IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO

HOBART CORPORATION, et al.,)
)
Plaintiff,)
)
-vs-) Case No. 3:10-CV-195
)
WASTE MANAGEMENT OF OHIO,)
INC., et al.,)
)
Defendants.)

DEPOSITION OF MICHAEL A. WENDLING, taken by me, Susan L. Bickert, a Certified Shorthand Reporter and Notary Public in and for the State of Ohio, at large, as upon Direct Examination, at the offices of Thompson Hine LLP, Austin Landing I, 10050 Innovation Drive, Suite 400, Dayton, Ohio 45342, on Tuesday, July 17, 2012, commencing at 9:30 o'clock a.m. on behalf of the Plaintiffs.

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INDEX TO EXAMINATION

Attorney	Direct	Cross	Redirect
Mr. Silver	6		128
Mr. Merrill		69	
Mr. Harbeck		96	

INDEX TO EXHIBITS

Wendling Depo. Ex.	Description	Page
1*	Figure 1.3, Parcel Groupings, Streamlined RI/FS for OU1	30
2	Color copy photograph 05.09.2012 13:06	48
3	Color copy photograph 05.09.2012 13:07	48
4	Color copy photograph 05.09.2012 13:06	48
5	Color copy photograph 05.09.2012 13:06	48
6	Color copy photograph 07.16.2012 14:45	50
7	Color copy of Reddy Kilowatt	53

* Exhibit retained by Mr. Silver

MICHAEL A. WENDLING,
a witness being of lawful age, having been duly cautioned and sworn, did testify upon his oath as follows:

DIRECT EXAMINATION

BY MR. SILVER:

Q Mike, can you state your full name for the record, please?

A Michael A. Wendling, Allen.

Q And, Mike, can you give us your address?

A Present address is 260 Corkill Lane, Franklin, North Carolina 28734.

Q And also give us your date of birth, please.

A 10/3/45.

Q I'm going to -- this is called a deposition, and I understand you've had a couple of depositions taken before?

A Right.

Q In a law office setting?

A Right.

Q So you've been through this in the past?

A Right.

Q I'm going to run through just a few quick instructions. It's going to be a question and answer session. I and other attorneys when they get their turn will ask you questions, and you're expected to give answers. But the answer may be "I don't know" or "I can't remember," but we're asking you to do your best to remember the information we're going to ask about. Understand?

A Right, mm-hmm.

Q One of the important things to do in a deposition, you may recall from your prior sessions, is to answer audibly out loud. The court reporter, although she is facing you, she may miss if you just nod your head. So it's important for you to talk out loud.

A Okay.

Q Do you understand that?

A Yes, mm-hmm.

Q That's good. I want to let you know this is not a test.

A Correct.

Q So it's okay if you don't remember something. It's okay if the answer is no. We're just trying to get the information that you have and the understanding that you have. Is that all

right?

A It's all right.

Q That's okay?

A Fine.

Q The reason why I asked again is because I wanted --

A Okay.

Q -- to make sure you answered out loud.

A Okay. Sorry.

Q No problem. Another important instruction in a deposition is that the questioner and the answerer, you, have to take turns. So in a sense what I mean by that is when we're talking -- if we're talking at the same, the court reporter goes crazy. It's harder --

A I'll be easy on her.

Q Right. So wait till I finish my question, maybe pause and then answer. And the questioner should do the same, wait till you get to the end of your sentence before we ask you the next question. Otherwise she's going to get up and walk out, and it's going to be a waste of time.

A All right.

Q As I said, after I'm done with my

1 questions the other attorneys in the room -- and
2 they're all attorneys here except for the court
3 reporter and my assistant, Kaitlyn, who will be an
4 attorney some day.
5 A Good.
6 Q All the other attorneys will have a
7 chance to ask questions.
8 A Okay.
9 Q All right. So I just want to let
10 you know that. One of the important things is that
11 your comfort -- you're the star of the show today,
12 so your comfort's important. So if you need a
13 break or need a drink, nonalcoholic drink, you can
14 certainly ask for that. If you want some water
15 right now we can get you water or coffee or soda.
16 A No, I'm fine.
17 Q But any time you feel like you need
18 a break or get hungry or want something to drink,
19 please just let us know and we will accommodate
20 you.
21 All right. Those are my instructions.
22 Do you have any questions?
23 A No.
24 Q Let's start then. Tell me where you
25 were born.

1 A Dayton, Ohio.
2 Q Right in the city?
3 A Kettering.
4 Q Okay. In Kettering?
5 A Mm-hmm.
6 Q All righty. And where did you grow
7 up?
8 A Kettering up till the seventh grade.
9 Then moved to Centerville through high school.
10 Q You went to high school in
11 Centerville?
12 A Right, mm-hmm.
13 Q Public school?
14 A Please?
15 Q The public school?
16 A Public school, right.
17 Q Centerville High School?
18 A Right.
19 Q And then after high school, where
20 did you live?
21 A Well, after high school I moved to
22 Moraine city, Huber South.
23 Q You mentioned two different places?
24 A Well, Moraine -- Huber South is in
25 sort of Moraine, West Carrollton. Actually, it was

1 Miami Township.
2 Q It was actually Miami Township?
3 A It was actually Miami Township.
4 Q But it was in that vicinity of Huber
5 South/Moraine/West Carrollton?
6 A Right.
7 Q All right. And did you have your
8 own house in Miami Township?
9 A My own house, right.
10 Q And did you eventually raise a
11 family?
12 A Raised a family.
13 Q And how long did you live in the
14 house in Miami Township?
15 A Nine years.
16 Q And that would have taken you till
17 -- when did you move into the house in Miami
18 Township? What year was that?
19 A '65. Right out of high school.
20 Q And then nine years there would take
21 you to about 1974; is that right?
22 A Yeah.
23 Q And then where did you go after
24 that?
25 A After that, divorce was that year.

1 Q Divorce in 1974?
2 A 1974.
3 Q Okay.
4 A From there I moved to -- actually
5 West Dayton area. I can't really give you the
6 address.
7 Q That's all right. I won't need it.
8 And then how long did you live in the
9 West Dayton area?
10 A That was probably another -- that
11 was another nine years.
12 Q Now we're in about 1983?
13 A Yeah. We're right there on track,
14 yeah, '83.
15 Q And then where did you go after
16 that?
17 A Another divorce.
18 Q Okay.
19 A Moved to Trotwood area.
20 Q Trotwood, Ohio?
21 A Trotwood, yeah. Trotwood, Ohio.
22 Q And how long did you live in
23 Trotwood?
24 A I was there probably four years.
25 Q 1987 or so?

A Mm-hmm.
Q Then what?
A Then I moved to further west of -- let me see. That would have been -- what would that be called? Actually, it was off of Route 4, so it's further west of Dayton, yeah. I'm trying to name the area. It's on the tip of my tongue, but I can't spit it out.
Q If you remember it, spit it out later.
How long were you in that area further west of Dayton?
A Another four years.
Q To about 1991?
A Yeah.
Q And then where?
A Another divorce.
Q Okay.
A Don't ask me how many times I've been divorced.
Q I'm not counting.
A No, please.
Q And where did you go after that?
A After that --
Q Further west of Dayton you were.

A North of Dayton.
Q Okay. And how long there?
A Five years.
Q That would bring you to about 1996?
A Yeah.
Q Then at some point where did you go after that?
A Well, at that time another divorce.
Q All righty.
A And I'm not really a bad guy.
Q Nobody said you were.
And where did you go after north of Dayton in '96?
A Then at that time I moved back to Centerville. And from there for the next eight, ten years I sort of -- I was building a house in North Carolina, so I communicated back and forth for a ten-year period.
Q Between Centerville and North Carolina?
A Yeah.
Q And now are you permanently in North Carolina?
A Permanently, yeah, for the last three years.

Q Okay. We mentioned you went to Centerville High School. You graduated around 1965?
A Right.
Q Let me ask you about your family. Your last name is Wendling.
A Right.
Q Have you ever heard of the Grillot family?
A That's my mother's side.
Q Your mother's side?
A Mm-hmm.
Q And what was your mother's name, maiden name?
A Marjorie.
Q Marjorie Grillot?
A Grillot, yeah. Well, that was her maiden name.
Q Maiden name. And did Marjorie have any brothers?
A That I can -- probably five, I think.
Q Can you name some of them?
A There would have been Alcine, Kenny, Cyril. There was a Cletus. You want brothers and

sisters? Did you say brothers and sisters or just brothers?
Q I said just brothers.
A That's the four that I can --
Q Can remember?
A Yeah.
Q Now, do you know an Edward Grillot?
A That's Cyril's son.
Q And --
A My cousin.
Q And that would make him your --
A First cousin.
Q Thank you. All right. Did the Grillots own any sort of dump?
A A lot of commercial property. My recollection was like 25 commercial properties.
Q Twenty-five commercial properties?
A Yeah. I mean, that's what --
Q That's your memory?
A Yeah.
Q Did they own a property called to your knowledge the South Dayton Dump?
A Right.
Q Right what?
A They owned South Dayton Dump, Cyril.

Q Cyril?
A Cyril, Kenny, Alcine.
Q Who actually owned it, do you know?
A Well, I'd say Cyril.
Q Okay.
A He may have. Cyril.
Q Now, have you ever been to the South Dayton Dump?
A Quite -- yeah, a lot.
Q A lot?
A Lived there.
Q You lived there?
A Not there really, but, yeah, I've been there a lot.
Q Well, when you say -- what do you mean when you say you lived there?
A Well, I worked there a lot when I was very small.
Q How old were you, if you can recall, when you first visited the South Dayton Dump?
A Oh, probably around eight probably.
Q What did you do when you went there at that age?
A Salvaged a lot. Scrounged around for money and things really at my early age.

Q Sure. How did you get -- how did you happen to go there? Did you get invited?
A I was -- I was sort of Cyril's adopted nephew, I guess. So he sort of took me on, and I'd go with him. He would come pick me up.
Q Now, by "adopted" you don't mean formally adopted?
A No, no. He's the one -- he just took me on as -- you know, there was ten of us kids, and each one of us one of the uncles or somebody sort of latched on to one in our family, and he's the one that latched on to me.
Q So you were kind of a favorite of Uncle Cyril?
A Yeah.
Q And did he invite you to come to the dump?
A Well, he come picked me up, yeah.
Q And dropped you at the dump?
A Yeah.
Q On more than one occasion?
A When I was small weekly. Weekly. Saturdays would be my day there.
Q When you were eight years old?
A Oh, it started at around eight,

nine, ten, mm-hmm.
Q Continue on after that?
A Until I was probably -- late sixties, early seventies, very early seventies.
Q So you would be going to the dump from the age of eight or so --
A Yeah.
Q -- until the early seventies?
A Probably, mm-hmm.
Q Now, by the early seventies you were 25 years old or older; right?
A Right.
Q So you continued -- go ahead again.
A Well, '65 is when I built my house or when I first bought my first house. So that's when I -- at that age I was working there and going to the dump to get things like for my own house or whatever. So it would have had to go up to the late sixties, early maybe seventies, but that would be about it.
Q Now, in '65 when you were working at the dump, were you working there on a daily basis?
A In the summers.
Q In the summers?
A Mm-hmm. And during school time on

Saturdays, mm-hmm.
Q What about after school?
A After school, mm-hmm.
Q You'd go there after school?
A After school.
Q On a regular basis?
A I can't say a regular basis, no.
Q Occasionally after school?
A Oh, yeah, mm-hmm.
Q Now, after you finished school, did you continue to visit the dump?
A Well, that's what I say. I graduated in '65. So I was -- like I said, I bought my house, so I would be going there for the next four or five years.
Q Doing what?
A Working for my uncle mostly at that time, building maintenance and just working on the dump, whatever he wanted me to do.
Q Now, after you bought your house and you were working at the dump, would you characterize it as a regular job at the dump in terms of was it daily you were going?
A No. I wouldn't say it was a regular job, no.

Page 21

Q Did you have another job at that time?
A At that time I worked at Liberal Supermarket, mm-hmm.
MR. HARBECK: I'm sorry. I missed the name.
THE WITNESS: Please?
MR. HARBECK: What was the name of the supermarket?
THE WITNESS: Liberal. That was one of the big supermarkets in Dayton at that time.
BY MR. SILVER (Continuing):
Q How is that spelled?
A L-I-B-E-R-A-L, yeah.
Q And did you have a part-time job at Liberal or full-time?
A No. I started at full-time and stayed full-time for about 15 years.
Q And you started it after you bought your house?
A Oh, no, no, before I bought my house. I started two weeks after I turned 16.
Q What about graduating from high school? Were you in high school at the same time you were working at Liberal?

Page 22

A Right.
Q And working part-time at Liberal at that point?
A Right, until I turned -- till '65, and then I went full-time 'cause I was out of school then.
Q And you were still visiting the dump during the period of time?
A Oh, yeah. Right.
Q On Saturdays?
A Saturdays.
Q After school?
A After school.
Q Summers?
A Definitely summers.
Q What about -- what about spring and winter vacation from school?
A I'm sure, yeah.
Q Sure you were visiting?
A Oh, definitely, right.
Q Now, you talked about working at the dump in some capacity till the late sixties, early seventies. Was there a point at which you stopped working at the dump?
A I would say seventies -- let me try

Page 23

to put everything in perspective here. Let's say like '73, '4, and then it was occasionally going by 'cause I was married by then so I couldn't devote that much time.
Q Going by, stopping in?
A Oh, I would always go by, stop in and talk to my uncles and walk the dump and see if there's anything I could find I wanted.
Q This is '73, '74?
A Around in that, yeah.
Q After that?
A Right, until they finally closed up.
Q Do you remember when they closed it up?
A You know what? I -- I can't give you a date.
Q Now, did you ever work at another dump? Ever do any work at another dump?
A No, other than the Liberal Supermarket.
Q I hope that wasn't a dump.
A When you say "another job" I didn't --
Q No, I actually said another dump or landfill.

Page 24

A Oh. Well, I did, yeah.
Q Tell me about that.
A Well, Cyril had a friend. His name was Larry Brannon, Brandon.
Q B-R-A-N-N-O-N.
A He was an ex-policeman, and he was beginning to develop a landfill out off of Rip Rap Road, Huber Heights, I guess that area. And so he contracted me and Ed to build an incinerator, if you want to call it that.
Q Ed Grillot?
A Yeah, me and Ed built it.
Q Do you remember when that happened?
A It had to have been in -- between '65 and '69, somewhere around in there.
Q And had you had any experience prior in building --
A No.
Q -- incinerators?
A No.
Q Did you have any experience with incinerators at the South Dayton Dump?
A I didn't have any -- I mean, I didn't help them build theirs, but --
Q Go ahead.

A I was there when he was building it, and I was there when they was using it. But my uncle built that one himself, but we built this one later on.
Q Okay, okay.
A Yeah.
Q All right. Now, during the time that you were doing activities at the South Dayton Dump you said started when you were eight years old more or less?
A Well, I would go down there at that age, right.
Q Right. Okay. And when you were down there in the early years, eight, nine, ten, what sort of activities did you do when you were there?
A Well, I think mostly then we was sort of scrounging, I guess, if you want to call it, sifting dirt for money. And Saturdays when private people would come in and bring their stuff, you know, we'd help unload it or things like that, mm-hmm.
Q You might help unload trash from trucks --
A Right.

Q -- on Saturdays?
A Right.
Q And you would pick at the trash?
A Yeah.
Q Did any burning go on at the dump in those early years when you were there?
A Oh, definitely. That's all they did.
Q Did a lot of burning?
A A lot of burning, right. Burned everything.
Q And when would you pick at the trash?
A As soon as it cooled down.
Q And you said "we"?
A The burnt stuff. The good stuff we'd pick as soon as it gets dumped.
Q You said "we" would. Who else?
A Well me, Ed.
Q Ed Grillot?
A Ed Grillot. I think we was the primary ones.
Q Other family members come along and pick?
A Well, my -- some of my sisters came,

you know, times and would pick through things. Even my kids did it.
Q Oh, really?
A Oh, yeah.
Q Okay. Now, did you later have more -- well, let me ask a couple more questions.
When you were there during those early years, eight, nine, ten, was there someone operating a bulldozer?
A My Uncle Alcine.
Q Alcine operated the bulldozer?
A Yeah, right.
Q Anybody else?
A No.
Q And you mentioned an Uncle Kenny. Was he there during that time?
A Right. He was sort of the -- took care of the office, if you want to say. You know, people come in, pay him. And then his primary job was to sort through and collect copper, lead, whatever he could recycle. So he had a little trailer, and he worked in that trailer doing that all day long.
Q Copper and lead?
A Copper, lead, mm-hmm.

Q Any other metals?
A Well, brass, aluminum.
Q And I bet he didn't call it "recycling" back then.
A Please?
Q I bet he didn't call it "recycling" back then.
A He called it making money.
Q He called it making money? Is that what you said?
A Yeah, it wasn't recycling.
Q Now, did drums come into the site?
A Drums come in the site. A lot of times they would be full of ink sludges, and we'd have to cut 'em open with a hammer and chisel and push 'em over and let 'em dry out. And then there was someone that would come and pick up the barrels and haul 'em to wherever.
Q Now, you said --
A Sold the barrels again after we cut 'em open and things.
Q You said "we cut 'em open." Did you participate in cutting open drums?
A Oh, yeah.
Q Even as a youngster?

Page 29

A Well, not eight or nine, but probably at ten, 12, in that area, yeah,
Q How did you cut open the drums?
A With a hammer and a chisel.
Q Hard work?
A Yeah, we worked hard.
Q You didn't have any kind of mechanical device --
A Oh, no.
Q -- other than that?
A No. Plus, it would be too dangerous.
Q Oh, I see. So you would use something with a -- wouldn't spark?
A Right. Exactly.
Q So who else cut open drums when you were doing it after --
A They had a -- a regular worker there that his name was Bud. That's the only thing I can recall. He lived on the dump.
Q He actually had a house on the dump?
A Just a trailer.
Q Oh, okay. And you said you did this work with the hammer and chisel cutting open the drums?

Page 30

A Oh, yeah.
Q What about Ed?
A Ed did, sure.
Q Anyone else that you can remember?
A Well, other than this Bud.
Q And you'd tip over the -- and get the contents out?
A Right, tip 'em over, get the contents.
Q Where would you tip 'em?
A On the ground. Wherever the barrels landed.
Q Now I'm going to show you -- I guess we'll mark it as Wendling Exhibit 1.
(WHEREUPON, Wendling Deposition Exhibit Number 1 was marked for purposes of identification.)
Q I'm placing in front of you a diagram which has a figure on it. I guess it's a figure from a report which is part of the cleanup of this site. It's called Parcel Groupings, Streamlined RI/FS for OU1. Do you recognize this figure?
A The location, yes, mm-hmm.

Page 31

Q Tell us what you see.
A Well, this would be what I would call the dump. (Indicating)
Q Which dump?
A South Dayton Dump.
Q By the way, is South Dayton -- go ahead.
A And earlier I think they called this the Broadway Dump, and then it got a name of more -- a little bit better known as the South Dayton Dump.
Q What did the Grillot family call it?
A Well, South Dayton Dump.
Q Okay. And who called it Broadway Dump?
A Well, I can't say who, but in my early years I know that's what it was sort of known as.
Q All right. Appreciate that.
Now, the question I want to ask you -- and I'll give you a marker -- would you be able to draw in if you could where the entrance to the dump was when you first began visiting the dump when you were eight years old?
A Well, if this is the northern line

Page 32

-- this would be the northern line of the property. It would be pretty much right through here. (Indicating)
Q Can you put -- can you write in "First Entrance"?
A (So complies.)
Q And, Mike, tell us what it is about where you marked in the First Entrance that makes you think that was the entryway.
A Well, for one thing, I know by the buildings.
Q Mm-hmm.
A This would be the -- the one that's in line there would be the furthest north building, quite naturally, and this was the building that my uncle had him a little office in, and I just know I was always going past that office. And then to the right was Doyle's junkyard or auto salvage or whatever.
Q Doyle's?
A Doyle's, right.
Q D-O-Y-L-E apostrophe S?
A Mm-hmm. Then as you go on past that building there's another building back here, and then to the left a little bit would be the first

1 trailer.
2 Q Okay. Now, you mentioned a --
3 started with an office building. You said it was
4 your uncle's office building?
5 A Well, he used just a little room in
6 that building.
7 Q Can you label that building as your
8 uncle's office?
9 A Yeah, mm-hmm.
10 Q And maybe circle it so everyone
11 knows what it is.
12 A (So complies.) I remember that
13 building. I was young. And for some reason -- I
14 don't know what the reason was -- but I had to dig
15 a hole all around the foundation. I had to dig it
16 out. For why I cannot recall, but I know it was
17 like two or three foot deep. I don't know the
18 reason, but --
19 Q Somebody told you to do it?
20 A Well, Cyril told me to do it. I was
21 young then.
22 Q About what age would you say?
23 A Ten, 12.
24 Q Okay. And you mentioned Doyle's
25 auto yard. Why don't you mark where that was maybe

1 with a circle.
2 A (So complies.) Well, that would be
3 coming in here. He would be more over in here in
4 this area.
5 Q Maybe write in "Doyle" so everyone
6 knows what you're talking about.
7 A (So complies.)
8 Q Let the record reflect that the
9 witness is labeling the Exhibit 1.
10 Now, you labeled that as the first
11 entrance to the dump --
12 A Mm-hmm.
13 Q -- from when you started going --
14 A Right.
15 Q -- around at age eight?
16 A Mm-hmm.
17 Q How long, if you can recall, was
18 that entrance used at the dump? If you can recall.
19 It's not a test.
20 A My whole -- my whole life even
21 before that time I just know that's the main
22 entrance. 'Cause I know they started up at the
23 river, but at my age that's where it was at that
24 time.
25 Q Did there come a time when there was

1 a second entrance?
2 A Yeah. Later on -- this is probably,
3 you know, not a whole lot of years before they
4 closed up, but it would be down from what I'm
5 counting here probably one, two -- the third
6 building down. That was a fabrication facility at
7 that time.
8 Q Buckeye Fabricators?
9 A Yeah, fabrication of some sort or
10 another.
11 Q Does the name Buckeye --
12 A Could be Buckeye Fabrication, but
13 right there we would go along that side of the
14 building, and then the trailer was over in here
15 somewhere. They moved that trailer down.
16 Q Okay. Why don't you mark where the
17 second entrance is. Just write in "second
18 entrance."
19 A (So complies.) It would be right
20 here.
21 Q Let the record reflect that the
22 witness is doing so.
23 And you mentioned the trailer was moved
24 down to near the second entrance?
25 A Right, right.

1 Q Why don't you mark where the trailer
2 was.
3 A I've got it marked right here.
4 (Indicating)
5 Q And then just label it "trailer."
6 A (So complies.)
7 Q The witness is doing so.
8 And did you say about what time period
9 the second entrance was opened up?
10 A Late sixties.
11 Q And do you know of any other
12 entrances to the dump --
13 A No, there wasn't.
14 Q -- that you're aware of?
15 A There was none.
16 Q None that you were aware of; right?
17 A None that I was --
18 Q I just wanted to get --
19 A Okay. None that I was aware of.
20 Q Yeah. 'Cause you mentioned the dump
21 started even over by the bridge.
22 A Well, before my time.
23 Q That's what I was wondering.
24 Now, did the trucks bringing waste use
25 the first entrance to the dump?

A They used the first entrance, right.
Q And then the second entrance later on?
A The second entrance later on, right.
Q And is it correct to say that that was the way the trucks entered the dump while you were working there?
A Right.
Q Either the first entrance and then the second entrance?
A Right.
Q Did you personally observe trucks entering the dump?
A Oh, sure. Yes.
Q How often?
A All day long if I was there.
Q Even on Saturdays when you were there?
A Saturdays. Not too much commercial stuff on Saturdays, but during the weeks.
Q And you would observe commercial trucks coming in during the week --
A Definitely. Right. Yes, yes.
Q -- when you were there? Was that a constant occurrence at the dump?

MR. HARBECK: Object to the form.
MR. MOSS: Objection.
BY MR. SILVER (Continuing):
Q Do you know whether that was a constant occurrence at the dump?
A That was a daily occurrence.
Q Now, I'm going to ask you about -- are you familiar with a company called Dayton Power and Light?
A Yes.
Q What is Dayton Power and Light?
A That's our source of power here in Dayton.
Q Power company?
A Please?
Q Power company?
A Right.
Q To your knowledge, was Dayton Power and Light around when you began working at the dump -- I'm sorry -- when you began visiting the dump when you were eight years old?
A Was they around?
Q Yeah.
A Many years before that, too. Yes. Definitely. Right. They was.

Q Do you know whether Dayton Power and Light was a customer of the South Dayton Dump?
A Yes.
Q Yes, you do know that?
A Yes, I do know that. Yes.
Q How do you know that?
A I'd see 'em come and go.
Q And in what form did they come and go?
A Trucks. Dump trucks.
Q Dump trucks?
A Dump trucks.
Q Other kinds of trucks?
A Mostly dump trucks.
Q And did you personally observe Dayton Power and Light dump trucks entering the South Dayton Dump?
A Yes.
Q How frequently?
A If I was there, on a daily basis. If I was there, I would see 'em all the time.
Q If you were there during a day, how many times on the average would you see Dayton Power and Light trucks come in?
A Maybe once or twice.

Q What color were the Dayton Power and Light, DP&L dump trucks?
A They were sort of a brown, tan. Sort of a tannish color, light.
Q Dark brown or tannish?
A Light. Light.
Q Light brown?
A Mm-hmm.
Q Okay. Ever see any other DP&L truck colors?
A I'm trying to say a dark brown. I mean, I can see it in my mind a dark brown truck with "DP&L" written on the side of 'em, and those were probably more of service trucks.
Q Say it again?
A They was more of like service trucks, you know, that went out and did -- panels trucks and things like that.
Q What about the dump trucks? What colors do you remember those being?
A I remember those as the lighter brown.
Q Ever see any dark green DP&L dump trucks?
A I can't say.

Q Now, what about white trucks? Did you ever see any white DP&L trucks?
A At that time I cannot recall any white trucks.
Q Not at that time?
A No.
Q And that time what period are we talking about now?
A In the sixties.
Q And what about the fifties as well?
A I don't think so.
Q You don't think you saw any white ones?
A No.
Q Now, you mentioned the letters DP&L on the side of the dump trucks.
A Right.
Q Was that something you frequently saw?
A Yes.
Q Were you able to tell from where the DP&L dump trucks came?
A Across the street.
Q Did you --
A Well, that was, I guess, where they

stored 'em.
Q Did you observe the DP&L dump trucks coming right from across the street into the South Dayton Dump?
A Well, I can't say -- from where I would be at, I can't say that.
Q Okay. Did you observe the dump trucks parked across the street?
A Yes.
Q And those are the DP&L trucks parked across the street?
A Right.
Q Now, I want to talk about the type of waste that came to the dump in DP&L dump trucks. Did you ever have occasion to observe the types of waste?
A Yes.
Q Okay. What did you observe?
A Telephone poles. A lot of -- a lot of ceramic type fixtures that you would see up on the poles at that era. A lot of like flanges and things that would be on the poles. Ceramic type -- ceramic type cylinders. My recollection they was gray and they was full of some -- well, they was full of looked like a BB, I guess.

Q A BB like in a BB gun?
A The size of a -- yeah, somewhere around that size. And we'd break those open if they wasn't broken open, and to my recollection they was lead 'cause my uncle would melt 'em.
Q Those BB's to your recollection were lead?
A Yeah.
Q And your uncle melted them?
A Yeah.
Q Which uncle was that?
A Alcine. No, Cyr -- Kenny.
Q Kenny would melt the lead?
A Yeah.
Q How would he do that? What did he put the lead in to melt 'em?
A Well, he had a -- in his trailer he had a burner, and he had like an iron skillet. Then he had a dipper and he would -- after it was melted he would dip 'em and put 'em in like little trays. Looked like cornbread muffin trays or whatever.
Q Cooking up some lead ingots would you call 'em?
A I guess.

Q All right. And -- okay. What did he do with them after he made the --
A I couldn't tell you what -- I'm sorry -- I can't tell you. I don't know what he done with 'em.
Q Sell 'em?
A Well, that would be my recollection. I mean, that would be the purpose of melting 'em to sell 'em.
Q Okay.
A Transformers is another thing. There would be transformers.
Q Coming in from the DP&L waste trucks?
A Mm-hmm.
Q You observed that?
A Yeah.
Q What happened to the transformers?
A They'd cut 'em open and salvage whatever copper or whatever you'd get out of 'em.
Q Is it typical to find copper in the transformers?
A Copper.
Q Who did that work? Kenny?
A Alcine.

Q Alcine?
A Kenny. Right.
Q Kenny?
A He was the one that did all of the going through whatever -- salvage whatever he can, the copper, aluminum or whatever.
Q And what about oils and the remaining parts of the transformer? What happened to those?
A Well, it would get burned.
Q And then after burning, what happened to it?
A It would get bulldozed. Bulldozed over and start with the next pile.
Q Bulldozed and buried?
A Mm-hmm.
Q Alcine have any involvement with the transformers?
A That wasn't his -- his mostly was moving material around out in the dump.
Q Okay. Now, as transformers come in on the DP&L waste trucks, did you observe those coming in during the time you were --
A The time I was down there, yes, mm-hmm.

Q What period of time would you say you saw the transformers?
A Well, that would have had to have been in sixties to '65 around in -- you know.
Q What about the earlier period when you started visiting at eight years old?
A That type of stuff was -- I seen it there, but really in the early, early ages, you know, I was quite little so I didn't go there as often. So mostly when I was down there at a little later age when I was working then I would see them come and go.
Q And that was true of the connectors and the fixtures?
A Right, mm-hmm.
Q Same time period?
A Yeah.
Q Okay. And what about the telephone poles?
A Same period of time.
Q And what about Kenny and his lead burning operation? Was that going on the entire time?
A As long as I've ever been down there, yeah. The time that I was really little I

saw that.
Q Do you know when it stopped, when he stopped doing the lead melting?
A Probably when they closed the dump up.
Q Do you know the word "clinker"?
A Yeah.
Q What's a clinker? C-L-I-N-K-E-R.
A It's the waste from, I guess, the fire stacks, boilers.
Q Ever have any involvement with the clinkers at the South Dayton Dump?
A I collected 'em.
Q You collected 'em?
A Mm-hmm.
Q Did they come into the dump?
A Yes.
Q Did they come from DP&L?
A Yes.
Q Why did you collect them?
A I used 'em to reface the front of my house with them.
Q The house you bought in 1965?
A Right.
MR. HARBECK: Could you read back the

answer when he said waste from the --
(Whereupon, the answer was read back by the court reporter.)
BY MR. SILVER (Continuing):
Q I'm going to place a series of photographs in front of you, Mike, which we'll mark as Exhibits 2 through 5.
(WHEREUPON, Wendling Deposition Exhibit Numbers 2 through 5 were marked for purposes of identification.)
Q Mike, we put in front of you Exhibits 2 through 5. Starting with Exhibit 2, can you identify that photo for me?
A That's my house. Was my house in '65.
Q Okay.
A Yeah.
Q And, you know, you've been talking about clinkers. Is there any connection between that photo and clinkers?
A Well, they're on the front of my house.
Q Would you say it's the outer layer of your house?

A Right.
Q Did you install those clinkers?
A Yes.
Q Did you get them from the South Dayton Dump?
A Yes.
Q Okay. And why don't we go to Exhibit 2 -- I'm sorry -- Exhibit 3. We were just looking at Exhibit 2. Same thing. What's that?
A Yes.
Q Tell me.
A Same clinkers.
Q Same house?
A Same house.
Q Which you installed?
A Which I installed.
Q And I take it the other photos -- look at 4 and 5 now. Tell me if they're just more of the same.
A Same. Same. Same thing.
Q All righty. So you found the clinkers at the South Dayton Dump?
A Right.
Q What made you think they would be a good outer surface for your house?

A My vision, I guess. I just like to remodel things, just do things differently. So when I was down there I just seen these things and messed with them a little, see they're hard and everything. I said, well, why not give it a try, and I did.
Q Did you -- was that common for you to try to make use of items that you found at the dump?
A Yes.
Q Now, while you were doing the -- installing the clinkers on the outer layer of your house, did you get to a point where you needed more clinkers?
A I did at a point run out.
Q And what did you do then?
A Well, I tried to go over to DP&L and get some, and they told me I couldn't have any.
Q Okay. All righty. Now, I want to show you another exhibit. We'll call it Exhibit Number 6. It's a photo with some fencing and barbed wire in front of it. I'll give it to the court reporter for marking, Exhibit Number 6.
(WHEREUPON, Wendling Deposition Exhibit Number 6

was marked for purposes of identification.)
Q Do you recognize anything in that photo, Mike?
A Well, I recognize similarities.
Q Tell me what similarities you recognize.
A Well, these tall things. The ones that I saw in the dump were much smaller than these.
Q Why don't you circle which tall things you're talking about so we know.
A (So complies.)
Q And let the record reflect that he's circling some items on the exhibit -- the photo on Exhibit 6. And why don't you label what you're looking at just to make it clear where the circle is.
A "Round cylinders"?
Q Whatever you think.
A Well, that's what they would be to me.
Q Maybe put it by the blue so it will show up a little better.
A (So complies.)

Q Well, that's all right.
A Round tubes. I'm going to call them round tubes.
Q Round tubes. Now, you observed those round tubes -- similar round tubes, but smaller at the site?
A Smaller, right.
Q During the time that you were active at the site?
A Right, right.
Q And where did those similar round tubes come from?
A Dayton Power and Light.
Q And were those brought over to the dump in the Dayton Power and Light waste trucks?
A Yes, right.
Q Did you have the opportunity to observe the round tubes in the photos recently?
A Yes.
Q When was that?
A Yesterday.
Q Did you also have the opportunity to visit the dump recently?
A Yes.
Q When was that?

Page 53

A Yesterday.
Q And what did you do when you were at the dump?
A Just walked, observed and tried to put my memory of what it was at that time.
Q Now, thinking back -- this may be difficult. Thinking back, prior to yesterday's visit to the dump when was the last time you were there?
A Early seventies.
Q Been that long?
A Yeah.
Q Now, we've been talking about the DP&L waste trucks that came to the dump. Do you remember any other markings on the trucks in addition to the lettering of DP&L?
A In my mind I see a funny looking man. Not a man. A picture of like the peanut head or like a light bulb type of a thing with a face on it.
Q Okay. You saw those as a marking on the dump trucks from DP&L?
A Yes.
(WHEREUPON, Wendling Deposition Exhibit Number 7

Page 54

was marked for purposes of identification.)
Q Let me place in front of you Exhibit Number 7. I'm putting Exhibit 7 in front of you. Do you recognize the figure on Exhibit 7?
A Yes.
Q And what is that?
A Well, this is somewhat the figure that I would see on the truck, but I mostly seen the head part of it.
Q Okay. All right. Did you ever see that figure on any -- go ahead.
A No, you go ahead. Oh, I've seen the sign.
Q What sign is that?
A Well, there on 75 there used to be a sign, big sign, had some writing on it. But I'm just -- just vague on what the sign said.
Q Did you understand that to be a DP&L sign?
A Yes.
Q And the Exhibit 7 in front of you is similar -- is that similar to what you saw on the DP&L waste trucks?
A Well, like I say, in my mind I'm

Page 55

just seeing the head part of it. I can't -- you know, I can't see all of that in my mind.
Q You didn't necessarily see a body?
A Exactly. Right, right.
Q But in your mind you saw the head --
A Right.
Q -- that's on Exhibit 7?
A Right.
Q Is that right?
A It was -- you know, the face that I could see was like yellow.
Q All right. Ever hear the name Reddy Kilowatt?
A Well, that's what they called him.
Q Now, a question about -- one more question about DP&L. Well, let me ask -- strike that.
Did any customers of the dump have a key to the dump's gate?
A Well, to my recollection there was two companies that to my recollection would. It was Franklin Iron and Metal and DP&L. DP&L I knew brought stuff in at nighttime.
Q DP&L brought the stuff in at

Page 56

nighttime you said?
A Yeah.
Q What about Franklin Iron?
A They would come and pick up, or vice versa. If there was nobody there, they had the freedom to come and go.
Q And is it your understanding that the reason these companies had a key was to be able to enter the dump when it was closed?
A Well, they had to -- when they had to get rid of it -- I guess when they cleaned up they had to get rid of it. Whatever they was cleaning up they had to have a key to bring it and get rid of it at that particular time.
Q And that particular time would be when the dump was closed?
A When it was closed, definitely, right.
Q How are you doing? You need a break or anything, Mike?
A I'm fine.
Q We'll keep going then.
I want to ask you about some other companies. The focus of the questions are going to be whether or not they were customers of the dump

to your knowledge. Let me start with B.G. Danis Company.
A Danis.
Q Yeah.
A Yeah, it was -- it was a big contracting company at that time. Still is, I guess.
Q They were a big contracting company?
A Mm-hmm.
Q What kind of things did they contract?
A Buildings, roads.
Q Were they -- was B.G. Danis a customer of the South Dayton Dump to your knowledge?
A At that time, yeah, I have seen the trucks come in.
Q And what time would that have been?
A In the early sixty years. Well, actually all the time.
Q All the time while you were associated with the dump?
A Right.
Q Now, what kind of trucks did B.G. Danis bring to the dump?

A Dump trucks.
Q Do you remember the color?
A Red.
Q They had red dump trucks?
A Mm-hmm.
Q Do you recall the name "Danis" on them?
A Yes.
Q What kind of waste did you observe them bringing to the site?
A Well, they would mostly bring in wood type of stuff.
Q What type of stuff?
A Wood.
Q Anything else?
A No.
Q Construction?
MR. HARBECK: Object. Leading.
BY MR. SILVER (Continuing):
Q Do you know whether they brought construction debris into the site?
A Well, wood material would be construction debris to me.
Q Do you know whether they brought in other kinds of construction material other than

wood material?
A Could be metal.
Q Anything else?
A No fill, so, no.
Q Okay. Now, what about a company called Blaylock Trucking?
A Blaylock?
Q Yeah.
A No.
Q Don't have any familiarity with that company name?
A Well, I know the name.
Q Right.
A But I don't see them bringing anything there.
Q You don't recall their bringing anything to the South Dayton Dump?
A No.
Q What about Coca-Cola?
A Coca-Cola, yes.
Q Tell me about Coca-Cola.
A Bottles, caps, wood trays that the bottles came in. Truckloads of them.
Q Any liquids?
A No.

Q None that you can recall?
A No.
Q And you recall Coca-Cola bottles and caps and wood trays coming to the South Dayton Dump?
A Right.
Q You observed that?
A Definitely, yes.
Q How frequently?
A Well, that wouldn't be a real frequent thing. You know, that might have just been maybe every three, four, five, six months or something, you know, whenever they did a cleanup, I guess.
Q What kind of trucks?
A Dump trucks.
Q And did it say "Coca-Cola" on the trucks?
A Coca-Cola, yes, mm-hmm.
Q Are you familiar with a company named Duriron?
A Duriron, yes.
Q D-U-R-I-R-O-N. What can you tell me about Duriron?
A Not a whole lot.

1 MR. MOSS: I'm sorry?
2 THE WITNESS: Not a whole lot. I can't
3 recollect.
4 BY MR. SILVER (Continuing):
5 Q Do you remember whether Duriron
6 brought any waste to South Dayton Dump?
7 A I'm not going to say -- I honestly
8 don't recall.
9 Q That's all right. Do you remember
10 -- maybe I'll try to help you out there. Do you
11 recall any trucks that had metal boxes --
12 A Oh --
13 Q Let me finish my question. Metal
14 boxes on the back?
15 A Yes.
16 Q Tell me what you recall.
17 A These were a big about a
18 eight-by-eight square box that was attached to the
19 back of the truck with chains on it, and when
20 they'd dump it they would just lift up the box and
21 just dump it on the ground.
22 Q At the dump?
23 A Yes.
24 Q And so how would the box come off
25 the truck?

1 A It never came off the truck. It
2 just dumped the material out and it would fall.
3 Q Were the chains used to hold the box
4 on the truck?
5 A Right.
6 Q What company, if you can recall,
7 used those kinds of trucks to dump waste at the
8 site?
9 A To what I can recall would have been
10 Franklin Iron and Metal and Walther's, what I can
11 recall.
12 Q Do you remember Duriron using those
13 kinds of trucks?
14 A I can't see the name "Duriron" on
15 anybody's trucks.
16 Q Okay. All right. No problem.
17 Now, we just talked about Franklin Iron
18 and Metal.
19 A Mm-hmm.
20 Q And they had trucks like we just
21 described?
22 A Yes.
23 Q Do you know what kind of materials
24 Franklin Iron and Metal brought to the dump?
25 A The biggest part of it would be like

1 a combination of coiled up wire and brake shoes and
2 brake cylinders that had the rubber caps on the
3 end.
4 Q Now, where did this material come
5 from?
6 A Come from the brake plant on --
7 well, right there -- I'm not sure what the street
8 was. Delco -- well, it was the Delco brake plant
9 right off of Nicholas Road.
10 Q Now, Delco, is that what you said?
11 A Delco.
12 Q And do I understand you correctly
13 that it was Franklin Iron and Metal that brought in
14 the waste --
15 A Right.
16 Q -- from Delco?
17 A Right.
18 Q And did you observe the "Franklin"
19 name on the trucks?
20 A Yes.
21 Q What about cylinders? Did they
22 bring cylinders?
23 A That's what I said, brake shoes and
24 brake cylinders.
25 Q What about oil shavings?

1 A Oil shavings, right. That would be
2 all in the -- combination in the truck itself.
3 Q Do I recall your testimony earlier
4 that Franklin had its own keys?
5 A Franklin had their own keys, right.
6 Q Did Franklin pick up anything from
7 the dump?
8 A Well, when we -- or when they would
9 burn that load of materials, which included the
10 brake shoes, it would burn off the shoe itself, and
11 then the cylinders burned off the rubber on the
12 ends of 'em. And then Franklin would come and pick
13 'em up and take 'em to their facility.
14 Q Take 'em to their facility?
15 A Yeah.
16 Q So they were doing salvage?
17 A Yeah, that's what they was, a
18 salvage place, yeah.
19 Q So they were both transporting --
20 A Yeah.
21 Q -- and then salvaging, too?
22 A Right.
23 Q Same trucks?
24 A Same trucks. Well, no, it couldn't
25 be same trucks because they couldn't pick 'em --

these would be like a dump truck.
Q Which was the dump truck? The salvage truck or the --
A The ones going back.
Q The one going back --
A Right.
Q -- was a dump truck?
A Yeah.
Q And the one coming in was more of a box truck?
A Right, right.
Q What about McCall's magazine? Are you familiar with that company?
A Yes.
Q They bring anything to the dump?
A They would bring in a lot of magazines, barrels of some type of a sludge material. I don't know what it's used -- ink or cleanup material or whatever. I can't really say what was in it, but as it runs it would be a thick material or something or other.
Q What kind of truck did McCall's use?
A I'm trying to think. I can't recall their trucks.
Q Do you remember if McCall's had its

name on their trucks?
A I can't recall their trucks. All I can really recall is seeing the material there. I can't say I seen 'em dump it or --
Q No problem.
How about Pepsi-Cola?
A Pepsi-Cola, yeah, they was a big -- a big -- well, they was a customer, yes.
Q Of the South Dayton Dump?
A Yes.
Q Did you observe Pepsi-Cola trucks come in?
A Yes.
Q What did they bring in?
A Same as Coke. Busted up bottles and crates, caps. We used to go through the -- I don't know if any of these guys -- they had a contest where under the caps they had letters, and we would go through all this debris and get the caps and trying to match up something.
Q There was a contest that Pepsi ran with the caps?
A Yeah.
Q So you remember looking for the caps?

A Oh, absolutely.
Q What did the Pepsi trucks look like?
A Pepsi trucks.
Q Were they dump trucks?
A Mostly what I can recall is -- I can't see the dump truck, but I can see the truck that would like bring in the crates and things stacked up on the side of the trucks, and they'd just push 'em out.
Q Pepsi name on the trucks?
A Yes.
Q How frequently would you see --
A Well, I think this would probably be something similar to Coke. You know, it's not an everyday occurrence. But whenever they come, we had a call that "The Pepsi bottles are there. Come look." But I can't say how frequently.
Q Do you know the -- a company named Standard Register?
A Standard Register, yes, mm-hmm.
Q What can you tell me about Standard Register?
A From Standard Register I could see like brass or -- probably brass shavings material, parts, rolls of paper.

Q Now, did you see these materials coming into the dump from Standard Register?
A I can see it in my mind.
Q Did you see these materials at the dump?
A Yes.
Q And did you see the Standard Register name on the materials?
A No.
Q Why do you associate Standard Register with the dump?
A I just knew that they was one of their customers.
Q How did you know that?
A I guess just talk. You just hear, you know, uncles or whatever.
Q It's your understanding that Standard Register was one of the customers?
A Oh, yes, definitely.
Q Did barrels come in from Standard Register to your knowledge?
A No, I can't recall.
Q I think I'm going to take a little break, give you a little a break, Mike.
A Sure.

Q When I come back I probably won't have more than five minutes of questions. Then I'll pass the witness on to my colleagues here at the table and give them a chance. I expect maybe only one or two of them will have questions, so we'll get you out of here by lunchtime. We'll see. All right.

(Whereupon, a recess was taken.)

MR. SILVER: All right. Thank you, Mike, for your testimony. There is a small chance I might ask you another question or two when we go around the circle, but for now I'm passing the witness to the Dayton Power and Light attorney.

THE WITNESS: All right. Thank you.

CROSS EXAMINATION

BY MR. MERRILL:

Q Good morning, Mr. Wendling.

A Good morning, sir.

Q My name is Frank Merrill, and I'm an attorney here representing the Dayton Power and Light Company, and I'm going to ask you some questions regarding your testimony previously with Mr. Silver. Should I call you Mike?

A Sure. That would be fine. Thank you.

Q Okay, Mike. Can you maybe go back and give me some more clarification on your employment here? You indicated that you worked for Liberal Supermarket --

A Right.

Q -- in high school when you were 16 years old I recall?

A Right.

Q And then when you graduated from high school in 1965 --

A Right.

Q -- you started full-time with Liberal Supermarket?

A Right.

Q How long did you work for Liberal Supermarket?

A Right at about 15 years.

Q And why did you leave?

A Actually the store -- the company closed up.

Q And that was around 1970?

A Well, I actually left before the store actually closed. But they lingered on, changed hands different times. Ask me again.

Q You graduated in 1965.

A Right.

Q You worked for 15 years, so I assume you worked for Liberal Supermarket until 1980?

A Well, let's see. At -- no, no, at '65 I was 20 years old. So I started in '61 or '2.

Q When did you stop working for Liberal Supermarket?

A Right around, let's see, '71. Somewhere around in there.

Q And what did you do after that?

A I -- after I left there I started sort of my own business.

Q And what was your own business?

A Home remodeling and stonemason.

Q Did you have a company?

A Just myself. No, no.

Q How long did you do that?

A Well, I'm doing that up till -- I've been doing that from that period up to now on and off and on and off and on and off. Constantly doing that.

Q So is it fair to say since 1971 you've been self-employed as a home remodeler, stonemason?

A Right. Plus other jobs that I've

had.

Q What other jobs have you had?

A I've had three jobs at three different factories as a maintenance supervisor.

Q And what are those factories?

A One of 'em was called Mamco Converters, M-A-M-C-O Converters.

Q Okay. The second one?

A The second one was -- it was the same company, but they sold out to another one. Boy, boy, I can't even think of the name. I'll get it here before we leave.

Q Can you give me the general time frames when you were a maintenance supervisor working for these three companies?

A From the years of, let's see, nineties up through 2002 or '3, around in there somewheres.

Q From 1971 until 1990 you were employed as a home remodeler/stonemason?

A I did home remodeling, right.

Q Were you ever employed at the South Dayton Dump?

A I don't know if I could call myself an employee. I done the work there as --

Q Did you get a paycheck from Uncle Kenny?
A Cyril.
Q Cyril?
A He would pay me.
Q Would he pay you in cash or would you get a paycheck?
A Well, I would say cash.
Q Okay. So you never received like a W-2?
A Oh, no. I mean, this is a family operation. So, no, I never received that.
Q Okay. When you were working at Liberal Supermarket, which was 1960 --
A '1 or '2 up to around '70, '71.
Q You were part-time until you graduated from high school?
A Exactly.
Q And that was 1965?
A '65, yeah.
Q How many hours did you work at Liberal Supermarket?
A At what time?
Q Between when you started and when you graduated from high school.

A Oh, I was probably 25, 30 hours a week pretty much -- pretty steady.
Q And you went to school --
A In Centerville.
Q -- during that same period of time?
A Yes.
Q How much time then did you work at the South Dayton Dump during that period?
A It would be mostly like on weekends. Probably weekends.
Q How many hours would you be at the dump during the weekends in that time period?
A I have to -- it sounded like what you -- you're making it sound like I had a regular job there like an eight-hour job, six hours or whatever. It wasn't like that.
Q You characterize to me what it was like.
A Whenever my uncle would pick me up and take me down to do a certain job or I would go on my own just for my own personal things.
Q But you didn't have to show up at a certain time or a certain day to work?
A No, no.
Q Does that -- strike that.

For the time period from 1961 to '65 --
A Mm-hmm.
Q -- you didn't have to show up at the dump and work; is that correct?
A Oh, no.
Q The question is, is that correct?
A Correct.
Q Then from 1965 until 1990, did you ever have to go to the dump to work?
A No.
Q So the same characterization of your visits to the dump were you would just show up whenever you wanted to visit your uncle --
A No.
Q -- or he would pick you up?
A He would pick me up when he wanted me to do something or I would go on my own.
Q How often would he pick you up to do something at the dump after 1965 on an annual basis?
A Well, after that time he -- probably not a lot himself. These were more the earlier years.
Q I'm going to focus on the period after 1965 when you graduated from high school.

A Okay.
Q You're working full-time, correct --
A Right.
Q -- at Liberal Supermarket?
A Right.
Q How many hours a week are you working at Liberal Supermarket?
A Twenty-five, 30. I worked a lot. Twenty-five, 30, probably around in there.
Q Even after 1965?
A Oh, no. I was full-time. Full-time.
Q Forty hours a week is full-time?
A Yes.
Q And you would visit the dump?
A On a -- daily, every other day or something. A regular basis.
Q And why would you go to the dump during that time period?
A Well, because it's just something we always did. It's part of our -- how can I say it? It's something where you just go like some people might go to McDonald's or whatever. You just go there. It's a place to go.
Q Would you go there routinely at a

1 certain time period?
2 A No.
3 Q Sometimes it would be in the
4 morning, sometimes in the evening?
5 A Exactly. But Saturdays would be a
6 pretty good time that I would spend more than any
7 other.
8 Q But you never worked actually on the
9 dump during that time period?
10 A Not as a paid employee, no.
11 Q After 1965 would you get paid by
12 your uncles to do --
13 A Sure.
14 Q -- certain activities at the dump?
15 A Yes.
16 Q And what activities would they pay
17 you to do?
18 A Sort metal, paint buildings, dig
19 ditches or -- I have to stop and think.
20 Q Could you give me an estimate of how
21 much time during the week you would spend at the
22 dump say from 1965 to 1975?
23 A Maybe hours at a time. Not days
24 'cause I had a full-time job then.
25 Q So you would just stop by for about

1 an hour a day?
2 A Mostly during the week.
3 Q And then on the weekends it would be
4 more?
5 A I probably worked more on the
6 weekends. See, it's not work to me. It's just --
7 it's like a family. You just go and help out
8 whatever -- whatever you could do.
9 Q I guess what I'm asking you, Mike,
10 is --
11 A Mm-hmm.
12 Q -- how much time you were actually
13 at the South Dayton Dump during this time frame
14 from 1965 to say 1975?
15 A I'm going to say pretty much a daily
16 thing, but I might stop by for an hour or so or
17 whatever.
18 Q So it's fair to say you were not
19 there all day?
20 A Oh, no. I couldn't. No.
21 Q I'm going to ask you some questions
22 regarding some other waste streams. You mentioned
23 this morning that drums would come into the dump
24 and you would cut the tops off; is that correct?
25 A Right.

1 Q Do you know where those drums came
2 from?
3 A Well, I know the different -- like
4 the McCall's ink. I know different factories
5 around there like Walther's.
6 Q Is that the same thing as Dayton
7 Walther's?
8 A Yeah, right.
9 Q So Dayton Walther's sent drums of --
10 A Right.
11 Q -- material?
12 A Right.
13 Q Do you know what was inside those
14 drums?
15 A Just slushy stuff. I couldn't tell
16 you what exactly it is.
17 Q How do you know they were from
18 Dayton Walther's?
19 A 'Cause I seen the trucks. I know
20 them personally. I went to school with them, so I
21 know them personally.
22 Q Any other companies that sent drums
23 there?
24 A I can't give you the exact, no.
25 Q Do you recall a company called NCR?

1 A Oh, yeah, NCR.
2 Q Did they ever take waste to the
3 South Dayton Dump?
4 A It would be -- NCR I can't say.
5 Q What about Hobart Company?
6 A Hobart.
7 Q Did they ever take waste to the
8 South Dayton Dump?
9 A That would be -- I can recall Hobart
10 bringing drums. That would be bringing drums of
11 five gallons, maybe 50-gallon drums of sludge or
12 that sort of material.
13 Q There was liquid in those drums?
14 A Yeah. Well, it would be a liquid --
15 yeah, right, whatever it would be. Something dark.
16 Purple, blue or whatever it might be.
17 Q How do you know they were from
18 Hobart?
19 A I seen the trucks come in.
20 Q Let me ask you a couple questions
21 about DP&L. First of all, can you describe for me
22 what a transformer looks like?
23 A A transformer?
24 Q Yeah.
25 A (Indicating). So big around.

Q You'll have to maybe give some specifications for the court reporter, dimensions.
A They're round, different sizes, three foot tall. Have two protruding -- three or four protruding connectors come out of 'em.
Q Have you ever looked inside of a transformer?
A Well, when we get 'em they would be all -- actually look inside?
Q Correct.
A Did I ever pick one up and look inside of it?
Q Yes.
A No.
Q Do you recall seeing transformers at the South Dayton Dump?
A Yes.
Q And can you describe where you saw those transformers?
A Anywhere on the dump wherever they might be dumping at that particular time.
Q There was just transformers laying in the dump?
A Right.
Q Were they the carcass of the

transformer or they had the insides with them?
A Well, these would have the insides of 'em. And then I would probably go over and see 'em after they got burnt and the carcass, if that's what you want to call it.
Q So you would see them after they got burnt?
A Yeah, but I would see them still laying there when I, you know, might come and visit or whatever.
Q Did your Uncle Alcine have kind of a side business to salvage the materials from inside the transformers?
A What do you mean "side business"? They did it on the dump there, so that wouldn't be a side business.
Q It was just part of the business of the dump?
A Right.
Q Can you describe that operation for me, Alcine's scrapping of the transformers?
A It wouldn't be Alcine's. It would be Kenny.
Q I'm sorry, Kenny.
A Yeah. Well, transformers or no

matter what it may be, his responsibility was to tear 'em apart and get all the copper out of it.
Q Did any of these transformers have any markings on them that you recall?
A I wouldn't have looked at 'em that close.
Q But you don't recall any markings?
A No.
Q Do you recall any labels that said DP&L on those transformers?
A Probably not 'cause when I'd see 'em I wouldn't go up and look at 'em. I mean, I might see 'em there, but the after effect when they'd get burned, you know, you couldn't see nothing anyway. So there was no reason for me to -- I wouldn't have ever looked at 'em close enough to see, I guess, if they had markings on it.
Q Have you ever seen a transformer actually dumped into the South Dayton Dump from a truck?
A I can't say I have actually falling out of the truck. I can't say I've seen 'em falling out of a truck.
Q And when you saw the transformers on the South Dayton Dump, they had no markings?

A I didn't say they had no markings. I said I had no reason to look for a marking or wouldn't be no reason.
Q Do you know if General Motors ever took transformers to the South Dayton Dump?
A I -- I couldn't say yes or no.
Q You don't know?
A No, I don't know. Not transformers, no.
Q You indicated previously that there were oils inside these transformers. Do you recall that?
A No, I never said that.
Q You never testified this morning that there were oils inside the transformers?
A No.
Q You do not know whether there were oils in those transformers; is that correct?
A No.
Q I mean, is that correct?
A That's correct. Right.
Q You just know that they were transformers, the physical outside canister?
A Exactly. Right.
Q You don't know whether there was any

1 oils inside them?
2 A No.
3 Q You indicated previously that you
4 used clinkers to surface or face your house?
5 A Mm-hmm.
6 Q And that those clinkers came from
7 the South Dayton Dump?
8 A Yes.
9 Q And you also testified, I believe,
10 that the clinkers came from DP&L?
11 A Yes.
12 Q And how do you know that they came
13 from DP&L?
14 A Well, I seen 'em dump 'em there.
15 And then my uncle would call me and tell me, "You
16 need some more clinkers? DP&L just dumped some."
17 Or when I ran out of 'em I went over to DP&L and
18 tried to get some. They said, "No, we can't let
19 you have them."
20 Q You've seen DP&L dump clinkers --
21 A Oh, yeah.
22 Q -- at the South Dayton Dump?
23 A Definitely.
24 Q You also testified that you believed
25 DP&L and Franklin Iron and Metal had keys to the

1 gate?
2 A Yes.
3 Q And that DP&L would dump at night;
4 is that your testimony?
5 A After hours, yeah. They had keys to
6 come and go as they would please.
7 Q Did you ever see DP&L visit the site
8 when the gate was locked, unlock the gate, go in
9 and dump and then leave?
10 A No, 'cause I was -- there's no
11 reason for me to be there after hours. No.
12 Q But you've never observed that; is
13 that correct?
14 A I didn't observe it. No, I didn't
15 observe it.
16 Q You did not observe it?
17 A No. I did not see them, but I knew
18 that they had keys. I knew the two people that had
19 keys.
20 Q How do you know that they had keys?
21 A My uncle told me. But there are
22 times that I could say early in the morning that I
23 would come there and there would be a truck already
24 there, so they had to come before it was open or
25 whatever you want to call it.

1 Q You indicated that you've been
2 deposed before?
3 A Please?
4 Q You testified this morning that
5 you've sat for a deposition like this before; is
6 that correct?
7 A Yes.
8 Q And why -- how many times have you
9 been deposed?
10 A Twice.
11 Q And why were you deposed the first
12 time?
13 A Both of them was for divorces.
14 Q Okay. I need to ask you some
15 questions, Mike, regarding your occasion to be
16 here. When were you first contacted about the
17 South Dayton Dump and this litigation?
18 A Maybe two months ago or something
19 like that.
20 Q Who contacted you?
21 A Who contacted me?
22 Q (Nodding in the affirmative.)
23 A My cousin Ed I think it was. Yeah,
24 it had to have been my cousin Ed.
25 Q Did Ed tell you that someone's going

1 to call you?
2 A Yeah.
3 Q And then someone called you?
4 A Yes.
5 Q And who was that?
6 A Bill Walsh. Bill Walsh. I think
7 that's his last name, Welch, Walsh, mm-hmm.
8 Q Did you meet with Mr. Walsh before
9 this deposition?
10 A Yes.
11 Q And when was that?
12 A In North Carolina.
13 Q And when was that?
14 A Six weeks or so. Something like
15 that. Right in there.
16 Q And what did you discuss with Mr.
17 Walsh?
18 A Well, he just asked me what
19 knowledge that I had about the dump.
20 Q Did he explain to you about this
21 lawsuit?
22 A I knew about a lawsuit, you know,
23 from my cousin, you know, from a long time ago. I
24 knew there was some type of litigation, but I
25 didn't actually know what it was.

Q Did you have any other conversations with Mr. Walsh after he visited you in North Carolina?
A Yes.
Q And can you just describe all the conversations you've had with Mr. Walsh?
A A couple phone conversations, which was just about me being able to come here for this deposition. That's mostly what the other conversation would mostly have been about.
Q Go ahead.
A No, I don't -- I just said the first time he asked -- it was just general questions about what I know, and most of it was to make sure I was going to be here.
Q Are you being paid to be here?
A Paid?
Q Paid.
A No, no.
Q Have you had any other conversations with anyone else about the South Dayton Dump in the last two or three months besides Mr. Walsh and your cousin Ed?
A Well, Mr. (indicating).
Q Is that Mr. Silver you're thinking

about?
A Yeah, that was just yesterday. Yeah, just yesterday.
Q You met with Mr. Silver yesterday?
A Yeah.
Q And what did you discuss with Mr. Silver?
A Just basically what -- what I knew. You know, just went back to what could I recollect or who could I recollect was there. That's basically about it.
Q Did you visit the dump, the South Dayton Dump --
A Yes.
Q -- with Mr. Silver yesterday?
A Yes.
Q Do you recall ever seeing DP&L actually dump materials at the South Dayton Dump?
A Yes.
Q And can you describe for me what you witnessed with respect to that DP&L dumping at the South Dayton Dump? What did they dump?
A Like I said before, telephone poles, parts of -- of the bracket parts, these long tubes. I mean, this could come in all at one truck. These

tubes I'm referring to, insulators, clinkers.
Q Anything else?
A I'm going to say in my mind I see a black ash, powder or something or other. Like -- more like a powder. That's really what they dumped.
Q And you saw that from a DP&L truck?
A Yes. A lot of that, yes.
Q So you've mentioned telephone poles, brackets, this black stuff, clinkers.
A Transformers.
Q Transformers. Okay. Let's talk about the transformers. How many times do you recall seeing a transformer coming in on a DP&L truck?
A I can't give you -- I can't tell you how many times.
Q More than once?
A Oh, definitely, yes.
Q But you've never seen the transformer actually dumped into the --
A Out of the truck?
Q Yes.
A I'm sure there could have been times that I seen it. But can I tell you that -- I can't

tell you they dumped 'em there at what particular time. Through the whole period of time I've been down there, sure, I've seen them.
Q You've seen the transformers?
A Definitely. Now, can I tell you, yeah, I saw that transformer falling out of the truck? I can't tell you that. I might have got there -- he could have been pulling out and they might be there and I might have seen it at that particular time or I see them after they was burned.
Q With respect to the telephone poles, the brackets, that other material, how would they -- from DP&L how would they come into the dump? In what type of truck?
A Dump trucks. Or a lot of times they had -- the poles might be on like a long truck, you know, just carry poles.
MR. MERRILL: Can we go off the record?
MR. SILVER: Five-minute break for Marty and Vicki on the phone.
(Whereupon, a recess was taken.)
BY MR. MERRILL (Continuing):
Q Back on the record. We're back on the record for those on the phone. I just have a

1 couple more questions, Mr. Wendling.
2 Did you review any documents before this
3 deposition related to the South Dayton Dump?
4 A No. I've never seen --
5 Q You were not given any documents to
6 review?
7 A No. No.
8 Q Do you know or do you recall whether
9 General Motors ever took waste to the South Dayton
10 Dump?
11 A General Motors?
12 Q Correct.
13 A Well, Delco at that time was part of
14 General Motors. So, as I said, the brake shoes and
15 the drum things Delco or General Motors. So I
16 would have to say General Motors, I guess.
17 Q Okay. Delco took waste to the South
18 Dayton Dump?
19 A Yes.
20 Q And you said --
21 A Delco Products I think it was
22 called, Delco brake plant. They didn't take 'em.
23 It was the third party or second party.
24 MR. HARBECK: I'm sorry. Could you just
25 read that back? He trailed off.

1 (Whereupon, the answer was read back by
2 the court reporter.)
3 BY MR. MERRILL (Continuing):
4 Q Are you aware of any settlement with
5 U.S. EPA related to some of your family members and
6 the South Dayton Dump?
7 A Settlement?
8 Q Yeah, payment of money to your
9 family members?
10 A To my recollection they took money,
11 but they've never been paid no money.
12 Q Can you describe again the process
13 where Kenny would take I think you called them BB's
14 --
15 A Yeah.
16 Q -- and melt them down into lead
17 ingots?
18 A Right.
19 Q Where did the BB's come from?
20 A These long tubes. These cylinders
21 that I referred to.
22 Q These are the round cylinders that
23 are similar to what's depicted in Exhibit 6?
24 A Similar, but very small. Similar,
25 but very small.

1 Q Do you know what those round
2 cylinders are?
3 A I've seen 'em on poles. I couldn't
4 tell you what they are. I've seen 'em on poles
5 before. Some kind of a conductor or something or
6 other. I can't exactly tell you what they are. I
7 can't tell you what they're called, no.
8 Q And it's your testimony that there's
9 lead BB's inside those poles?
10 A Well, that's what I've seen.
11 Q And you saw those at the South
12 Dayton Dump?
13 A Yes.
14 Q Did you see these lead BB's in the
15 dump?
16 A Well, sure, at the dump. In the
17 piles of whatever might have been dumped out of
18 that truck with all the other stuff.
19 Q How big are these BB's?
20 A Well, I said the size of a BB or
21 something like that.
22 Q And would you -- would Kenny pick up
23 every one of these little BB's on the ground?
24 A Exactly.
25 Q Okay. Last couple of questions.

1 Mr. Wendling, are you on any medication?
2 A Yes.
3 Q And what medication are you on?
4 A Celexia -- Celexa, mm-hmm.
5 Q Did you take that today?
6 A Every morning.
7 Q You take it every morning?
8 A Mm-hmm.
9 Q And what's that for?
10 A It was depression through a divorce.
11 Q Have you been convicted of any
12 crimes?
13 A No.
14 MR. MERRILL: I have no further
15 questions, Mr. Wendling. Thank you.
16 THE WITNESS: Thank you.
17 MR. MOSS: I have no questions. I'll
18 just arbitrarily go next.
19 MR. HARBECK: I have some. If it's okay,
20 I'll do it from here. I'll speak up, and you let
21 me know if it's not working.
22 CROSS EXAMINATION
23 BY MR. HARBECK:
24 Q Good morning, Mr. Wendling. My name
25 is Bill Harbeck again, and I have some follow-up

1 questions for you.
2 A Mm-hmm.
3 Q If you don't understand any of my
4 questions, would you please let me know and I'll
5 rephrase it. Okay?
6 A Okay.
7 Q And, again, I'll try not to step on
8 your answers if you try not to step on my
9 questions.
10 A I'll do my best.
11 Q Okay. I just want to clarify your
12 high school graduation date.
13 A Okay.
14 Q How old were you when you graduated
15 from high school?
16 A Twenty.
17 Q Okay. So that's why when you were
18 born in 1945 you graduated in 1965?
19 A Right.
20 Q And did you then work at Liberal
21 Supermarket part-time for about four years? I
22 thought you said two years before. How many years
23 did you work part-time at --
24 A Four years.
25 Q Four years?

1 A Two weeks after I turned 16.
2 Q Okay.
3 A Sixteen to 20, four years.
4 Q Okay. Thank you.
5 You mentioned an entity called Doyle's
6 auto salvaging.
7 A Right.
8 Q What was the name of the business
9 that you recall?
10 A I think it was Doyle's Auto Parts I
11 think it could have been. Doyle's Auto Parts is
12 what I'm going to say.
13 Q And they were located on the
14 property at the South Dayton Dump. Did they have a
15 facility or building there?
16 A Well, they're adjacent to the actual
17 dump itself. It was up to the property -- the
18 property -- part of Cyril's property, but not per
19 se the dump.
20 Q And, again, you're anticipating my
21 questions and starting to answer it --
22 A Okay. I'm sorry.
23 Q Just let me finish it. It's hard to
24 do.
25 A Okay.

1 Q Can you mark on Exhibit 1 where the
2 Doyle's Auto Parts or salvaging business was
3 located?
4 A I think I already did.
5 Q Did you? Oh, I'm sorry. You're
6 right. You did.
7 So that's located in what's called the
8 northern parcel?
9 A Yeah.
10 Q Okay. Was that business there when
11 you first went to the dump in the early mid 1950s?
12 A No.
13 Q When did Doyle's start its business
14 there? And just give me an approximation if you
15 can.
16 A I would say somewhere around --
17 somewhere around like '65, in that area.
18 Q Okay. Were they there when you were
19 working part-time at the dump? You know, were they
20 there before you graduated from high school as best
21 you can recall?
22 A I'm saying I think they came right
23 at that period of time, which would be around '65,
24 '64.
25 Q Okay.

1 A Yeah.
2 Q And then what -- describe the
3 business. What did Doyle's do?
4 A Well, took in salvage cars and
5 parted 'em out.
6 Q And did what to them?
7 A Parted the cars out, yeah.
8 Q How big was that operation? How
9 much space did it take up?
10 A It wasn't a big operation. Maybe
11 three acres, four acres. Maybe somewhere around in
12 there. It wasn't a real big operation.
13 Q How long did Doyle's operate that
14 business there?
15 A Probably up in the seventies, late
16 seventies, somewhere around in there.
17 Q So roughly you think around 15 years
18 or so?
19 A Maybe so. Around in there.
20 Q Did you ever see any part of that
21 operation in terms of the parting out what they did
22 to part out these cars?
23 A Have I seen the parts?
24 Q Yeah, yeah. Just describe it. You
25 know, a car would come in. What would they do with

it?
A Haul it to the back to the storage area. Haul it to the storage area.
Q And is the storage area in that circle?
A Right in that area there, mm-hmm.
Q The area you marked on Exhibit 1?
A Right.
Q Okay. And then what would they do to that car?
A Well, it would sit there until somebody would come and took all the parts off of it, and then eventually a lot of cars got crushed when they took all they could off of 'em. That's about it.
Q Did they have a crushing --
A Yeah. Right. I do remember --
Q Well, let me finish.
A Oh, I'm sorry.
Q Let me finish.
A Okay.
Q They had crushing machinery or equipment there?
A Yes.
Q So they would take the parts that

were sellable and sell them for a while and the cars would sit there, and then when they became -- nothing else was worth anything they would then crush them?
A Right.
Q Where would the crushed cars go?
A To another salvage place.
Q Off -- somewhere besides the South Dayton Dump area?
A Right.
Q Did you ever see them take any of the liquids from the car like any leftover gasoline, oil, lubricants, fluids from those cars? Do you know what happened to that stuff when they brought it in to Doyle's?
A No.
Q You said it was a roughly three- to four-acre operation?
A What I can visualize three or four acres. I would say so.
Q What would they use the three to four acres for?
A Well, that would be the storage of the automobiles.
Q The cars would just sit there?

A Yeah.
Q Is this outdoors?
A Yeah.
Q So it's just on the ground?
A Yeah.
Q So if there were any leaking of fluids from any of these cars, it would just go right on the ground?
A Well, I would assume.
Q Do you know who -- Doyle is no longer there; correct?
A No, they're no longer there.
Q Do you know what happened to the owners of the Doyle's auto operation? Are they still around?
A No, they're dead and gone.
Q Okay. Have you ever heard of an operation called Ottoson Solvents?
A Who?
Q Ottoson Solvents?
A No.
Q Do you know whether or not an entity called Ottoson Solvents had any kind of a facility or business that's in that area shown on Exhibit 1, whether it's in the dumping area or next to it? Is

that ringing any kind of bell?
A No.
Q Do you recall any kind of operation -- forget about the name -- that would reclaim solvents or liquids that might come in barrels and try to reclaim those solvents or barrels or anything like that?
A No.
Q What other types of businesses -- when you were there from, you know, eight, nine, ten up until you left, what other types of businesses were located on what's now marked as Dryden Road?
A Within this -- on his property?
Q Well, either on his property, in the central parcel, in the northern parcel on Exhibit 1. Let's just take those two pieces to start off with. What other businesses were there?
A Well, on the northern parcel this one big building here you can see there was a dealership which would be -- that would have to be this building here.
Q What kind of dealership?
A I'm thinking it was a Ford or Chrysler, but I just can't really recall.

Q Car dealership?
A Oh, yeah. Right, right, right.
Q Okay. During what period of time did they have a facility or a business there? Just give me your best estimate if you can.
A It would have been -- it would have to be in the sixties.
Q Starting in the sixties?
A Well, I can't say starting.
Q It was there in the sixties?
A Yeah.
Q How long did it have an operation there?
A I don't recall.
Q Okay. And you pointed to an area on Exhibit 1. Can you just circle the area that was the car dealership?
A Well, this is the line -- it was a building right -- it would have to be this building. (Indicating)
Q Okay.
A It would have to be this building.
Q Can you circle that building?
A (So complies.)
Q And can you write inside "car

dealership"?
A (So complies.)
Q Okay. Any other business that was located in the northern parcel during the time that you would go to the South Dayton Dump?
A How far back do I go? All the way to the river?
Q Yeah.
A Right here there was a salvage place for toilets and sinks. It was called Murphy's Plumbing. Then back here there was an asphalt plant. (Indicating)
Q Okay. Can you just put a circle around the --
A This?
Q Well, I'll have you circle both of them, but do the Murphy's first.
A Well, that would be -- it had to be right here. (Indicating)
Q Okay. Can you write "Murphy's" in there?
A (So complies.) Mm-hmm.
Q And then you said there was an asphalt plant further back. Can you just circle the general area where that was?

A Well, it would have to be in this general area back here. (So complies.)
Q Do you remember the name of that plant?
A No.
Q Just put "asphalt plant" there.
A (So complies.)
Q And how long was the Murphy operation at this northern parcel as best you can recall?
A Well, it would have had to have been within the last three or four years.
Q You mean it's been there the last three or four years?
A No. I said since then. It's been back there -- it's been there since I was very little.
Q Okay. Since you were eight, nine, ten?
A Yeah.
Q Okay. It's been there ever since?
A Yeah.
Q Okay. Until about three years ago you said?
A Yeah, they died.

Q Any other business or operation, any kind of business that was in the northern parcel that you can remember during the time frame that you were visiting or working at or doing what you were doing at the South Dayton Dump?
A Well, businesses might have changed.
Q Sure. I understand that. If one changed, let me know. I'm just trying to figure out what you can remember about --
A This dealership here it changed, and now it's a repair for big machinery.
Q Okay. Now it is. I want to go back to the time frame from, say, the early -- when you were eight, nine and ten up until the time where you really didn't go back to the South Dayton Dump, which I think you said was 1970, '75.
A Right.
Q That's the time frame that I'm talking about. Any other businesses?
A None in this part.
Q Okay. What about in the central parcel?
A Here? (Indicating)
Q Yes, the middle parcel here on Exhibit 1.

A You want me to name some of these?
Q Yeah, that were there during the time frame when you were eight years or older. So until '70, '75.
A Well, in this first building was Rankin and Howard Electronic Parts. Rankin and Howard.
Q Electronic parts?
A Right.
Q And you said in this first building --
A It was in this building here. (Indicating)
Q And is that the building that --
A That was my uncle's office. They had their office on the side.
Q Okay. Just so we're correct on the record, that's in the same square you already put "uncle's office" in?
A Right.
Q Okay.
A That was Rankin and Howard.
Q And what was -- describe that business.
A It was parts for electronics, TV,

radios.
Q They sold them?
A Parts. They were just a parts supplier.
Q Any other business that you can recall?
A Down here there's a painting company, Ohio Painting or -- it was a big painting contractor.
Q Okay. Describe -- when you say "painting contractor," what did they do?
A Well, commercial painting.
Q Of other buildings?
A Yes.
Q Did they mix paints there or formulate paints as far as you know?
A I can't say that.
Q Okay. And what period of time did they operate that painting business?
A Well, it was in my early sixties, in that sixty period.
Q 1960s?
A Yeah.
Q Okay. Can you just put a circle around where that business was on Exhibit 1?

A Well, can we call these buildings 1, 2 and 3? This is building 1, 2 and 3, and here's another one. However you want to do it.
Q Yeah, I want you to just circle whatever building you think they operated out of.
A (So complies.) Right here.
Q And what was the -- you said it was Rankin?
A No, no, Rankin Howard.
Q I'm sorry. Oh, Rankin Howard was that the car --
A No, no, no, that was in my uncle's office.
Q I'm sorry. What was the name of this painting company?
A Ohio Paint or something is what I can --
Q Why don't you just put "painting company" in that box.
A (So complies.) Okay.
Q Any other business in there?
A The next one here would be a metal fabricator or whatever.
Q Metal fabrication shop?
A Yeah.

Q Like a machine shop?
A Yeah.
Q What was the name of that business, if you can remember?
A I can't remember.
Q And, again, were they there from the time you were eight, nine or ten --
A Yeah.
Q -- up until 1970 or '75?
A I would say so, yes.
Q Okay.
A Yeah, mm-hmm.
Q Circle or put a square around that operation.
A Right here. (So complies.) Okay.
Q And what did you write in there?
A Metal fabrication.
Q Metal fab?
A Mm-hmm.
Q Okay. Describe as best you can what -- how they went about their metal fabrication business.
A They would just make whatever, big cylinders or anything to do with metal.
Q Okay. Did you ever go inside?

A I've been in it.
Q Did they have -- do you know what business or industry they were making the metal parts for?
A Oh, no.
Q Did you -- do you know if they had like a degreasing operation where they would take the metal parts that had been machined and clean them off in any sort of degreaser vat or pit?
A No.
Q You don't remember?
A No.
Q And you don't remember the name of this entity; is that right?
A No. Maybe it's still here, but I don't know.
Q Do you know whether or not any of these businesses that we've talked about so far whether or not they took any of their waste and put it into the South Dayton Dump?
A I can't say, no. I never seen it.
Q Any other business or entity other than what we've talked about so far?
A Well, back at that time down here just a little ways further here there was a house

there. That's where Broadway Sand and Gravel originated.
Q Like a house or an office?
A It was like an old house.
Q Okay. And just put a square box.
A That would be about where that -- where they -- yeah.
Q Why don't you just put BSS -- Broadway -- BSG.
A (So complies.)
Q Yeah, in that box.
A Okay.
Q Any other business or operation?
A I think down here on the tail end there was a skid company.
Q Okay.
A They just refurbished skids.
Q Okay. Same time frame? They were there the same time frame as these other businesses?
A No, they came in the later years. They probably came in the late seventies, early eighties, around in there.
Q Okay. Can you just put a box and write in "skid"?

A Yeah, that would be right in here, right in that area here. (Indicating)
Q Can you write "skid" in there?
A (So complies.)
Q Do you remember the name of that company?
A I think they called it like Skid Row or something like that. I can't give you an exact name.
Q Did you ever see broken up skids or pieces of skids or actual skids that had been dumped back in the South Dayton Dump?
A No.
Q Do you know whether or not this skid company ever took any of its waste, be it old skids, pieces of broken skids, and disposed of them in the South Dayton Dump?
A No.
Q Do you know whether or not any of those skids were ever burned in the incinerator of the dump?
A The incinerator's probably closed down.
Q Okay. Is that it in terms of businesses that you can recall?

A That's about it.
Q Okay. Thank you. I want to go back to your discussion about Dayton Walther being one of the customers whose waste you saw dumped at the dump. How often would you see a Dayton Walther truck at the dump?
A I couldn't give you a number of times, but they was very frequent. Frequently.
Q Okay. And did you see them there frequently from right around when you were eight, nine or ten years old until you no longer went to the dump?
A Probably a little late years after. You know, probably from ten up to maybe -- well, it might have been later than that. Maybe when I was like around 15 or so.
Q You think starting right around when you were 15?
A Yeah.
Q Which would have been 1960?
A Right in there.
Q Until -- were they a frequent customer from about that point forward?
A Yes.
Q Until you no longer went back to the

Page 117

1 dump?
2 A Right.
3 Q And tell me about the types of
4 trucks that Dayton Walther brought into the South
5 Dayton Dump to dispose of waste.
6 A They had those -- about the same
7 type of trucks that Franklin Iron and Metal had,
8 the big box type of trucks.
9 Q And what type of -- I know you
10 described -- you said that was one of the companies
11 that brought in drum waste?
12 A Yes.
13 Q And what type of truck did the drum
14 waste come in?
15 A That big box type of truck.
16 Q How many drums would typically fit
17 on that type of truck?
18 MR. SILVER: Objection.
19 BY MR. HARBECK (Continuing):
20 Q Go ahead. You can answer.
21 A Well, a whole lot could fit, but
22 they would carry so many because of spilling out
23 during transport. I mean, it would probably hold,
24 I don't know, 20 barrels or so, but you would never
25 see that many.

Page 118

1 Q How many would you typically see
2 when you saw those trucks at the South Dayton Dump?
3 A Three, four, five, you know,
4 somewhere around in there.
5 Q And you said if there were too many
6 drums on there it would spill out. Describe that
7 for me. What do you mean by that? Explain that.
8 A Well, a lot of these drums weren't
9 what you call -- were not enclosed, you know,
10 completely sealed. So it could just fly out
11 hitting a bump in the road or something. So that's
12 why I'm sure they only hauled a very -- very few of
13 'em out.
14 Q Where generally was the -- describe
15 what happened to the drums once they were brought
16 in by the Dayton Walther truck.
17 A They would just be dumped in
18 wherever -- you know, wherever particular areas
19 they was working at.
20 Q Who did that?
21 A Who did what now?
22 Q Who did the dumping?
23 A Well, the trucker, the driver.
24 Q Describe what you saw when you saw
25 these drums dumped out. I know it sounds like a

Page 119

1 silly question, but --
2 A Well, you see this big thing go up,
3 the drums fall out, the thing goes back down,
4 they're gone.
5 Q Okay. So they dumped the entire
6 drum at the site?
7 A Oh, yeah. Definitely.
8 Q And when this happened did you see
9 liquids coming out of the drums into the ground?
10 A Yes.
11 Q Okay. That's the liquid that you
12 described, I think, as sludgy stuff?
13 A Sludgy stuff.
14 Q Okay. Do you know whether or not
15 Walther's had a key to the South Dayton Dump?
16 A I don't. No, they didn't.
17 Q Would you say based upon your
18 experience that Dayton Walther was one of the major
19 customers of the dump?
20 MR. SILVER: Objection, leading.
21 THE WITNESS: Were they one of the
22 majors?
23 BY MR. HARBECK (Continuing):
24 Q Yes.
25 A To my knowledge?

Page 120

1 Q Yes.
2 A No.
3 Q How would you describe them in terms
4 of, you know, where they fit in the scheme of
5 things?
6 MR. SILVER: Objection. You can answer.
7 THE WITNESS: Huh?
8 MR. SILVER: You can answer.
9 THE WITNESS: From 10 on down, maybe in
10 the 6, somewhere in that neighborhood, 10 being the
11 most.
12 BY MR. HARBECK (Continuing):
13 Q 10 being the most?
14 A Yeah.
15 Q So they were maybe six down from
16 that?
17 A Yeah. They could be in the middle.
18 In the top 10.
19 Q Okay. The way you described it,
20 they would be roughly in the top 5?
21 A Yeah, I went backward. Top 5.
22 Q Any other type of waste that
23 Walther's brought in besides the drum waste that
24 you just talked about?
25 A Well, I can recall burnt like a cast

Page 121

1 iron or -- well, it would be like a cast iron. It
2 would be like a steel something like cast iron.
3 Q What kind of containers would the
4 steel or cast iron be brought in?
5 A They would be in these same type of
6 dump trucks I'm talking about.
7 Q Same type of dump trucks?
8 A Yeah.
9 Q Would it just be loose or would it
10 be --
11 A Yeah, loose.
12 Q Okay.
13 A They didn't carry a whole lot in
14 these containers.
15 Q When you saw the dump trucks with
16 this metal or cast iron being dumped out, can you
17 just describe that for me?
18 A Same way. The truck stops, the box
19 goes up, he dumps it, it starts falling.
20 Q And you would see these metal parts
21 fall into the dump?
22 A That I can recall.
23 Q How frequently would you see those
24 types of trucks come in with that type of waste
25 from Dayton Walther? Just give me your best

Page 122

1 estimate.
2 A It could be once a week type of
3 thing. I don't think it was no two or three loads
4 a day, but it was maybe once a week or every couple
5 days or so.
6 Q Any other types of waste that you
7 observed coming in from Dayton Walther besides what
8 you've described?
9 A No.
10 Q And now I want to talk a little bit
11 about Hobart. You described Hobart as also
12 bringing in five-gallon drums and 50-gallon drums
13 of dark purply type liquid?
14 A Yes.
15 Q Tell me the type of truck that waste
16 came in on.
17 A Those were more like a covered
18 truck, a covered van type of thing.
19 Q Okay. Would it be like a --
20 A Box van or something.
21 Q Box van. Okay.
22 A Yeah.
23 Q Typically how many drums did you see
24 coming in on those trucks?
25 MR. SILVER: Objection.

Page 123

1 THE WITNESS: I can't just give you a
2 number. I can't say if the truck's full, half
3 full. I can't say.
4 BY MR. HARBECK (Continuing):
5 Q Let me ask you this. How long --
6 how big were the trucks themselves?
7 A Probably 16, 20 foot the back of the
8 trucks.
9 Q Okay. The back of the trucks where
10 the drums would be placed?
11 A Right.
12 Q Okay. And describe for me what you
13 saw when you saw those drums being dumped out at
14 the South Dayton Dump.
15 A Well, these drums were -- to my
16 recollection was more like pushed out of the back
17 of the truck.
18 Q Okay. And were these drums sealed
19 or fully enclosed?
20 A These drums were more sealed. It
21 wasn't like -- I would say they was sealed, yeah.
22 Q And how did you see the purple
23 liquid that you described before? How would you
24 see that?
25 A When we'd dump 'em we opened up the

Page 124

1 thing and let the stuff come out. Before we burned
2 'em that's what --
3 Q Okay. So you would physically
4 yourself be one of the people that would open up
5 these drums?
6 A I could have been one of 'em, sure.
7 Q And were these drums typically full
8 of liquid?
9 A No, they wouldn't be all the way
10 full. These would be partial drums.
11 Q So when you say "partial," how much
12 --
13 A Well, it could have been half. You
14 know, we couldn't have handled them if they was
15 full drums. They was just partial drums.
16 Q What about the five-gallon drums?
17 Could you handle those?
18 A I could handle those.
19 Q Were those typically full?
20 A Some, some not. Maybe 50-50, you
21 know.
22 Q But regardless of whether they were
23 full or not, all of these drums had some liquid in
24 them?
25 A Some kind of a pasty, runny liquid.

Page 125

Q And were they always the same purplish color, or did this pasty stuff have a different color to it?
A Red -- I mean not red. Purple. Purples, dark colors, blues. Blue-purple and the mud, black sluggish mud color. I mean, you could tell it was a used material whatever it was.
Q Did it have any kind of smell?
A I can't detect a smell. It's all dump smell pretty much. I cannot detect it.
Q So, well, but did it have like sort of a pungent smell, acrid, oily, acidic? Any kind of -- can you recall any type of aroma at all that these had when you dumped 'em out?
A Stink.
Q Stink?
A Yeah.
Q Okay. That was going to be my next question. I was going to say I assume they didn't smell good?
A No.
Q And the same would be true for the Dayton Walther drums in terms of the smell?
A Yes.
Q And how frequently would you see the

Page 126

Hobart drums come in on the Hobart trucks?
A They wasn't real frequently, so we have to put them up like a 7 or something like that as far as frequency.
Q Top 7 or top 3? I'm sorry. I'm not sure which way you're counting back.
A Starting from 1 going up.
Q 1 being the most?
A Exactly.
Q So they were number 7 roughly?
A Yeah.
Q Okay. And I may have asked you this. In terms of the time frame, during what time frame did you see the Hobart drums? Trucks coming in with these drums, would that have been when you were eight, nine or ten years old?
A Yeah, mostly in that period of time.
Q Okay. And then up until 1970 or '75?
A I can't recall 'em in that late of time.
Q Okay. For how long can you recall them again roughly if you want to use your high school graduation as a marker? Were they still there when you graduated from high school as far as

Page 127

you can recall?
A Yeah, I would say five years, you know, prior to that would be something that I could say I seen the Hobart name.
Q So up until at least you graduated from high school?
A Yeah.
Q And then I just want to go back to NCR for a second.
A Mm-hmm.
Q You thought long and hard and said you can't recall them. Have you thought any further about whether or not you ever saw any NCR trucks at any time come into the South Dayton Dump to dispose of waste?
A I can't recall.
MR. HARBECK: Okay. Thank you. That's all the questions I have.
MR. VAN KLEY: I have no questions.
MR. SILVER: I do want to do a couple of follow-up questions for you, Mike, if you have a moment.
(Whereupon, the court reporter interrupted to change paper and a brief discussion was held off the record.)

Page 128

REDIRECT EXAMINATION
BY MR. SILVER:
Q Mike, I wanted to ask you earlier and I forgot to ask you about a company called Sherwin Williams. Is that a name that's familiar to you?
A Yes.
Q What do you know about the Sherwin Williams Company in general?
A I know they dumped paint on the dump.
Q They dumped paint on the dump?
A Yes.
Q South Dayton Dump?
A Yes.
Q And how do you know that?
A 'Cause I seen it and used it.
Q Did you -- what kind of vehicles were used to dump the Sherwin Williams paint?
A It would be box trucks.
Q And did they have names on the box trucks?
A Yes.
Q What names?
A Sherwin Williams.

Q And you used their paint you said?
A Yes.
Q How did you use it?
A Well, the one recollection was I painted our basement.
Q You painted your basement?
A Well, it my dad's, but, yeah, with a brush.
Q When was this?
A Oh, gosh! This is -- I was very young. Nine, ten. Well, I had to be around ten. No, let's see. Eight and nine, in that years.
Q So you remember taking partially full paint cans from the dump?
A Me taking them, no. My parents did.
Q And brought them back to their house?
A Right.
Q And had you paint the basement?
A Well, me and the whole clan.
Q What color?
A It was -- what I'm recalling, it was a purple color.
Q Now, do you have an idea with what sort of frequency Sherwin Williams delivered its

paint waste to South Dayton Dump?
A Well, they was a company like whenever they would get just an overload of returned paint or mixed colors. So, you know, it could have been once a month or it could have been every two, three months. So it wasn't like frequent, but it was just whenever they had a --
Q And were they a customer of the dump throughout the sixties to your knowledge?
A Yes.
Q And also even prior to that to your knowledge?
A Before?
Q Yeah.
A Well, like I say, I could tell you when I was very little.
Q And what came in their truck?
A Paint.
Q Anything but paint?
A Could have been -- it could have been varnish. I can't tell you. Varnishes, lacquers, but paint products.
Q Did anything come in drums on the Sherwin Williams truck?
A It was mostly gallons, five gallons,

quarts.
Q Anything larger?
A I can't recall any big drums. I would say mostly gallons and five gallons.
Q Now, one last question, Mike. You did some rankings of companies that were on a scale of 1 to 10, with 1 being the most companies coming -- who delivered waste to the site, frequent users of the site in response to Mr. Harbeck's questions. Do you recall that?
A You got to sort of --
Q Let me elaborate a little. Mr. Harbeck asked you questions about some of the companies.
A Some of them, right.
Q And he wanted to know where they fell on a scale of frequent use of the site between 1 and 10, with 1 being the most.
A Right.
Q Do you remember answering some questions about that?
A Some of the questions, right.
Q And your scale had 1 being the most frequent --
A Right.

Q -- and going down from there?
A Right.
Q Where would you put DP&L on that scale?
A 1.
MR. SILVER: I have no further questions.
MR. MERRILL: No further questions.
MR. MOSS: Nothing further.
MR. HARBECK: Nothing further.
MR. SILVER: None on the phone as well, Marty and Vicky?
MR. LEWIS: No. Done.
MS. WRIGHT: I'm done.
(The taking of the deposition concluded at 12:26 o'clock p.m.)

1 I, MICHAEL A. WENDLING, do hereby certify
2 that the foregoing is a true and accurate
3 transcript of my testimony.
4
5
6
7 _____
8 MICHAEL A. WENDLING
9
10 STATE OF OHIO)
11) SS:
12 COUNTY OF _____)
13 Sworn to before me and subscribed in my
14 presence by the same MICHAEL A. WENDLING, this ____
15 day of _____, 2012.
16
17 _____
18 NOTARY PUBLIC
19 My Commission expires: _____
20
21
22
23
24

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1 STATE OF OHIO)
) SS: C-E-R-T-I-F-I-C-A-T-E
2 COUNTY OF MIAMI)
3 I, SUSAN L. BICKERT, a Certified
4 Shorthand Reporter and Notary Public in and for the
5 State of Ohio at large, duly commissioned and
6 qualified,
7 DO HEREBY CERTIFY that the above-named
8 MICHAEL A. WENDLING was by me first sworn to
9 testify to the truth, the whole truth, and nothing
10 but the truth; that his testimony was reduced to
11 writing by me stenographically in the presence of
12 the witness and thereafter reduced to typewriting;
13 that the signature of the witness to the deposition
14 was expressly not waived, and was taken at the time
15 and place hereinafter set forth, pursuant to Notice
16 and Agreement of Counsel.
17 I FURTHER CERTIFY that I am not a rela-
18 tive nor attorney for either party herein, nor in
19 any manner interested in the event of this action.
20 IN WITNESS WHEREOF, I have hereunto set
21 my hand and seal of office this _____ day of July,
22 2012.
23 _____
SUSAN L. BICKERT
24 Notary Public, State of Ohio
My Commission expires: 8-23-13
25