; but, actually,
23 Mr. Quinn, as well, has been there for a while.
24 Is there a reason, whether it's the

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1 volume or the quality of the gas, that there is no
2 generation capacity at the site that we're flaring,
3 as opposed to doing some type of a small-engine or
4 off-site generation at least for a parasitic load
5 of the facility?

6 MR. BARRETT: Well, when I first
7 came here, the facility was still a C&D landfill,
8 construction and demolition. It didn't generate a
9 whole lot of gas. Well, I shouldn't say that. It
10 generated a lot of hydrogen sulfide, which doesn't
11 necessarily burn that well. We had gas wells
12 installed into the old Phase 1 ADC MSW landfill,
13 and we were able to burn the gas out of Phase 2.

14 My point to that is there wasn't a
15 whole lot of good quality gas to do it. There
16 wasn't a big volume of gas, and the quality of gas
17 we were getting wasn't good.

18 To move on, we went into MSW, taking
19 more MSW, more garbage, which obviously produces
20 more gas; and as that curve started to rise, the
21 predicting curve going off of it, we took a look at
22 the possibility of generating electricity with it.

23 In my past I spent five years with
24 Browning Ferris Gas Services developing and

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1 managing running these facilities. We actually --
2 our air permit includes the ability to run five
3 engines, big ones too, 3516 Caterpillar engines.
4 So we did account for that in our -- it has always
5 been our intent to do that.

6 When we switched back over to ash,
7 obviously those curves declined substantially,
8 along with a few economic -- in 2008 and 2010 the
9 economy wasn't good. Electricity prices have
10 dropped quite a bit recently. And, frankly, to be
11 honest you, the gas quality just wasn't ever there.
12 Nothing bothers us more than to look out there --
13 or me, anyway -- to look out there and see that
14 happening.

15 We did look into, however,
16 evaporating leachate. We looked at several
17 different possible uses for it. Part of the
18 Harvest Power deal, which I know no one wants to
19 get into too much of that tonight -- but it was an
20 anaerobic digester project, and that would have
21 been fantastic -- a high-quality gas coming off an
22 anaerobic digester. Part of the deal was they were
23 going to buy our landfill gas. That was fantastic.
24 Very happy about that. Unfortunately, it didn't

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1 see its way to fruition.

2 So I guess I would say to you that
3 we've really beat that thing, and we continue to do
4 so. We'll find something for it. But it's
5 low-quality, low-volume gas. And, like I said,
6 with the ash, the curves are going to continue to
7 climb. It's hard to get anybody, or even us, to
8 invest in something like that.

9 MR. TORRES: I understand. And we
10 will keep away for most of the discussion -- the
11 12-acre parcel is not part of this site assignment,
12 but the way you have structured this, the Phase 9
13 will take place before the new cell construction;
14 so that, up until there's an application for a
15 modification of that 12-acre site, you will be able
16 to maintain the current processing, recycling, and
17 the local resident services on-site even if the
18 site assignment is granted; correct?

19 MR. BARRETT: Correct.

20 MR. TORRES: And, then, finally --
21 and I'll leave the technical questions over to --
22 I'll yield the floor to Mr. Murphy, who is our
23 engineering consultant, for some questions. But
24 one final, and that is, in the event that you move

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1 from the ash model to the MSW model, can we be
2 assured that the waste shed in the area supports
3 the volumes necessary to fill both of the landfills
4 at the proper rates?
5 MR. BARRETT: Yes. Prior to going
6 all ash, we ran as a landfill. We ran at a little
7 bit lower rate. We didn't max-out our annual
8 tonnage. We were running conservatively,
9 conserving airspace and -- you know, still,
10 hopefully, with enough money to meet our expenses
11 and our commitments to the Town and to do some of
12 the special things on the side that we were then
13 able to do -- recycling, composting, developing the
14 integrated solid waste management facility.
15 Again, I hate to keep saying the
16 same thing, but as you see capacity -- disposal
17 capacity dwindling within the state, I mean, if
18 we -- you know, for whatever reason, if we had to
19 go to MSW tomorrow, I do not see a problem at all
20 finding enough MSW to feed our facility. That's
21 not what we want to do, but we're working with the
22 irreducible minimum and we're trying to go towards
23 that goal. But to answer your question, sir, I
24 don't think that we would have any problem at all.

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1 I shouldn't say "I don't think." We wouldn't have
2 any problem at all.
3 MR. TORRES: Thank you, Mr. Barrett.
4 And that was going to be my last -- you get the
5 clairvoyant award, along with Mr. Quinn. That was
6 going to be my last question that had to do with
7 how your -- some of the remaining limited disposal
8 capacity in the state; and, therefore, you support
9 the integrated waste model.
10 That's all I have. But with your
11 leave, Mr. Hearing Officer, I yield the remainder
12 of my time to our technical consultant, Mr. Murphy.
13 MR. MURPHY: Is it okay to proceed,
14 Mr. Shea?
15 THE HEARING OFFICER: Yeah. Is that
16 a landfill behind you?
17 MR. MURPHY: That's actually the
18 city of Boston and the Granite Links Golf Course,
19 yes.
20 THE HEARING OFFICER: Okay.
21 MR. MURPHY: Introduction: My name
22 is David Murphy. I'm a Massachusetts registered
23 professional civil engineer that has worked in the
24 solid waste management field for 37 years. I am

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1 currently a vice president at the firm of Tighe &
2 Bond, a New England-based engineering consulting
3 firm with 12 offices and 430 employees. I have
4 been retained by the Bourne Board of Health to
5 provide technical review and technical assistance
6 during this site assignment process.
7 Some of the questions I will be
8 asking are to address technical questions I, as the
9 technical reviewer, have; others are intended to
10 provide information or clarity for the board of
11 health; and others, finally, are to provide
12 additional clarity for the record.
13 THE HEARING OFFICER: Mr. Murphy --
14 MR. MURPHY: Yes.
15 THE HEARING OFFICER: -- on the off
16 chance that you will provide -- will be providing
17 some narrative information and not just ask
18 questions, I think I would like to swear you.
19 MR. MURPHY: That's fine.
20 DAVID MURPHY, sworn.
21 MR. MURPHY: The first question:
22 Can you please provide a detailed explanation for
23 the design standards for the proposed landfill
24 liner system. I would like you to, if possible,

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1 discuss each layer; the slope requirements; maximum
2 head allowed; what is a composite layer; why are
3 the composite layers used, versus single layers;
4 what is the purpose of each composite layer; and
5 explain what an acceptable flow rate is within the
6 lower composite layer. I can repeat those if
7 needed.
8 MR. QUINN: Okay. I --
9 MS. O'BRIEN: Actually, before he
10 answers the question, I would just object to that
11 question as requesting some very detailed -- what I
12 would characterize as detailed design criteria,
13 which -- I don't have the citation in front of me,
14 but it's not appropriate, I would suggest, for the
15 board of health's determination but, rather, as a
16 determination by the MassDEP in its review of an
17 authorization to construct a permit application.
18 THE HEARING OFFICER: I concur. I
19 was going to raise the same concern. But within
20 that lengthy question there are some nonspecific
21 design questions like "Why are you using a double
22 composite here, as opposed to there?"
23 MR. MURPHY: If I could rephrase,
24 maybe.

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1 For the purpose of the board of
2 health and those that are not familiar with the
3 design, could you provide some general
4 understanding of what that liner system looks like
5 and why it -- general criteria for the liner
6 design, if that's helpful, Michelle.
7 MR. TORRES: If I may be heard,
8 Mr. Hearing Officer, on the objection. I don't
9 think it's as much a specific design criteria we
10 would expect to see in the authorization to
11 construct as it is to assist this board in
12 understanding as they make their determination as
13 to whether or not, as they're required to under the
14 mandate and the regulations -- to determine whether
15 the applicable site criteria could endanger public
16 health, safety, and the environment, that the extra
17 level of care that ISWM has gone through in
18 designing the general, you know, conceptual design
19 of this addresses those interests. And I just
20 wanted to speak to that. Thank you.
21 THE HEARING OFFICER: Thank you,
22 Mr. Torres. I think that's where we're headed.
23 Mr. Murphy?
24 MR. MURPHY: Should I -- is there

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1 any response forthcoming on that, or should I move
2 on?
3 MR. QUINN: Hold on. I just want to
4 make sure Michelle gets heard.
5 MS. O'BRIEN: Well, I just wanted to
6 note that the testimony -- maybe this was in
7 Mr. Barrett's response -- but the written testimony
8 does contain a description of -- and obviously I'm
9 going to refer to Mr. Quinn's testimony -- does
10 refer to various design features, so if you want to
11 just summarize those. I would continue to object
12 to the request for, you know, details, but you
13 could certainly describe generally for the board's
14 information, just as you did in the written
15 testimony, some of the design features that protect
16 the surrounding areas.
17 MR. QUINN: Well, first and
18 foremost, the liner design will be consistent with
19 DEP-approved design standards and will be
20 detail-reviewed by them and approved by them prior
21 to any construction.
22 During construction we'll have a
23 significant level of quality assurance attributes
24 going on throughout the construction period, which

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1 will be fully documented and submitted to DEP for
2 their review and for their approval before the
3 facility can be opened.
4 Again, the design is set by
5 regulation -- in DEP's solid waste regulations of
6 310 CMR 19. The design establishes a composite
7 liner consisting of a clay one-foot layer. And
8 then above that there are geo-synthetic layers that
9 include a granular bentonite matted layer of GCL,
10 it's called, and that there will then be -- a
11 60-mil high-density polyethylene vinyl will be on
12 top of that. Then there will be a drainage area.
13 It's a combination of geotextile -- nonwoven
14 geotextile with a high-density polyethylene
15 structure that allows water to pass at a rapid rate
16 through it.
17 And then, above that, again there
18 will be another layer of GCL and, above that, a
19 second 60-mil high-density polyethylene liner.
20 That is the impervious construction of the liner.
21 Above that will be leachate collection pipes and a
22 sand drainage layer of 18-inches. Minimum slopes
23 are 2 percent. Maximum slopes that would be on
24 side slopes --

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1 (Stenographer requests
2 clarification.)
3 MR. QUILL: Side slopes. -- which
4 can be 2 1/2 to 3 to 1 going from subgrade
5 elevations up to existing ground. That's the
6 general structure of it.
7 Again, its performance is required
8 to meet the DEP design and performance
9 requirements.
10 Is there anything else?
11 MR. MURPHY: All right.
12 The second question: Can you
13 confirm, as has been noted by the MassDEP in its
14 January 3rd report, that the proposed double
15 composite liner system meets the US EPA design
16 standards for a hazardous waste landfill?
17 MR. QUINN: Yes.
18 MR. MURPHY: Three, is there any
19 performance or monitoring information to suggest
20 that the existing double composite liners under the
21 proposed Phase 9 are not performing in accordance
22 with MassDEP standards?
23 MR. QUINN: No.
24 MR. MURPHY: Four, there's some

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1 confusion regarding the total tonnage for this
2 proposed Phase 7, 8, and 9. In the submittal, you
3 have stated that there's 5.175 million cubic yards.
4 Can you estimate the approximate number of tons
5 associated with this airspace?
6 MR. QUINN: For the 5.1 million
7 tons, based upon the past four years of operating
8 experience, which is varied, they have been -- it
9 would project to between 4.7 and 7.1 million tons.
10 MR. MURPHY: Thank you.
11 In comments filed by CLF to MassDEP
12 on 11/3/21 there were questions regarding the use
13 of cover material and suggestions that ISWM is
14 ignoring capacity limits. I have reviewed your
15 response filed by Mr. Quinn on 11/22, specifically
16 page 3. In this section, Mr. Quinn, you explain
17 the different uses of SEMASS bottom ash, SEMASS fly
18 ash, and calm 9701 soils.
19 My question: Can you explain ISWM's
20 policy for using thicker layers of intermediate
21 cover, daily cover, than what DEP requires and why
22 ISWM does not place MSW close to the outside
23 slopes.
24 MR. QUINN: That's all pretty much

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1 odor related and gas-emission-control related. The
2 exterior side slopes of the landfill are
3 constructed a great deal thicker in cover than
4 normal. And that, again, is to prevent horizontal
5 migration of gases and also to maintain -- collect
6 and contain leachate within the landfill; so
7 they're there to -- so it doesn't run horizontally
8 and come out the sides.
9 MR. MURPHY: Thank you.
10 Six, can you provide a summary of
11 the odor issues that the landfill had to address
12 multiple years back, what caused the odors, and
13 describe the treatment system ISWM implemented to
14 address the odors.
15 MR. BARRETT: Mr. Murphy, I'll take
16 that one because I was there for that.
17 A couple of things led to those odor
18 issues. Primarily, the product that we were
19 accepting at the time was -- it's cover material
20 approved by Massachusetts DEP was C&D 5. In other
21 words, the processing facilities generate a fine
22 material that is very -- work out very well for
23 cover.
24 What no one saw coming was that it

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1 had a lot of wallboard in it, which lends itself
2 nicely to generating hydrogen sulfide. That
3 product was a postprocessing product, a lot of
4 small granulars that allowed a lot of surface area
5 to be exposed.
6 Within the landfill, the environment
7 became nice, or good, to have the type of bacteria
8 that generated hydrogen sulfide. So, you know,
9 here we are taking it, thinking we're doing a good
10 thing; and, sure enough, it came back and caught
11 us, it caught Waste Management, it caught -- at the
12 time it was USA Waste -- it caught us all off
13 guard.
14 Another thing that exacerbated that
15 situation was -- it was in 2008 when the economy
16 crashed. People always like to think that
17 landfills and solid waste operations are
18 recession-proof. Well, let me tell you it's not
19 true.
20 We were also -- it can't get any
21 worse. It was a perfect storm. We were also
22 filling a valley fill. In other words, we had two
23 separate landfills. We were filling the valley
24 between them.

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1 What does that mean? Basically,
2 when we're collecting leachate -- as you build a
3 landfill, you bring the sides up to try to shed
4 water, you know, clean water out the sides, the
5 intermediate cover. What we had basically was a
6 funnel. And every time it rained, that water
7 funneled down into that valley where the cover
8 material that is susceptible to generating hydrogen
9 sulfide was.
10 What -- we had -- you would say,
11 Well, didn't you see that coming? Yes, we did.
12 And that's how -- we ran a (indiscernible-cough)
13 several years prior to this and we were timing the
14 cover flow based on info. So, as we're cruising
15 along through this valley fill, all of a sudden
16 2008 hits, the recession hits, and we lose
17 40 percent of our inflow.
18 So now we've got bad cover material,
19 taking on water, and we can't fill it fast enough.
20 Those are not excuses. Those are just simply
21 realities that we had to deal with.
22 So we took a look at -- we already
23 had a gas system on Phases -- the old landfill,
24 Phase 1, ADC. We had a flare. We had the landfill

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1 extended into Phase 2 and into Phase 3, so we had
2 gas going.
3 We took the gas from the Phase 2A/3A
4 system -- we put in intermediate horizontal
5 collectors as an interim measure. They were
6 sacrificial. So, basically, we knew we were going
7 to lose them. It didn't matter. We had odor
8 issues. We've got to solve that problem.
9 So we just started putting pipe in
10 and collecting gas. We knew they were going to
11 fail, but we put them in to cure the problem,
12 knowing that we would be able to get up to height
13 and then drill the vertical wells, which are the
14 permanent solution to the problem. We took that
15 step.
16 One step further was -- as we were
17 covering, we weren't covering fast enough, we
18 weren't filling fast enough; so we were able to
19 locate some plastic sheet cover material, I guess,
20 if you will. It's not typical of what we would
21 use. It wasn't textured. It was 30 mil thick.
22 DEP looked at it, approved it, and it worked out
23 famously.
24 And I'm going through this quickly

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1 so we can finish up. But to answer your question,
2 we put in horizontal collectors; we put in
3 additional cover material; we then got the vertical
4 wells in; and we capped it temporarily with a
5 sacrificial plastic cover. That worked fairly
6 well. And --
7 MR. QUINN: (Speaking sotto voce.)
8 MR. BARRETT: Good point.
9 I'm surprised the chairman of the
10 board of health isn't pointing out the fact that,
11 as you might imagine, we were under the microscope
12 with those folks a little bit, and, as well, we
13 should have. The public was after us, and I made
14 no mistakes -- I made no excuses for what was going
15 on. We just needed to fix it; they allowed us the
16 time to fix it; and we did.
17 One of the things that the board of
18 health instituted was they asked me, What is the
19 problem? C&D fines. It's cover. Good, you're not
20 taking them anymore. So they have a rule on the
21 books guiding us, or telling us, that you're not
22 allowed to take C&D fines. Fine -- and that's fine
23 with us.
24 MR. MURPHY: Thank you.

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1 Has the site experienced any odor
2 complaints in the last five years?
3 MR. BARRETT: No.
4 MR. MURPHY: On page 14 of
5 Mr. Quinn's 11/22 response he discusses the
6 protective system ISWM deploys, and he notes that
7 close to 100 percent of the landfill gas is being
8 collected and destroyed. Can you discuss the
9 MassDEP permit limits for the emission of H2S and
10 ISWM's compliance record with this permit
11 condition.
12 MR. BARRETT: Do you want me to take
13 that one?
14 MR. QUINN: Yeah. I don't know.
15 MR. BARRETT: The permit limit, I
16 believe you're referring to, Mr. Murphy, is the
17 outlet -- or, the inlet to the flare, how much
18 hydrogen sulfide is allowed into the flare.
19 MR. MURPHY: Yes.
20 MR. BARRETT: And that limit is
21 200 parts per million.
22 As you might imagine, in the
23 situation in 2008 to 2010 we were quite a bit
24 higher than that. We knew that. Plus, we had run

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1 a C&D landfill. So, you know, DEP gave us a little
2 bit of latitude to come up with a system to solve
3 that problem.
4 There were other systems available.
5 They were cumbersome; they didn't work as well;
6 and, most importantly, the materials -- the
7 offshoots, or the waste material off of those
8 systems, when put back into the landfill, generated
9 hydrogen sulfide again.
10 So we put out an RFP immediately
11 overnight, and a few things that we put in that
12 RFP, very quickly, were, coming off that, the
13 offshoots, or the off-materials, cannot be
14 hazardous, nor can -- they should be able to be
15 returned to the landfill to generate hydrogen
16 sulfide.
17 Ironically, a gentleman right across
18 the street from us, a resident of Bourne -- he's a
19 microbiologist from Woods Hole, and he said, I can
20 solve that problem, and he developed a wet
21 scrubber, a wet scrubbing system. It's been used
22 in wastewater treatment facilities for quite a
23 while, and I'm talking -- I don't know much about
24 this end of it -- that end of it, but I know it has

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1 worked there.
2 Mr. Boyd -- Dr. Boyd brought it
3 over. He built a scrubber system, and he said the
4 effluent off of this material will be able to be
5 put back into the landfill. It won't generate
6 hydrogen sulfide again because he is reducing the
7 sulfur, he's pulling it out of the gas, and it is
8 as close to elemental sulfur -- in other words, it
9 won't react -- as you're going to get.
10 And, you know, I'll never forget
11 that day. It was a tough four or five years for
12 us. He turned that scrubber on, and the effluent
13 turned yellow. For those of you who don't know,
14 yellow is the elemental color of sulfide. So we
15 were very happy.
16 It was a first-time-ever facility.
17 It worked very well. If you see it today, you'll
18 see that it looks a little bit like an ERECTOR set.
19 He built it as he went. And we were able to
20 support him. Very successful. He's since sold a
21 bunch more around the country. But that's what we
22 did to solve that problem.
23 Depending on how much material we
24 wanted to put into that system, we could get the

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1 200 parts per million down to zero -- the hydrogen
2 sulfide concentration, the gas, down to zero. So
3 we ran it down very well, and we went ahead and we
4 were able to meet that regulatory requirement.
5 I would be remiss if I didn't
6 mention the leeway that DEP gave us to develop
7 that, because it was an emerging problem and
8 everybody had it. So they worked with us -- and it
9 was a pilot project -- to get it done. So it was
10 very successful, and we were very happy with it.
11 And I know -- I may be clairvoyant
12 again, but I think that the question is going to
13 come up later on, you know, What are you going to
14 do if you get odors in the future? Odors typically
15 indicate hydrogen sulfide. We maintain the
16 scrubber once a week. Hydros, the company that
17 actually owns the scrubber, comes over and services
18 it and keeps it ready for action. If we had a high
19 hydrogen sulfide reading any time in the next week,
20 we'd have that thing running in less than two days.
21 So I have in front of me the
22 hydrogen sulfide readings for, like, the last year
23 and a half. And, you know, we're a little bit over
24 a hundred here and there -- it's usually, after a

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1 storm or something of that nature -- but we're
2 nowhere near 200 and don't anticipate we ever will
3 be.
4 Again, with the current waste
5 management system that we have, we've proven that
6 we can handle hydrogen sulfide cleanup with a
7 hundred percent MSW, and now we're just cruising
8 along with ash.
9 MR. MURPHY: Thank you, Dan. You've
10 answered my next question; so I'll pass to the next
11 one.
12 Regarding the box turtle habitat
13 noted in the general siting criterion Number 3, can
14 you confirm that there's been no change with the
15 Natural Heritage and Endangered Species Program,
16 NHSEP, regarding their finding that the proposed 7,
17 8, and 9 phases remain exempt from the need for a
18 Massachusetts Endangered Species Act or an NHSEP
19 review?
20 MR. QUINN: Yes. We just recently
21 got a confirmation on that during the NHSEP review
22 theory.
23 MR. MURPHY: Thank you.
24 Next, what are ISWM's existing

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1 leachate disposal practices? Can you just go
2 through those.
3 MR. QUINN: Well, the disposal is to
4 collect it in the storage tanks and haul it offsite
5 to a licensed treatment plant.
6 MR. MURPHY: And where do you
7 presently take that?
8 MR. QUINN: That doesn't really
9 relate to site suitability criteria, so no.
10 MR. MURPHY: Touche. That's good.
11 Next, is the Town's regulation
12 prohibiting future drinking water supplies
13 downgradient of the landfill. Is it based on the
14 independent particle tracking work that ISWM
15 requested the USGS to perform, or were there other
16 components? In other words, was it solely related
17 to the work that USGS did?
18 MR. QUINN: That was primarily the
19 determination of the target range. It may have
20 gone a little beyond that just to be safe and be a
21 little conservative on what that cone was that they
22 wanted to make sure there was no water source.
23 MR. MURPHY: Thank you.
24 Next, if the allowable rate for the

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1 lower composite liner system is ever exceeded, can
2 you describe the procedures ISWM would take with
3 the DEP to address an exceedence?
4 MR. QUINN: Well, first would be to
5 report it if there was an exceedence of the flow
6 rate. Then there would be further monitoring of
7 it. There would be inspection of the system as
8 best as provided by the existing clean-outs and
9 access into the secondary system. There would be
10 cover applied and, if you can identify areas, to
11 hopefully isolate any exceedences, and, again,
12 monitor and, again, try to improve any cut-off
13 technologies --
14 (Stenographer requests
15 clarification.)
16 MR. QUINN: Any technologies we
17 could use to divert any infiltration into the
18 landfill that would generate additional leachate,
19 particularly in an area, if we can identify, where
20 flow may be getting into the secondary liner.
21 MR. MURPHY: Thank you.
22 Site assignment criterion, Number 6.
23 We know that the landfill lies over a sole-source
24 aquifer, as you have discussed. We also know DEP

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1 regulations allows a landfill to be sited on a
2 sole-source aquifer provided that three conditions
3 are met. My question relates to the first and
4 second conditions. Can you describe the board of
5 health regulations that were put in place to ensure
6 that the areas downgradient of the landfill could
7 never be developed as a drinking water source?
8 MR. QUINN: I know the
9 regulations (Zoom audio distortion) --
10 (Stenographer requests
11 clarification.)
12 MR. QUINN: The board of health
13 instituted a regulation that prohibits the use of
14 groundwater for drinking water for potable purposes
15 in an area that they identified and that they
16 subsequently (Zoom audio distortion) --
17 (Stenographer requests
18 clarification.)
19 MR. QUINN: Subsequently identified
20 areas that could not use groundwater for
21 drinking --
22 THE STENOGRAPHER: There's some
23 feedback.
24 MS. O'BRIEN: I believe Mr. Utti has

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1 his microphone on; so I think that's where it's
2 coming from.
3 MR. YERANSIAN: I suggest Don Utti
4 mute his phone.
5 MR. UTTI: Hello?
6 MR. QUINN: I think the only
7 remaining part of my answer was: Subsequently to
8 that, or in concert with that, the board of health
9 for the Town of Bourne connected all of the private
10 water supply wells in those residences to the
11 public drinking water supply system in the water
12 district, and they did so at the Town's expense.
13 MR. MURPHY: Thank you.
14 Next, will the downgradient limits,
15 as defined by the USGS, need to be modified once
16 Phase 7 and 8 are built, or are the limits fully
17 inclusive of Phase 7 and 8 already?
18 MR. QUINN: They are fully inclusive
19 of that. The second -- the downgradient --
20 (Stenographer requests
21 clarification.)
22 MR. QUINN: It's fully inclusive of
23 the Phase 7 and 8 area, which was done under a
24 separate analysis using the same particle tracking

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1 model.
2 MR. MURPHY: Thank you. Only four
3 more. Hopefully, quick.
4 Criterion Number 11, approximately
5 how many homes with private water supply wells were
6 connected to the Bourne water -- municipal water
7 supply, and when were they connected?
8 MR. QUINN: Approximately 11, and
9 that was back in the early 2000s.
10 MR. MURPHY: Thank you.
11 Regarding criterion --
12 MS. O'BRIEN: I'm sorry, Mr. Murphy,
13 before you go on, I just wanted to point out for
14 the board, because I know Mr. Quinn is trying to
15 answer questions without taking a minute to refer
16 to the application -- so I just wanted to mention,
17 for the board's benefit, that Attachment 6 in the
18 application has water resources correspondence,
19 including a letter from the board of health that
20 references that health regulation that you were
21 asking about, with the actual quote of Section 5.3
22 from the health regulations, just in case anybody
23 needs some additional information on the water
24 supply issue.

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1 MR. MURPHY: Thank you.
2 Criterion Number 15, can you confirm
3 that the western perimeter of the proposed site
4 assignment limits for Phase 7 and 8 were modified
5 to ensure that the required 1,000-foot setback to
6 the apartment unit in the campground was
7 maintained?
8 MR. QUINN: Yes. We did a GPS
9 survey. The landfill -- they have a high-grade
10 survey-quality GPS system that reaches to that
11 capacity to determine the edge of the buildings
12 within an inch. And we provided a 1,001-foot
13 offset from that building.
14 MR. MURPHY: Thank you.
15 I want to read a sentence from
16 Mr. Quinn's 11/22 response to comments on page 11
17 and then ask a question. The sentence comes from
18 the second full paragraph on page 11 of your
19 response. It says "It should be emphasized that
20 ISWM is developing a cutting-edge process for
21 removal and sequestration of PFAS from the landfill
22 leaching under its own volition and with the
23 knowledge of the MassDEP."
24 My question is: Can you summarize

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1 the investment that ISWM is making to be prepared
2 for the potential changing leaching regulations?
3 MR. BARRETT: We can summarize that.
4 We can put it in dollars. We can quantify it in
5 dollars.
6 More importantly, let me first
7 express the mindset that goes into that. As we did
8 with hydrogen sulfide, we went after it in a
9 different way. We found a better way, and it
10 worked out better for everyone, including the town
11 of Bourne, as well as other areas and places in the
12 country.
13 We're going to do the same thing
14 with PFAS. We went out ahead and did this. We
15 weren't forced to do it. We didn't have to do it.
16 I would refer -- I would suggest to you that we've
17 taken a lot of heat for doing it, which is kind of
18 unfortunate. You know, you don't hear a whole lot
19 about the big companies doing it, but we're on it,
20 and I'm very proud of that. But we will continue
21 to pursue it.
22 Money-wise, we've spent probably --
23 we spent all of last summer checking out one
24 technology that worked out very well for us. We

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1 think it's going to be part of an overall system.
2 We have, right now, just short of a half a million
3 dollars into that development of that system. It's
4 going into the final stages of developing a report
5 about building that facility.
6 And we're going to continue next
7 summer. We have some other promising technologies
8 that we're looking at, with the blessing of the
9 Town. We've asked the Town, and they said, Go
10 ahead. Go do it.
11 Leachate, as it is with most
12 landfills, is a difficult subject to handle,
13 especially in today's regulatory environment, where
14 technology continues to allow a lessening of -- or,
15 better technology to see what's in the water. And
16 that's a good thing. I'm not complaining about it.
17 I'm just saying that's our reality. And we're kind
18 of out on the cutting edge, if you will, of
19 developing that system.
20 We have hooked up with leading
21 experts in the PFAS removal/wastewater treatment
22 arena, and CEC, Consulting Engineering --
23 MR. QUINN: (Speaking sotto voce.)
24 MR. BARRETT: -- Civil Environmental

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1 Consultants. I can't remember the acronym. I'm
2 getting old. And they've done a fantastic job for
3 us. Ivan Cooper -- you can google him -- he's
4 nationally renowned for his leachate and PFAS
5 research.
6 So our goal is to develop a system,
7 again, that we can remove the PFAS, sequester it,
8 and put it back in the landfill, where it won't go
9 anywhere.
10 I could go on for hours talking
11 about research done in landfills, you know, about
12 how landfills themselves are sequestering PFAS, as
13 we speak, without any assistance, but that's a
14 conversation for another day.
15 MR. MURPHY: Thank you.
16 And my final question: The MassDEP
17 CSA approval letter documents consistent trending
18 downward of contaminant concentrations in the
19 monitoring well network around the landfill. DEP
20 notes that numerous contaminants have no longer
21 been detected at concentrations exceeding the GW-1
22 standards. Can you explain the GW-1, versus the
23 GW-3, standard at the landfill and how the landfill
24 site is classified.

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1 MR. QUINN: The GW-1 standard, by
2 regulation -- the solid waste regulation, must be
3 evaluated for any landfill groundwater sampling by
4 the board of health's action of precluding the
5 possibility of downgradient water supplies by the
6 contaminated landfills -- the two unlined
7 landfills -- I don't want to characterize them as
8 contaminated but the two unlined landfills
9 downgradient, as well as the non-potential drinking
10 water source areas the DEP have identified,
11 categorize the site as GW-3 in reality.
12 Should there have to be a site
13 assessment outside of the solid waste program, such
14 as the NCP, that would be the classification for
15 the assessment when evaluating groundwater quality.
16 MR. MURPHY: Thank you. That
17 concludes my questions.
18 Mr. Shea?
19 THE HEARING OFFICER: Yes.
20 Steve, any follow-up questions?
21 MR. TORRES: No, not at this time,
22 your Honor.
23 THE HEARING OFFICER: "Your Honor."
24 Thank you.

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1 Do any board members want to pose
2 any questions?
3 MR. CHAIRMAN: John, I would like to
4 poll each member of the board individually,
5 starting with Don Utti, and ask him if he has any
6 questions this evening.
7 MR. UTTI: No, I don't.
8 MR. CHAIRMAN: Dusty Mieier?
9 MR. MEIER: No. I'm quite satisfied
10 with everything I've read and how they backed up
11 the information. Thank you.
12 MR. CHAIRMAN: Barbara Princiotta?
13 MS. PRINCIOTTA: I don't have any
14 questions tonight either, Stanley. Thank you.
15 MR. CHAIRMAN: Well, I've got a
16 sheetful. A couple of the questions I was going to
17 ask have been asked by Mr. Torres and Mr. Murphy.
18 One question I have is: The 25-acre
19 site -- let me pull it up here -- the 25-acre site
20 has a landfill expansion of 17.34 acres of new
21 landfill cells. The delta of that, is that all of
22 the hundred-foot buffer, or is there additional
23 distances that -- or, areas that are not being
24 site-assigned for landfilling?

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1 MR. QUINN: The 17.34 acres was
2 established by using the hundred-foot offset from
3 the agricultural soils designations, as I had shown
4 on that slide with the blue, yellow, and green, and
5 the property line, a hundred-foot offset on the
6 east side. That brought it down to the
7 17.34 acres.
8 MR. CHAIRMAN: Thank you.
9 I believe Mr. Torres asked about the
10 footprint of Phase 9.
11 I would like a little bit more
12 clarity on a question that he asked about. He
13 asked about the recycling and handling facility.
14 The residential recycling and handling facility is
15 located in the area where Phase 7 and Phase 8 will
16 go. Are you telling us that you will not be
17 reducing that area until you have another area put
18 there without -- will you put in 7 and 8 prior to
19 moving that equipment -- that area to another site,
20 or part of the site?
21 MR. QUINN: No.
22 MR. CHAIRMAN: Thank you.
23 This is very important to the
24 community. That area prevents illegal dumping out

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1 at the high-tension lines in the town forest.
2 We've seen this over time when we had emergency
3 shutdowns in that area due to COVID. All of a
4 sudden that illegal dumping increases. I want to
5 make sure that we don't lose that asset.
6 MR. BARRETT: Mr. Chair --
7 MR. CHAIRMAN: Yes.
8 MR. BARRETT: -- I wouldn't normally
9 interrupt, but, you know, as a representative of
10 the Town -- you know, Mr. Quinn is working for us,
11 and he gave a fantastic answer, but as a
12 representative of the Town, we know -- all of us
13 here know how important that facility is to our
14 operation and to the operation of the town. So,
15 rest assured, we wouldn't allow that to happen.
16 MR. CHAIRMAN: Thank you.
17 As it was brought forward, there was
18 a comment made that there were changes in the plan
19 as late as December 9th of 2021. Could you please
20 explain what changes were done to that version of
21 the plan from the original versions that we started
22 with close to a year ago.
23 MR. QUINN: We made a minor change
24 to that plan that determined the 17.34 acres just

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1 along -- primarily along -- solely along the
2 western edge of the site where the soils showed a
3 little bit of a rippling along the property line.
4 The difference was about 9,000 square feet over
5 that 17 1/2-acre site. That was the primary change
6 on the plans.
7 I think we did some minor change on
8 the existing condition plan or one of the site
9 plans but nothing significant.
10 MR. CHAIRMAN: Thank you.
11 Can you please describe the
12 monitoring and operations systems that notify you
13 if you are having an event, i.e., sulfur, odors,
14 and do you have a redundant power system for those?
15 MR. BARRETT: As far as odors, we
16 don't have a system that detects odors. What we
17 rely on is failure of the flare, if the flare goes
18 down. And, yes, we have a backup system that runs
19 that flare and contains the gas.
20 MR. CHAIRMAN: Thank you.
21 I want to go back to a question, I
22 guess, that there was some pushback on. And my
23 expectation of what the question was that Dave
24 Murphy was asking on the liner was: The liner

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1 constitutes several different items. I'm not
2 looking, and the board's not looking, for how these
3 items are built and what they're -- how they're
4 built. And in years past -- and the board does
5 change periodically, and I want to make that
6 available to all the board members -- Dan has
7 always had a simple way of explaining, We put this
8 down here to prevent this; we put this down to do
9 that; this is to cushion this. I believe that's
10 the question Dave was asking. So the board has
11 clarity on this, could you please explain that for
12 simple laymen to understand.
13 MR. BARRETT: Yeah. It's definitely
14 pretty interesting. As a geologist, I enjoy this.
15 A composite liner is a melding of
16 both organic materials in nature as well as
17 synthetic materials manmade. You start out with a
18 foot of clay. That's low-permeability clay; in
19 other words, water has a difficult time flowing
20 through it. Most of you from this area know it's
21 known as Boston Blue. At a minimum, it has a
22 10-to-the-minus-7 permeability. That's very, very
23 slow.
24 It also has a plasticity index,

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1 which became popular about 15, 16 years ago when
2 glacial till was being used. The plasticity index
3 indicates how flexible the clay is. That bottom
4 foot of clay performs two jobs: It supports the
5 existing layers above it. It provides flexibility
6 so that those layers -- if there were a shift,
7 whatever that may be -- we do a geotechnical
8 analysis, we do earthquake analysis on all these
9 cells, as you know -- but it will absorb that.
10 On top of that goes the GCL, a
11 geo-synthetic clay liner. That will technically
12 replace a foot of clay. What it is -- I guess it's
13 the purest form of clay. It's made out of
14 bentonite. Bentonite's the purest form of clay.
15 It's designed so that -- let's say,
16 for example, you poked a nail through it. If water
17 followed the nail, it would get into that very
18 1/2-inch-thick layer of bentonite sewn between two
19 fabric pieces. It would get in there and swell.
20 Bentonite is what you use to seal up a well after
21 you've drilled it and you want to seal the top of
22 it. You use that material. So, if a nail pokes
23 through, that bentonite seals it right up. It's
24 very interesting. If you google it, you can see

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1 it. Pretty interesting stuff.
2 And to continue on with the
3 secondary, on top of that goes 60-mil HTPD --
4 that's the manmade portion -- 60-mil plastic,
5 textured, that lays down. It, too, is flexible.
6 It's very resilient to tensile strength -- or,
7 tensile shearing.
8 A whole lot of quality assurance
9 goes into building those things. If you ever get a
10 chance, when we're building a liner, come on up and
11 take a look. There's trailers up there with
12 testing equipment in them. They cut out, what they
13 call, little bones out of the seams, and they test
14 them. If they're not passing, they go back, cut
15 that seam out, and weld in another one. Very, very
16 quality assurance-intensive.
17 So that -- on top of that goes what
18 Ray was describing. It's a synthetic layer. It's
19 like a honeycomb, if you will, and it's contained
20 within two sheets of, again, nonwoven geotextile
21 fabric, which keeps it from slipping and sliding
22 around, adds stability to the slope, binds really
23 well to the 60-mil plastic, and water will flow
24 through it.

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1 Believe it or not, that material is
2 actually directional. You can buy so that it's
3 directional. If you lay it down, water will flow
4 the way you direct it.
5 It's about probably an inch, Ray, an
6 inch-and-a-half thick, maybe?
7 MR. QUINN: Not even that.
8 MR. BARRETT: Not even that.
9 And if you get a leak in the
10 secondary liner, that water will convey to the
11 sump. And when we talk about the sumps, they're
12 monitored for height and head on the liner. We
13 measure it.
14 We're only required to check -- I
15 should go back to this as well. I'm getting off a
16 little bit, but I want to go back to this. We're
17 only required to check those well heads in those
18 well stations three days a week. We check them
19 six. We're here seven days a week.
20 And back to -- I can't remember
21 where -- Dave made the point what happens if you
22 have a problem. And we don't let it go that long.
23 If we see a blip in a secondary, we're on it.
24 99 percent of the time in my 37 years, what you see

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1 is you have metal mechanical parts working in an
2 extremely harsh environment, and you're going to
3 get mechanical failure.
4 So that's -- any type of leakage
5 that I've seen in my career, not much of it but,
6 when I see it, it's a failed foot valve, a failed
7 check valve, a failed pump, a failed sensor. So,
8 you know, we get back on it and we fix it.
9 To go back to where I was, we drain
10 that water in the secondary to the sump, we check
11 it, and we see and measure against it, check the
12 rate at which it's spilling. It's very calculated.
13 We can do that.
14 On top of that goes another layer of
15 GCL, which is the bentonite encapsulated in fabric.
16 And then on top of that goes the 60-mil primary
17 liner, the same stuff as is in the secondary liner.
18 And, again, the GCL, the geo-synthetic clay liner,
19 if you stab a nail through that plastic, it gets
20 wet and it swells and seals it up and shuts it off.
21 So that's basically how it works.
22 You'll also notice that it's
23 flexible. It's resilient to staying on the slopes.
24 That's tested as well. And you have to build your

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1 slope such that you can maintain internal
2 stability. But, as I said, they're all -- it's all
3 about flexibility and the ability to move because
4 they are living organisms.
5 Does that answer it, Mr. Chair?
6 MR. CHAIRMAN: Yes, sir. I was
7 looking for a little simpler than that.
8 I've got one last one. You spoke
9 about the PFAS pilot -- pilot program. I believe
10 you've done two versions of that up to this point.
11 And you have been very proactive at bringing that
12 in front of your employers, the board of selectmen,
13 and you have brought that forward in front of the
14 board of health, as well, prior to the board of
15 selectmen. Do you anticipate continuing that
16 process?
17 MR. BARRETT: We do, Mr. Chair. And
18 we'll bring that to you -- we're hoping to develop
19 a report on the 1st, as we refer to it.
20 By the way, Asa Mintz has headed up
21 that project and has done a fantastic job. I can't
22 say enough of the success that that's seen -- the
23 direction. There's nobody in the country -- you
24 can't call somebody and say, What did you do?

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1 They're calling him and asking him what he did.
2 So, to that end, we're going to
3 develop a final report on the systems that we
4 checked out, and then we're going to continue in
5 the spring on one, in particular, technology that
6 we found that looks to be very successful, simple.
7 Keep in mind that, as the case was
8 when we developed the hydrogen sulfide scrubber, we
9 want it simple, we want it portable, and we want to
10 make sure that it's usable. So those are all the
11 details that we put into choosing a technology. So
12 yes.
13 And we will be back in front of you,
14 hopefully, with a preliminary report early-early in
15 the spring, and then we'll talk about what we plan
16 to do for this summer.
17 MR. CHAIRMAN: Thank you.
18 Attorney Shea, I have completed my
19 list of questions that I have for this evening.
20 THE HEARING OFFICER: Okay. I had
21 agreed with the board that at the conclusion of
22 ISWM's preparation tonight -- and, Michelle, are
23 you at the conclusion now for tonight? --
24 MS. O'BRIEN: Yes. Yeah.

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1 THE HEARING OFFICER: Okay. -- that
2 the public hearing would be continued until
3 February 16th at 4:00 p.m., at which time, if you
4 come up with some additional materials or some
5 rebuttal, you could present those and be questioned
6 by the parties.
7 February 9th we have Dave Murphy
8 submitting a report as a follow-along to the
9 questions that he's asked tonight. And if my
10 conditional approval of conditions of allowing the
11 ten citizen group are satisfied and they can, I
12 think, be easily remedied, then we would expect
13 their prefiled written testimony on that same
14 night.
15 I know they have expressed some
16 concern about not having the benefit of
17 Mr. Murphy's report, but, you know, they've been
18 involved in the review of this landfill expansion
19 for a very long time, both at the Cape Cod
20 Commission and at the MassDEP, as reflected in the
21 comment letters that they wrote.
22 I don't know what they're
23 anticipating in terms of presenting prefiled
24 testimony, whether they are going to be using some

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1 experts, but I think they have adequate time, given
2 their involvement and the availability of the
3 prefiled written testimony of ISWM and the
4 questions asked by Mr. Murphy, to know what
5 direction they should be going in.
6 In my ruling that I submitted today,
7 I reminded them that there needs to be evidence on
8 the public health, safety, and the environment,
9 which are the three touchstones for citizen
10 interventions, that those -- the evidence needs to
11 be reflective or incorporating a consideration of
12 the siting criteria, and I would expect to see that
13 in the prefiled testimony.
14 I am not inclined to have 13 of the
15 interveners offer written statements that don't
16 relate to the siting criteria, and I'm not inclined
17 to allow repetitive information that's contained in
18 one prefiled submittal by one of the registered
19 citizens being repeated over and over again; so I'm
20 not going to tell them how to present their case,
21 but we'll have that possibility.
22 The other thing is that, if we get
23 to the 16th and we find that there is still some
24 outstanding questions or information that needs to

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1 be considered or presented, I understand the board
2 might be receptive to another continued hearing for
3 that purpose.
4 Everyone needs to understand, the
5 board needs to issue a written decision by the 21st
6 of March. I can't adjust that schedule. The
7 parties can't adjust that schedule by consent.
8 It's a schedule that's established by statute and
9 by regulation. So it's important that we do
10 everything we can to get the information in front
11 of the board in a timely manner for the continued
12 hearing on the 16th.
13 MS. O'BRIEN: So, if you're
14 finished, Mr. Shea, for the time being, I want to
15 just raise one thing with respect to the filings
16 and service, particularly since the ten citizens
17 group is expected to submit something -- and this
18 is news as of today, obviously -- expected to
19 submit their prefiled testimony by the 9th. I
20 assume those filings will be by the close of
21 business on that day.
22 The regulations, as you know, call
23 for filings to be made by sending them to -- I'm
24 reading this. There's a couple of different

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1 provisions of the regulations that govern it -- by
2 sending them to the board of health by mail or by
3 hand-delivery -- it seems sort of antiquated in
4 this day and age -- and also to be served on the
5 other parties.
6 So I would request that everyone
7 agree that service be by email, and not by mail.
8 And I don't know what the board's preference is with
9 respect to mailing, as opposed to emailing it. I
10 mean, we have -- the applicant has sent submissions
11 to the board by mail and email. I note that the
12 CLF submission was made by email only. But that
13 was actually contained in the notice of the hearing
14 that said it could be -- that it could be sent by
15 either. But I just want some guidance so everybody
16 knows what's expected.
17 THE HEARING OFFICER: Well, I
18 believe that, under the regulations, I have the
19 ability to waive the standard. You know, we're
20 dealing with, unfortunately, for all of us, a very
21 compressed time frame to submit everything and have
22 the board have adequate time to deliberate and
23 issue a decision.
24 So I'm going to rule that we should

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1 make all submissions by email. If you want to
2 submit hard copies by U.S. Mail as well, that's not
3 a problem. But I think the important thing is to
4 get Dave's review report and the ten citizen
5 testimony in in a timely way so that it gets into
6 the system for consideration on February 16th. So
7 I am -- I am going to allow -- in fact, require --
8 submission by email to accomplish those goals.
9 Thank you for bringing that up.
10 It's not a departure from what we have been doing
11 for the past two weeks.
12 MS. O'BRIEN: By no means. We had
13 communicated, and Attorney Torres and I had agreed,
14 that we would effect service by -- on each other,
15 basically, by electronic email -- and you as well.
16 But now that we have another party in the
17 proceedings, again, I just want to make sure that
18 everyone is clear on what the expectation is.
19 And Ms. Gianelly has her hand up.
20 MS. GIANELLY: Yes.
21 Thank you, Mr. Hearing Officer, for
22 allowing the email submission. We anticipate
23 asking some experts to prepare written testimony.
24 Right now we're not anticipating that each

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1 individual citizen will come forward with a
2 presentation. One -- and as you pointed out, the
3 overview of our presentations is contained in the
4 comment letter that CLF had delivered to DEP.
5 One concern about not having the
6 engineer's -- reviewing engineer's report in
7 advance is, you know, it may raise an issue that an
8 expert might want to address. And under the
9 original prehearing order, we were to submit the
10 presentations on the 16th, and I would just like to
11 ask that, if necessary, we would be able to
12 supplement, soon after reviewing the engineer's
13 report, with anything additional that an expert
14 might find relevant and that we would deliver that
15 after -- prior to the 16th/after the 9th by email.
16 THE HEARING OFFICER: Ms. O'Brien?
17 MS. O'BRIEN: That seems reasonable.
18 MS. GIANELLY: Thank you.
19 MS. O'BRIEN: We also may be
20 submitting, as you said, rebuttal testimony or
21 supplemental testimony; so it seems fair.
22 THE HEARING OFFICER: You're
23 essentially in the same boat as the ten citizens in
24 reviewing the engineer's report and having the same

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1 amount of time to submit materials in time for the
2 board to review on the 16th. So I just ask
3 everyone to make a real solid effort on this so
4 that scheduling considerations don't cloud the
5 picture.
6 MS. GIANELLY: Okay. Thank you.
7 MS. O'BRIEN: Yeah. I mean, I would
8 just note at 7:32 p.m. that, in my humble opinion,
9 it's pretty unlikely that we would conclude all of
10 the testimony and all of the evidence on the 16th.
11 But that's just my guess.
12 MR. TORRES: Two items, if I may,
13 first.
14 THE HEARING OFFICER: We can't hear
15 you, Steve.
16 MR. TORRES: Two items. Thank you,
17 Mr. Hearing Officer. Two items, if I may.
18 Yes, the regulations, as the hearing
19 officer has noted, contemplate the opportunity for
20 some type of, you know, rebuttal to the written
21 submission in advance of the 16th, and he's made
22 that accommodation.
23 It's very important to understand
24 that the citizens group has been granted party

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1 status, not super-party status; so they should be
2 entitled to the same restrictions as the other
3 party, which, in fact, is the applicant.
4 What I do want to distinguish is
5 that our engineer, my engineer, the board's
6 engineer, is not a party to this proceeding. He is
7 an extension of this board, and his role is to
8 advise them.
9 (Stenographer requests
10 clarification.)
11 MR. TORRES: I'm just pointing out
12 that the board's engineer is not a party to the
13 proceeding. The board is not a party to the
14 proceeding. The board, as the hearing officer
15 pointed out at the very onset of the hearing today,
16 is, in fact, the jury in this case. Provided the
17 judge provides them instructions, they will make
18 rulings. And the board's agent's role is in that
19 vein.
20 So to the extent that an applicant
21 or another party granted party status feels that
22 they have to have the last word after my engineer,
23 that's not the way it works.
24 THE HEARING OFFICER: Well, I don't

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1 know if that's not the way works, but it's -- we're
2 going to have the 16th to iron out any difficulties
3 in terms of whether or not the review engineer
4 needs to -- or the applicant's engineer -- needs to
5 supplement or provide rebuttal as a result of the
6 experts that will be retained by the ten citizen
7 group.

8 So, you know, we need some
9 flexibility -- and I know you've had some
10 discussions with the board about a potential
11 date -- if it's absolutely necessary to continue
12 the hearing to conclude this in a timely way, but I
13 hope we don't get to that.

14 And the next hearing -- I just want
15 to, you know -- Mr. Chairman, I mean, we set sort
16 of an artificial deadline tonight based upon what
17 we thought would be the time that the applicant
18 would need. And I think we intended to go to eight
19 and then pull the plug tonight and continue it.

20 I would suggest that we lengthen the
21 time for the next hearing, perhaps with appropriate
22 breaks during the course of the evening, to get as
23 much in as we can, with the idea of, hopefully, we
24 could conclude the evidentiary session of the

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1 public hearing.

2 Mr. Chair, how do you feel about
3 that?

4 MR. CHAIRMAN: I agree with that. I
5 will put a hard limit of 11 o'clock for the second
6 hearing night, similar to what we do at town
7 meetings. That would be the hard limit. In fact,
8 that would be a six-hour session -- seven-hour
9 session.

10 Back to the discussion everyone was
11 having for the meeting on the 16th, for when
12 submissions have to be in. And knowing that the
13 applicant will be looking at the submissions to
14 come in on the 9th and they need time to reply -- I
15 agree with that. Everyone is professionals working
16 on this -- I don't see a reason why they cannot
17 have it done by close of business on the 11th
18 because the board has full-time jobs and we usually
19 like to take the weekend to do our reviews.

20 So there's a little bit of
21 flexibility there, but it does not give us proper
22 time if you give everyone else until the 15th. It
23 means I take a day off from work to do that. I am
24 not compensated in any way, and neither are any of

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1 the other board members.

2 THE HEARING OFFICER: So what you're
3 saying is written comment -- written testimony, as
4 a result of the review of the materials on the 9th,
5 needs to be submitted by the 11th?

6 MR. CHAIRMAN: It doesn't give the
7 board much time if the board needs some time to do
8 a review. If we have to, the board will take the
9 time and peel it out of our schedules to do that,
10 but it does create an undue burden upon the board
11 members to do that. It's something that we have
12 signed up to do as public servants; and if that's
13 what I have to do, that's what I'll have to do.
14 But I would ask for something back from anyone that
15 wanted to do a rebuttal to whatever written
16 testimony is sent in on the 9th.

17 MS. O'BRIEN: May I just ask -- or,
18 clarify, I guess: I wasn't assuming that the
19 applicant would have written responses to the
20 submissions of the board's technical expert or to
21 the prefiled testimony of the ten citizens group.
22 We would certainly have questions and
23 cross-examination on the 16th, but I can't --
24 having not seen it yet, I don't know that we would

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1 have any written submissions. So I just wanted
2 to -- you know, to make that clear, that, if we're
3 going to submit something in writing, obviously we
4 would do it as quickly as possible.

5 But at the moment, I'm anticipating,
6 based on our prior discussions and the schedule
7 that was put out in the prehearing report order,
8 that we would have cross-examination on the 16th,
9 just like we did tonight with the questions and the
10 responses.

11 MR. CHAIRMAN: I agree with that.
12 What I do not want is I do not want slip allowed
13 that allows someone to send written testimony in on
14 the 15th. The board needs to have that in a timely
15 fashion. Anyone that tries to send written
16 testimony in at a late date is doing a disservice
17 to this board, who is trying to get this
18 information and to consume it and to be able to use
19 that for coming to findings.

20 THE HEARING OFFICER: Well, I know
21 people who are paid professionals -- or even
22 volunteer professionals -- make a mighty effort to
23 comply with schedules, but I'm a little quizzical
24 as to whether or not written rebuttal can be

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1 completed by the close of day on Friday.
2 And I think -- you know, I'm not
3 going to decide this for you. I know what you're
4 saying about using your weekends, as I do, but you
5 certainly have a wealth of information to pour
6 through, and you will have the review engineer's
7 report and the expert input from the ten citizens
8 to pour through.
9 So, you know, if there's going to
10 be -- I would suggest, respectfully, that, if there
11 is additional written materials to be submitted,
12 they be submitted by close of business on the 14th.
13 MR. CHAIRMAN: I'll work with that.
14 Are there any other board members
15 that have an issue with allowing that?
16 Barbara? Please unmute yourself.
17 MS. PRINCIOTTA: I don't have any
18 issue with that. Again, I agree with you, Stanley.
19 There's a lot of information to digest. I, too,
20 like to spend the weekends working on it. Like you
21 said, I appreciate what Mr. Shea is saying, that
22 they might not be able to get it done, but -- who
23 knows, most people can meet deadlines -- but,
24 anyway, if it's the 14th, it's the 14th. I can

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1 work with that.
2 MR. CHAIRMAN: Don Utti?
3 MR. UTTI: I'm okay.
4 MR. CHAIRMAN: Dusty Meier?
5 MR. MEIER: I have a little concern,
6 Stanley. These -- everyone involved in this has
7 had a very long time to review, and I imagine
8 they've written up their lists and everything else;
9 so it's hard for me to believe that, with
10 electronic mailing, they can't get it done
11 beforehand, to be honest with you. Thank you.
12 MR. CHAIRMAN: I would ask Terri
13 Guarino, professional staff.
14 MS. GUARINO: Yes. Thank you.
15 I do appreciate the sentiment of
16 having some additional time up until the 14th;
17 however, I do think it would be best if we follow
18 the board of health's typical procedures, which is
19 posted on our web page, where the board of health
20 requires information to be submitted a week prior
21 to that meeting date.
22 So that is what we have done
23 historically for the board of health. It works
24 best for the board, as well as office staff.

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1 Information being submitted on a Monday to an
2 unmanned email inbox is an additional burden to the
3 health department staff. That information will not
4 be immediately distributed. We are agents and
5 inspectors that are short of staff during the surge
6 of the pandemic; so I would ask that that be taken
7 into consideration. It's very time-consuming
8 putting together these files, distributing them,
9 having to post them onto a web page, and whatnot;
10 so I would ask that that be taken into
11 consideration as well.
12 THE HEARING OFFICER: Well, my only
13 response to that is this is not your typical board
14 of health proceeding where you have a longer
15 advance time to receive information. You're
16 operating against the clock in terms of the board's
17 final decision.
18 MS. GUARINO: Understood. And that
19 is the same for a septic variance, whereas the
20 board of health has 45 days to act on that sewage
21 disposal system application. So it's a similar
22 time frame for what the board of health is looking
23 for.
24 MR. TORRES: (Zoom audio

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1 distortion.)
2 THE STENOGRAPHER: Can't hear you.
3 THE HEARING OFFICER: We can't hear
4 you, Steve.
5 MR. TORRES: So there would be a
6 reasonable alternative, that there needn't be any
7 written rebuttal prior to the hearing on the 16th.
8 There's going to be the opportunity for
9 cross-examination at that time on the materials and
10 also to voir dire what I have heard -- it's not
11 fact witnesses but expert witnesses -- and I would
12 encourage any party, accordingly, to put forward an
13 expert witness -- again, the board is not a
14 party -- that they would submit the curriculum
15 vitae with that purported expert so that the board
16 can make a determination as to -- the hearing
17 officer, you know, while --
18 (Stenographer requests
19 clarification.)
20 MR. TORRES: Okay. So what I'm
21 suggesting is that they -- that the -- as an
22 alternative, that perhaps there be, if necessary,
23 another day of hearing for the rebuttal if, in
24 fact, people think they need written testimony in

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1 response to the written submissions that are coming
2 in on the 16th.
3 I certainly don't want to jam the
4 board without enough time to evaluate the written
5 submissions that are coming in on the -- prior to
6 the 16th, on the 9th -- to not have adequate time
7 to review those before the board because, if
8 they're on top of those, there's a set of written
9 additional submissions coming in that are
10 responsive or rebuttative of those submissions
11 coming in on the 9th. So they come in two days
12 apart, what we're hearing, and that's just -- I
13 don't think what I'm hearing from the board is that
14 that's practical for their purposes.
15 Am I correct, Terri -- Ms. Guarino
16 and Mr. Andrews? Am I correct that you're not just
17 getting enough time with those submissions?
18 MS. GUARINO: I'd say, yes, that's
19 correct.
20 MS. O'BRIEN: So may I make a
21 suggestion? I think I'm going to follow up and say
22 what you just said, Steve, except I was having a
23 really hard time hearing you.
24 MR. TORRES: I apologize.

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1 MS. O'BRIEN: But what I was going
2 to suggest is that there be no written submissions
3 between the 9th and the 16th; that we receive what
4 we receive on the 9th, which will be the consulting
5 engineer's -- the board's consulting engineer's
6 report and any submission of the ten citizen group,
7 assuming they meet the conditions imposed by the
8 hearing officer; and that we do the live-action
9 cross-examination at the hearing on the 16th.
10 And if, for some reason, somebody
11 feels the need to submit something in rebuttal
12 after that, then we request that the board continue
13 the hearing to a third session and require the
14 written rebuttal testimony to be submitted,
15 basically, immediately.
16 That would be my suggestion -- that
17 we have an expectation there would be no written
18 submissions between the 9th and the 16th by anyone
19 other than the two that you just mentioned.
20 MS. GIANELLY: I have a quick
21 question. We weren't contemplating rebuttal. It's
22 more just being able to respond to any issues --
23 or, address issues that might come up in the
24 engineer's report of which we're not aware. I

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1 wasn't anticipating it would be anything except
2 perhaps amplifying expert prefiled testimony or
3 presentation.
4 So, if we were to submit, as we're
5 required, on the 9th, yet discover that there is an
6 issue that one of our experts would like to be able
7 to address, is it required that we submit that in
8 advance, or may we raise that as an addendum to the
9 expert prefiled testimony on the 16th?
10 And I don't know if this is an
11 actual issue. I just want to make it available
12 since we are now being required to present -- or,
13 prefile the presentations prior to receiving the
14 engineer's report. We were not discussing -- or I
15 wasn't addressing cross-examination or rebuttal
16 testimony. It's simply being able to provide the
17 fullest presentation possible.
18 MR. TORRES: The hearing officer
19 has -- the hearing officer has the right -- the
20 hearing officer has the right to waive the
21 requirement for prefiled testimony at any phase of
22 the proceeding; so that is -- it's the discretion
23 of the hearing officer.
24 To the extent -- I would suggest

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1 that, to the extent that that's done, that you
2 allow this, Mr. Hearing Officer; then, again, as
3 Ms. O'Brien has carefully done, we reserve the
4 right for the need for any rebuttal to a third day
5 if we need to.
6 If we hear something for the first
7 time on the 16th and we don't have time to respond,
8 you know, because there was no written prefile,
9 that we would always reserve the right to put on
10 additional evidence on a third day if the board or
11 it's representative, or maybe the applicant, felt
12 they needed to.
13 THE HEARING OFFICER: So let me
14 understand this. If the ten citizens group expert
15 has additional questions or concerns that need to
16 be addressed, that they would be addressed by live
17 testimony supplementing their prefiled direct on
18 the 16th?
19 MS. GIANELLY: It's the only way
20 that I see being able to ensure that the expert is
21 able to address all issues raised in the event that
22 the engineer's report raises something new.
23 Under the original prehearing order,
24 we weren't required to prefile and we were prepared

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1 to read everything prior to the 16th and make
2 presentations then. But with the requirement that
3 we prefile the presentations by next Wednesday, I'm
4 just wondering how we might handle a hypothetical
5 situation where there is some extra information an
6 expert might want to offer.
7 THE HEARING OFFICER: Well, I say we
8 offer it as direct rebuttal testimony on the 16th.
9 MS. GIANELLY: Okay.
10 THE HEARING OFFICER: And if there
11 is not enough time to deal with that additional
12 rebuttal testimony, then we can talk with the board
13 about another session, if it can squeeze it in,
14 before it needs to schedule a public meeting and do
15 its deliberations.
16 I think the other point that was
17 raised -- I mean, although the chairman liked the
18 idea of additional rebuttal -- written rebuttal on
19 the 11th, if that was submitted on close of
20 business on the 11th, that doesn't do anything for
21 the board's staff in terms of, you know, work
22 requirements and posting the materials and
23 distributing the materials. So I think the 11th is
24 out for any written.

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1 So I'm going to -- based upon this
2 discussion, I'm just going to say: Everyone get
3 their required materials in on the 9th; we'll do
4 additional direct live testimony, if necessary; and
5 during the course of the hearing, or at the end of
6 the hearing, evaluate whether there's a need for
7 additional written information that would require
8 yet another continued hearing.
9 What do you say, Terri? I'm going
10 to give you the vote here. What do you think?
11 MS. GUARINO: That sounds great.
12 Thank you.
13 THE HEARING OFFICER: All right. I
14 will generate an email tomorrow commemorating this
15 agreement.
16 And I want to thank everyone. You
17 know, you did a stellar job tonight. And
18 everyone's put in a ton of time before, during, and
19 I'm sure it will be after, in handling this.
20 This isn't your run-of-the-mill
21 transfer station site assignment, which is mostly
22 what is happening these days in Massachusetts; so,
23 you know, the care and attention that all the
24 parties are putting in, and the board, the

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1 nonparty, is putting in, I know I personally
2 appreciate.
3 So, with that, I would ask the chair
4 to call for a roll call vote to continue the public
5 hearing until 4:00 p.m. on the 16th.
6 Did we lose him?
7 MR. CHAIRMAN: No. It's this new
8 technology. That's why I like in-person hearings
9 and meetings.
10 At this time I would entertain from
11 a board member a motion to continue the hearing to
12 February 16, 2021, at 4:00 p.m. via Zoom.
13 MR. MEIER: The 16th...
14 MS. PRINCIOTTA: I'll make a motion
15 to continue the public hearing to February 16th,
16 2022, at 4:00 p.m., and to adjourn.
17 MR. CHAIRMAN: No, not to adjourn.
18 We're just continuing.
19 MS. PRINCIOTTA: So I will make a
20 motion to continue the public hearing to
21 February 16, 2022, at 4:00 p.m.
22 MR. CHAIRMAN: Via Zoom.
23 MS. PRINCIOTTA: Via Zoom.
24 MR. CHAIRMAN: Do I have a second?

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1 MR. MEIER: Second.
2 MR. CHAIRMAN: I have a motion by
3 Barbara Princiotta, a second by William Meier.
4 Roll call vote. Don Utti?
5 MR. UTTI: Yes.
6 MR. CHAIRMAN: Barbara Princiotta?
7 MS. PRINCIOTTA: Yes.
8 MR. CHAIRMAN: William Meier?
9 MR. MEIER: Yes.
10 MR. CHAIRMAN: Stanley Andrews, yes.
11 We are all set. We are continued to
12 the 16th at 4:00 p.m.
13 Thank you, Attorney Shea. It's been
14 a pleasure. And we knew it was going to be a
15 four-hour session tonight. Thank you.
16 THE HEARING OFFICER: All right.
17 Good night, everybody. Get some
18 supper.
19 MS. PRINCIOTTA: Good night. Thank
20 you.
21 MR. UTTI: Good night.
22 (Whereupon the hearing was adjourned
23 at 7:56 p.m.)
24

	account (2) 91:4;95:4	Additionally (3) 45:8;72:1;78:22	74:22	19:12
*	accurate (1) 69:19	additions (1) 22:13	affected (1) 25:11	air (7) 47:20;74:24;75:3, 13;76:15;78:1;95:2
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