1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF OHIO
3 WESTERN DIVISION
4 * * *
5 HOBART CORPORATION,
6 et al.,
7 Plaintiffs, CASE NO. 3:13-cv-115
8 vs. VOLUME II
9 THE DAYTON POWER AND LIGHT
10 COMPANY, et al.,
11 Defendants.
12 * * *
13 Deposition of EDWARD GRILLOT, Witness
14 herein, called by the Plaintiffs for direct
15 examination pursuant to the Rules of Civil
16 Procedure, taken before me, Barbara A. Nikolai, a
17 Notary Public in and for the State of Ohio, at
18 Sebaly, Shillito + Dyer, 1900 Kettering Tower,
19 40 North Main Street, 13th Floor Conference Room,
20 Dayton, Ohio, on Tuesday, December 17th, 2013, at
21 9:01 o'clock a.m.
22 * * *
23
24
25

EXAMINATIONS CONDUCTED PAGE

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(Thereupon, Defendants' Exhibit Number 2, dumping receipt tickets, was marked for purposes of identification.)	308
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(Thereupon, Defendants' Exhibit Number 4, South Dayton Dump and Landfill site map, was marked for purposes of identification.)	464
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(Thereupon, Defendants' Exhibit Number 7, photocopy of a color photograph of a Container Service truck, was marked for purposes of identification.)	658

1 (Thereupon, Defendants' Exhibit 666
2 Number 8, deposition of Michael A.
3 Wendling, was marked for purposes of
4 identification.)
5 (Thereupon, Defendants' Exhibit 669
6 Number 9, deposition of Horace
7 Boesch, Jr., taken on the 28th day
8 of February, 2006, was marked for
9 purposes of identification.)
10 (Thereupon, Defendants' Exhibit 685
11 Number 10, deposition of Horace
12 Boesch, Jr., taken on December 1st,
13 2011, was marked for purposes of
14 identification.)
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09:01:51 1 MR. ANDREASEN: Would the people on
09:01:52 2 the phone please identify themselves for the court
09:01:52 3 reporter?
09:01:56 4 MR. WICK: Bill Wick, Wactor and
09:01:56 5 Wick, for Bridgestone Americas Tire Operations,
09:01:56 6 LLC.
09:01:56 7 MS. VANDEGRIFT: Sasha VanDeGrift
09:01:56 8 sitting in for Shannon Costello representing
09:02:13 9 Fickert Development Corporation and Dayton
09:02:14 10 Industrial Drum.
09:02:14 11 MR. SHARETT: Anthony Sharett,
09:02:17 12 Bricker and Eckler, on behalf of Dayton Power and
09:02:20 13 Light.
09:02:24 14 MS. HUNT: Ann Hunt, McDonald Hopkins
09:02:24 15 for Day International.
09:02:28 16 MR. SAXTON: John Saxton on behalf of
09:02:30 17 Peerless.
09:02:30 18 MR. HARRIS: Glenn Harris, Ballard
09:02:37 19 Spahr, on behalf of GlaxoSmithKline.
09:02:39 20 MS. WRIGHT: Vicki Wright for
09:02:43 21 Pharmacia, LLC.
09:02:43 22 MR. KOTTHA: Arun Kottha filling in
09:03:02 23 for Marty Lewis on behalf of Valley Asphalt.
09:03:08 24 MR. ANDREASEN: Anyone else on the
09:03:08 25 phone?

09:03:08 1 EDWARD GRILLOT
09:03:08 2 of lawful age, Witness herein, having been first
3 duly cautioned and sworn, as hereinafter
4 certified, was examined and said as follows:
5 CROSS-EXAMINATION
09:03:20 6 BY MR. ANDREASEN:
09:03:20 7 Q. Mr. Grillot, my name is John
09:03:22 8 Andreasen, and I want to go over a few things
09:03:26 9 that you testified about yesterday.
09:03:29 10 Yesterday you indicated the
09:03:31 11 medications that you've been on on a regular
09:03:33 12 basis. Are there any medications that you're
09:03:35 13 on that would impair your ability to understand
09:03:39 14 questions or speak truthfully in your answers?
09:03:42 15 A. No.
09:03:45 16 Q. Could we see Exhibit 3 from the
09:03:51 17 previous deposition? It's the ones with the
09:03:56 18 receipts.
09:04:07 19 MR. ANDREASEN: Do you have that?
09:04:07 20 MR. HAUGHEY: Could we go off the
09:04:07 21 record?
09:04:07 22 (Thereupon, an off-the-record
09:04:07 23 discussion was had.)
09:04:09 24 BY MR. ANDREASEN:
09:04:09 25 Q. On that exhibit, you testified

09:04:34 1 yesterday that those are receipts from trips to
09:04:39 2 the landfill, is that correct?
09:04:40 3 A. Correct.
09:04:41 4 Q. Okay. The top two receipts, the
09:04:45 5 ones in the middle of the page, both have
09:04:48 6 handwritten on them DPL. Does that indicate
09:04:53 7 who the customer was that brought the waste to
09:04:53 8 the landfill?
09:04:57 9 A. No, that's a D, DP&L.
09:04:59 10 Q. That's what I -- I'm sorry. DPL?
09:05:01 11 A. Yeah, Dayton Power and Light.
09:05:02 12 Q. Okay. Was a notation like that
09:05:05 13 put on every waste receipt ticket indicating
09:05:09 14 who the customer was?
09:05:11 15 A. To my knowledge, yes.
09:05:12 16 Q. Okay. Prior to the beginning of
09:05:20 17 your deposition yesterday, had you spoken at
09:05:24 18 all to Mr. Aldridge about this matter or the
09:05:29 19 previous lawsuits and your previous deposition?
09:05:32 20 A. You talking about Bob Aldridge?
09:05:33 21 Q. Yes.
09:05:34 22 A. No.
09:05:34 23 Q. Okay. Is Mr. Brandon still alive?
09:05:38 24 A. No.
09:05:38 25 Q. Okay.

09:05:41 1 MR. HAUGHEY: Excuse me. This is
09:05:42 2 Steve Haughey. If we're done with that, can we
09:05:44 3 get that marked --
09:05:44 4 MR. ANDREASEN: Sure.
09:05:45 5 MR. HAUGHEY: -- and go ahead and get
09:05:47 6 it into the record since all of us have it by
09:05:49 7 e-mail, and can we go ahead and mark that as
09:05:55 8 Grillot Deposition Exhibit 3, which is from when
09:05:57 9 it was used in 2012?
09:05:57 10 MR. ANDREASEN: Do we need copies of
09:05:57 11 it?
09:05:59 12 MR. HAUGHEY: No, everybody has that,
09:06:02 13 but the court reporter does not yet have that, so
09:06:02 14 we want to make sure that she can leave here with
09:06:02 15 that.
09:06:08 16 THE WITNESS: Well, this is yours,
09:06:08 17 isn't it?
09:06:10 18 MR. HAUGHEY: Yeah. We'll take
09:06:11 19 Jeff's, you can get it printed again, so we'll
09:06:13 20 take -- we'll keep Jeff's and he can use Jeff's.
09:06:14 21 MR. IRELAND: You can have it.
09:06:14 22 MR. HAUGHEY: All right.
09:06:15 23 MR. ANDREASEN: Thank you.
09:06:15 24 (Thereupon, Defendants' Exhibit
09:06:15 25 Number 2, dumping receipt tickets, was marked for

09:07:16 1 purposes of identification.)
09:07:16 2 BY MR. ANDREASEN:
09:07:16 3 Q. Mr. Grillot, I want to ask you
09:07:18 4 some questions about your testimony yesterday
09:07:22 5 regarding calls. You indicated yesterday that
09:07:29 6 waste was brought to the landfill of McCall's
09:07:34 7 by Container Service, Larry Brandon, is that
09:07:38 8 correct?
09:07:38 9 A. Correct.
09:07:39 10 Q. Okay. When Larry Brandon or
09:07:42 11 someone working for Container Service would
09:07:44 12 bring waste in for -- from McCall's, was a
09:07:50 13 waste receipt ticket filled out?
09:07:53 14 A. Every vehicle, unless it was in
09:07:55 15 the evening, had to go by the office unless
09:08:00 16 they could sneak by, you know, which was very
09:08:05 17 unlikely, somebody would see them, they had to
09:08:07 18 have a ticket.
09:08:07 19 So they had -- apparently they had
09:08:09 20 to take it back to their office, too, but Uncle
09:08:13 21 Alcine wanted to make sure that, you know, he
09:08:15 22 got credit for every load, so, you know, and
09:08:19 23 that was the only way, so --
09:08:20 24 Q. And was McCall's one of the
09:08:24 25 landfill customers that you indicated yesterday

09:08:27 1 was sent bills or invoices at some point in
09:08:37 2 time rather than pay as they came in?
09:08:41 3 A. No, the -- you had to have a
09:08:44 4 ticket. I stapled it alphabetically. Then it
09:08:48 5 went to Alcine's hand and then it went to
09:08:51 6 his -- Leone, which was his wife.
09:08:53 7 And after that, I indicated I
09:08:55 8 didn't know what kind of invoice, you know, or
09:08:58 9 anything like that, so --
09:08:59 10 Q. Do you know whether or not when
09:09:01 11 Container Service would bring in waste from
09:09:04 12 McCall's, that they would pay at the gate for
09:09:08 13 that waste?
09:09:10 14 A. No.
09:09:11 15 Q. No, you don't know, or, no, they
09:09:13 16 did not?
09:09:14 17 A. No, I don't know.
09:09:15 18 Q. Okay. When customer service -- or
09:09:20 19 Container Service would bring in waste from
09:09:24 20 McCall's, would that truck, that Container
09:09:29 21 Service truck, also have waste from other
09:09:32 22 customers?
09:09:35 23 A. No, because when the Dumpster
09:09:38 24 started being developed, they came up with one
09:09:41 25 that had a push where they could compact, and

09:09:45 1 so when they put it on a rollback, it went
09:09:50 2 directly from the spot that it sat directly to
09:09:54 3 the dump, so they didn't go anywhere else to,
09:09:57 4 you know, pick stuff up.
09:09:59 5 Q. So if the truck only had half a
09:10:03 6 load, it wouldn't pick up waste from any other
09:10:05 7 customer to make a full load?
09:10:07 8 A. No, no, because you have to
09:10:08 9 understand when it goes into the pot where
09:10:10 10 the -- the Dumpster is, it connects to a
09:10:14 11 machine which pushes, and so when they pull it
09:10:17 12 off -- you know, I have never heard or never
09:10:21 13 seen that they would take and go reconnect it
09:10:23 14 to another machine, but it's possible.
09:10:26 15 Q. So did the Container Service truck
09:10:32 16 have some kind of a hydraulic lift or something
09:10:35 17 that would lift up a Dumpster from the
09:10:37 18 customer's location?
09:10:38 19 A. It has a hook and you hook it onto
09:10:42 20 the hook on the Dumpster, and then it would
09:10:47 21 pull it up with a -- a crank and then -- on top
09:10:51 22 of the truck, and then you'd lower it back
09:10:53 23 down.
09:10:54 24 Q. So did Container Service provide
09:10:58 25 the Dumpsters to the customers that they picked

09:11:01 1 up from?
09:11:01 2 A. They came from Ed -- I forgot his
09:11:12 3 name, but he was the third entity within Larry
09:11:16 4 Brandon and Bob Aldridge operation. He made
09:11:20 5 these Dumpsters.
09:11:22 6 They welded them there, they got
09:11:24 7 the -- the raw material and welded them
09:11:26 8 together, built them there, and that's where I
09:11:28 9 indicated before, that I painted, and so I know
09:11:32 10 they made them from there, so --
09:11:33 11 Q. Do you know whether or not the
09:11:39 12 Dumpsters that came from McCall's were full on
09:11:51 13 every trip to the dump?
09:11:52 14 A. Yeah, because they -- sometimes
09:11:54 15 they'd stick out and they'd have -- they had to
09:11:56 16 put a net so the paper wouldn't blow out from
09:12:00 17 behind, because when I had shoveled snow that
09:12:05 18 one year, one of my jobs was to make sure --
09:12:08 19 because a lot of the paper, when they'd pull
09:12:09 20 away, would get down in the Dumpster pit where
09:12:12 21 the Dumpster was, and I had to clean that up so
09:12:14 22 that the net -- you could tell it was full.
09:12:17 23 Q. Okay. And you indicated yesterday
09:12:22 24 that you started hanging out and working at the
09:12:28 25 dump when you were eight years old, is that

09:12:30 1 correct?
09:12:30 2 A. Um-hum.
09:12:31 3 Q. So that would have been 1960?
09:12:33 4 A. You know, I remember younger
09:12:35 5 times, but, yeah, that was my best
09:12:36 6 recollection.
09:12:37 7 Q. Okay. And at that point in time,
09:12:39 8 you were in elementary school, correct?
09:12:42 9 A. (Witness nodding head up and
09:12:43 10 down.)
09:12:43 11 Q. Okay. And then I think you
09:12:46 12 testified that you continued working at the
09:12:50 13 dump until you were 18 years old or 17 years --
09:12:55 14 16 years old, sorry?
09:12:57 15 A. Well, that's when -- till to the
09:13:00 16 point where I found other employment, and then
09:13:03 17 I'd go there, I mentioned, either in the
09:13:05 18 evenings -- you know, I'd get off work maybe at
09:13:07 19 two at Liberal's Markets and then I'd go down
09:13:11 20 and help Kenny out for a few hours before they
09:13:12 21 closed down at 5:30 and then on the weekends.
09:13:15 22 Q. And did you do that also when you
09:13:18 23 worked at Doyle?
09:13:19 24 A. Yeah, um-hum.
09:13:20 25 Q. Okay. And you started working at

09:13:22 1 Doyle when you were 16, correct?
09:13:25 2 A. Yes.
09:13:25 3 Q. Okay. So at that point in time
09:13:32 4 before you quit school and went to work at
09:13:36 5 Doyle, you would have been in junior high, is
09:13:40 6 that correct?
09:13:40 7 A. Yes.
09:13:41 8 Q. So during the period from at least
09:13:49 9 1960 until 1968, you were in school and worked
09:13:56 10 at the dump part-time?
09:13:59 11 A. Yes.
09:14:00 12 Q. Okay. Was there ever a point in
09:14:06 13 time between 1960 when you were eight years old
09:14:14 14 and the mid '80s, when you say you stopped
09:14:17 15 working at the landfill, that you worked at the
09:14:20 16 landfill full-time?
09:14:23 17 A. Yeah. It would have been mostly
09:14:26 18 like spring, summer and fall.
09:14:27 19 Q. During that entire period of time?
09:14:29 20 A. Yeah, um-hum.
09:14:30 21 Q. Okay.
09:14:37 22 A. Other than the weekends. On the
09:14:39 23 weekends I went there and worked to make a
09:14:41 24 little bit of extra money, so --
09:14:42 25 Q. And the landfill was open on the

09:14:45 1 weekends?
09:14:45 2 A. Saturday. Now, Sunday, I'd go
09:14:48 3 there and do things basically for myself. I
09:14:52 4 mean, I'd get TVs and get wood for Dad's
09:14:55 5 fireplace, stuff like that, so --
09:14:58 6 Q. But no trucks would come in on
09:15:01 7 Sundays?
09:15:04 8 A. No.
09:15:04 9 Q. Okay. But they did come in on
09:15:06 10 Saturdays?
09:15:07 11 A. Yes.
09:15:07 12 Q. All day Saturday?
09:15:08 13 A. Yes.
09:15:08 14 Q. Okay. How many times did you see
09:15:16 15 or how many times can you recall seeing a
09:15:20 16 Container Service truck bringing waste to the
09:15:24 17 landfill from McCall's?
09:15:28 18 A. At least once a day.
09:15:31 19 Q. And those Dumpsters were always
09:15:31 20 full?
09:15:34 21 A. Yes, um-hum.
09:15:35 22 Q. Every day?
09:15:36 23 A. Just about, yeah.
09:15:37 24 Q. Okay. You indicated yesterday
09:15:45 25 that the waste consisted of cardboard from

09:15:49 1 McCall's, correct?
09:15:50 2 A. Um-hum.
09:15:50 3 Q. And what happened to that
09:15:52 4 cardboard?
09:15:53 5 A. The cardboard went into -- on the
09:15:56 6 top tier, which was collected for salvage.
09:16:02 7 Q. Okay. And then it was shipped
09:16:04 8 offsite?
09:16:05 9 A. Yes.
09:16:05 10 Q. You indicated that the waste also
09:16:08 11 contained some paper?
09:16:09 12 A. Correct.
09:16:09 13 Q. And I think you indicated that the
09:16:12 14 paper was separated from the other waste?
09:16:16 15 A. If it had ink on it, it was sent
09:16:21 16 down to the third tier for bury, and then if it
09:16:25 17 didn't have ink, it was -- could be shredded
09:16:32 18 for Larry Brandon's operation, which was Dayton
09:16:35 19 Fiber.
09:16:36 20 He would have -- it wasn't till he
09:16:38 21 got -- had -- had hired two other guys to put
09:16:43 22 the newspaper and stuff into the other dump
09:16:46 23 truck -- I mean, the trash truck.
09:16:48 24 Q. Okay. So is it those two other
09:16:50 25 guys that would separate the paper out from the

09:16:52 1 other waste?
09:16:53 2 A. Right.
09:16:53 3 Q. Before the waste went anywhere on
09:16:56 4 the landfill?
09:16:57 5 A. Right.
09:16:57 6 Q. Do you remember those gentlemen's
09:16:57 7 names?
09:17:03 8 A. No, I do not.
09:17:04 9 Q. I think you indicated that there
09:17:14 10 were pallets and skids from McCall's?
09:17:16 11 A. Yeah.
09:17:16 12 Q. Were those in the Dumpster?
09:17:18 13 A. No.
09:17:18 14 Q. How did those come in?
09:17:24 15 A. Usually Brandon would have -- they
09:17:29 16 had like a pickup truck that they used to put
09:17:35 17 the wood and stuff on and it would come that
09:17:39 18 way, because you couldn't put them in the
09:17:41 19 packer because the packer only had a entrance
09:17:45 20 from the packer about that big (indicating), so
09:17:49 21 there wasn't -- they didn't come in the same
09:17:52 22 vehicle.
09:17:52 23 Q. Now, you're using your hands to
09:17:55 24 indicate size. Could you tell me approximately
09:17:57 25 what size that opening was in the packer?

09:18:02 1 A. Probably 24 by 24 maybe.
09:18:09 2 Q. Okay. Did the pallets and skids
09:18:19 3 from McCall's come in a Container Service
09:18:25 4 vehicle?
09:18:25 5 A. Yes.
09:18:26 6 Q. Okay. And were the vehicles --
09:18:30 7 the Container Service vehicles that brought in
09:18:33 8 the cardboard and paper waste and the trucks
09:18:37 9 that brought in the pallets and skids, did
09:18:40 10 those all have some type of a logo or writing
09:18:44 11 on them indicating that they were Container
09:18:46 12 Service trucks?
09:18:48 13 A. Most of the time, yes.
09:18:50 14 Q. Okay. Now, when you were in
09:18:53 15 elementary school and junior high, what time
09:18:59 16 would you go to the landfill?
09:19:03 17 A. It varied. We had -- I think I
09:19:05 18 got out of school like 2:30 maybe, then I'd go
09:19:09 19 home and change and then go down there for a
09:19:12 20 couple hours.
09:19:13 21 Q. What time would the Container
09:19:16 22 Service trucks that contained McCall's waste
09:19:19 23 come to the landfill?
09:19:21 24 A. It would vary. Most of the time
09:19:25 25 about maybe two o'clock, three o'clock,

09:19:27 1 something like that. At the end of the day, I
09:19:30 2 guess, after they got -- got full.
09:19:33 3 Q. So when you say that the waste
09:19:38 4 came in every day, were you always there every
09:19:44 5 day when that waste would come in from
09:19:46 6 McCall's?
09:19:46 7 A. No.
09:19:47 8 Q. Then how do you know that it came
09:19:49 9 in every day?
09:19:50 10 A. Because when I got there, then I
09:19:52 11 would have to either help separate the
09:19:58 12 newspaper, cardboard and what went down on the
09:20:01 13 third tier and put it in skids that had walls
09:20:06 14 on it and we'd take it out from the load.
09:20:10 15 We had to clean the skid off --
09:20:11 16 the pad off as quick as we could, because, you
09:20:14 17 know, the other big trucks would bring the
09:20:17 18 skids and that was more indicated, and if they
09:20:21 19 came and dumped it where we didn't want it
09:20:24 20 where it was right in front of the incinerator,
09:20:27 21 then we'd mess up the whole operation, so --
09:20:32 22 and normally they either got close to where we
09:20:34 23 couldn't get the incinerator going, because the
09:20:36 24 spark would have caught -- because it was
09:20:38 25 paper, and so it would start the whole pad on

09:20:40 1 fire, so I would know by getting there and
09:20:42 2 having to help separate.
09:20:43 3 Q. And your memory is that you did
09:20:45 4 that every day?
09:20:48 5 A. Just about, yeah.
09:20:49 6 Q. For McCall's waste?
09:20:53 7 A. Well, there was a couple other
09:20:56 8 companies that brought mostly cardboard and it
09:20:59 9 was on -- tried to be dumped in the same area,
09:21:03 10 yes.
09:21:03 11 Q. But every day from 1960 to 1978,
09:21:10 12 you personally separated McCall's waste?
09:21:10 13 A. No.
09:21:28 14 Q. Oh, I'm sorry, yes. Thank you.
09:21:30 15 1960 to 1968, I meant to say.
09:21:33 16 A. Right.
09:21:34 17 Q. Every day you did not separate
09:21:34 18 McCall waste, correct?
09:21:40 19 A. Not every day, no.
09:21:40 20 Q. Okay. Now, yesterday you
09:21:44 21 testified that Container Service would bring in
09:21:48 22 McCall's waste a couple times per week.
09:21:53 23 A. That was probably indicating the
09:21:56 24 skid. The skids wasn't as often because it was
09:22:01 25 a company that had more paper waste than it did

09:22:04 1 wood waste, so --
09:22:05 2 Q. Did any of McCall's waste go to
09:22:13 3 the incinerator?
09:22:13 4 A. Skids.
09:22:14 5 Q. Okay.
09:22:16 6 A. Unless they'd be separated and
09:22:18 7 they were good skids, and then they would go to
09:22:21 8 Skid Row.
09:22:22 9 Q. Okay. So who made the
09:22:25 10 determination whether the skids went to the
09:22:27 11 incinerator or to Skid Row?
09:22:29 12 A. The person picking up the skid and
09:22:32 13 inspecting it to see if it was all together and
09:22:35 14 well nailed down. At first -- yeah, yeah,
09:22:42 15 yeah, I'm sorry.
09:22:42 16 Q. So these skids and pallets came in
09:22:46 17 maybe a couple times per week, is that correct?
09:22:48 18 A. Correct.
09:22:48 19 Q. Okay. And did those come in while
09:22:55 20 you were personally at the landfill?
09:22:58 21 A. I don't know.
09:23:00 22 Q. Okay. Then how do you know how
09:23:03 23 often they came in?
09:23:05 24 A. Because my cousin and I pretty
09:23:10 25 much knowed. We had a routine down and we

09:23:12 1 expected, so we tried to keep areas open where
09:23:17 2 they could be put, because usually McCall's
09:23:21 3 skids weren't beat up like the other companies.
09:23:25 4 They were pretty good shape. So we'd put them
09:23:27 5 over where we knew that very few would go in
09:23:29 6 the incinerator, so --
09:23:30 7 Q. So usually McCall's skids went to
09:23:34 8 Skid Row, is that correct?
09:23:34 9 A. Correct.
09:23:35 10 Q. How about the pallets?
09:23:36 11 A. The pallets and skids are --
09:23:38 12 Q. The same thing?
09:23:38 13 A. Same thing, yeah.
09:23:40 14 Q. Okay. So when you say skids,
09:23:42 15 you're referring to skids and pallets?
09:23:43 16 A. Correct.
09:23:44 17 Q. So most of McCall's pallets went
09:23:46 18 to Skid Row, also?
09:23:48 19 A. Well, in my mind, I'm putting them
09:23:51 20 in the same category, so I'd say yes.
09:23:53 21 Q. How many times per month would the
09:24:05 22 pit catch on fire?
09:24:12 23 A. A couple times.
09:24:15 24 Q. A couple times per month?
09:24:16 25 A. Yeah.

09:24:17 1 Q. Okay. And am I correct in
09:24:20 2 assuming that the pit mostly contained liquid
09:24:25 3 type waste?
09:24:26 4 A. Correct.
09:24:26 5 Q. Okay.
09:24:29 6 A. And the -- the metal cones that I
09:24:33 7 spoke about.
09:24:34 8 Q. Okay. Now, after 1968 when you
09:24:46 9 went to work for Doyle's and then Liberty
09:24:50 10 (sic), did you personally observe McCall waste
09:24:54 11 coming to the landfill?
09:24:56 12 A. I didn't understand. You said one
09:25:00 13 company and then I thought I heard -- say
09:25:02 14 another?
09:25:02 15 Q. I think you said that you
09:25:05 16 worked -- after you turned 16, you worked at
09:25:07 17 Doyle and you worked at -- is it Liberty?
09:25:10 18 A. No, Liberal Markets.
09:25:11 19 Q. Liberal Markets. Okay. During
09:25:12 20 that time, did you personally see McCall waste
09:25:15 21 come into the landfill?
09:25:18 22 A. Well, then, again, when I -- after
09:25:21 23 work or whatever, I would go there to help
09:25:24 24 separate the cardboard from the paper, yeah, I
09:25:30 25 would see the remnants of what was left.

09:25:34 1 Q. What did the cardboard waste look
09:25:37 2 like from McCall's?
09:25:39 3 A. Boxes broke down.
09:25:42 4 Q. Did they have the McCall's writing
09:25:45 5 on them or logo?
09:25:46 6 A. I don't know.
09:25:48 7 Q. So how do you know that cardboard
09:25:53 8 that you would see at the end of the day had
09:25:55 9 come from McCall's?
09:25:57 10 A. Because the packer would push
09:26:01 11 everything so tightly together, it was almost
09:26:04 12 taking a loaf of bread that was sliced, and
09:26:08 13 when they would drop it off onto the pad, it
09:26:11 14 would all be laying in an order that you knew
09:26:14 15 it was from McCall's because, you know, all the
09:26:19 16 paper would say McCall's in front of -- you
09:26:21 17 know, like a magazine, front of a magazine,
09:26:24 18 where it said McCall's, and there was various
09:26:27 19 other types of magazines that -- but I'm not
09:26:30 20 sure what the name of them were, but like Bend
09:26:35 21 an Ear (phonetic), or, you know -- but they
09:26:36 22 made other things for other companies, so --
09:26:37 23 Q. You testified yesterday that the
09:26:45 24 McCall's waste included breakfast and lunch
09:26:48 25 debris, is that correct?

09:26:51 1 A. Yeah, but that wasn't so often,
09:26:54 2 but it -- we didn't like it. It wasn't
09:26:55 3 supposed to be there, so, you know. But
09:26:58 4 sometimes they'd throw like a bag of trash and
09:27:02 5 it got packed and it would be pretty gooey, you
09:27:04 6 know, from people's lunches and stuff, so it --
09:27:07 7 it was in there.
09:27:08 8 Q. Okay. And what happened to that
09:27:10 9 waste?
09:27:11 10 A. It went down to the third pier for
09:27:11 11 bury.
09:27:25 12 Q. Okay. And you indicated that
09:27:25 13 there was also ink cartridges that came from
09:27:29 14 McCall's, is that correct?
09:27:30 15 A. Correct.
09:27:31 16 Q. Were those ink cartridges in the
09:27:38 17 compactor?
09:27:39 18 A. Yeah.
09:27:39 19 Q. What color was the ink?
09:27:48 20 A. Various, but mostly yellow, I
09:27:51 21 believe.
09:27:51 22 Q. In a given Dumpster delivery, how
09:28:00 23 many ink cartridges would be in it?
09:28:04 24 A. It would vary. Sometimes there
09:28:07 25 would be none and sometimes there would be a

09:28:09 1 few and then sometimes there would be a lot of
09:28:11 2 them, you know, it varied.
09:28:12 3 Q. How much is a lot?
09:28:16 4 A. Twenty, 30 cartridges maybe.
09:28:19 5 Q. And these were basically caulking
09:28:21 6 tubes, is that correct, similar to caulking
09:28:24 7 tubes?
09:28:24 8 A. Yes. Yes.
09:28:25 9 Q. Okay. And when you would get to
09:28:36 10 work in the afternoon after school, were those
09:28:40 11 ink cartridges still located among the paper
09:28:46 12 and the cardboard?
09:28:47 13 A. Unless they got most of it done,
09:28:52 14 it would be all over the place, and we kind of
09:28:55 15 hated it because if -- if the tractor rolled
09:28:58 16 over, it would spread everywhere.
09:29:01 17 So you could tell, because it
09:29:02 18 would be all over the pad, so --
09:29:04 19 Q. And if it was already done by the
09:29:06 20 time you got there after school, who would have
09:29:11 21 taken care of that?
09:29:11 22 A. If it wasn't David, my cousin,
09:29:16 23 then it might have been two -- four of the
09:29:21 24 gentlemen that were working the trash trucks
09:29:24 25 that worked for Larry Brandon.

09:29:26 1 Q. And you don't recall their names
09:29:29 2 at all?
09:29:29 3 A. No.
09:29:31 4 Q. You said there were four of them.
09:29:33 5 Did four come every time in a truck when a load
09:29:37 6 came in from McCall's?
09:29:38 7 A. Well, two worked the cardboard
09:29:40 8 trash truck and then two -- they did -- the
09:29:42 9 two -- the paper guys didn't come until later
09:29:46 10 after Larry Brandon had opened up Dayton
09:29:51 11 Fiber.
09:29:51 12 So for the first part of the
09:29:55 13 operation, there was just two guys, and then
09:29:57 14 after he started Dayton Fiber, there were four,
09:29:59 15 but they weren't there all the time.
09:30:04 16 Q. Yesterday you testified that the
09:30:06 17 ink went into barrels and then to the pit. Do
09:30:06 18 you recall that?
09:30:12 19 A. Yes, um-hum.
09:30:12 20 Q. Who put the ink in the barrels?
09:30:15 21 A. All six of us.
09:30:17 22 Q. And how would you do that? Would
09:30:21 23 you cut the cartridges open?
09:30:23 24 A. No, no, we'd put on a pair of
09:30:25 25 gloves and pick them up because they were all

09:30:28 1 mushy, and we'd dropped them -- cartridge --
09:30:33 2 paper, cartridge and all and the ink.
09:30:34 3 Q. Oh, so the cartridges themselves
09:30:36 4 went into this barrel?
09:30:37 5 A. Yeah, um-hum.
09:30:38 6 Q. Okay. So you didn't --
09:30:41 7 A. No. I'm sorry.
09:30:41 8 Q. Go ahead.
09:30:41 9 A. I was just going to say there was
09:30:43 10 no way -- unless you scooped it out with your
09:30:45 11 finger, there was no way to separate the two,
09:30:47 12 so --
09:30:48 13 Q. Okay. So cartridge and all would
09:30:51 14 go to the pit and get burnt?
09:30:53 15 A. No, it would go to pier three
09:30:55 16 where it would be buried.
09:30:56 17 Q. Okay. So yesterday you testified
09:31:04 18 that the ink went into barrels and then to the
09:31:06 19 pit. Is that a burn pit or a burial pit?
09:31:12 20 A. Well, I might have made it sound
09:31:17 21 like -- the third pier was the pier that would
09:31:21 22 cover --
09:31:22 23 Q. Excuse me a minute. Do you mean
09:31:24 24 tier or pier?
09:31:25 25 A. Tier. I'm sorry.

09:31:26 1 Q. Tier. Okay. Thank you.
09:31:28 2 A. The third tier was eventually --
09:31:30 3 because it stood maybe 12 feet higher than the
09:31:33 4 pit, and it just kept pushing over the pit, and
09:31:37 5 eventually it would have been -- the pit would
09:31:39 6 have been totally covered. So it was that
09:31:42 7 stuff that would lay on top of the pit.
09:31:45 8 So the two, sometimes to me, was
09:31:49 9 the same thing, so --
09:31:50 10 Q. Okay. So I may have misunderstood
09:31:52 11 you yesterday. Did any of the ink from
09:31:56 12 McCall's get burnt?
09:31:57 13 A. No.
09:31:57 14 Q. Okay.
09:31:58 15 A. No. Because I thought I said we
09:32:05 16 weren't allowed, other than skids, paper,
09:32:08 17 cardboards, any other debris even knobs off of
09:32:11 18 a door, wasn't allowed into the fire pit,
09:32:15 19 because remember I had said I had to take
09:32:17 20 hinges off, so --
09:32:19 21 Q. So when you testified yesterday
09:32:22 22 about liquids, from any customer of the
09:32:29 23 landfill, did any of those liquids ever get
09:32:33 24 burnt?
09:32:33 25 A. No. No.

09:32:33 1 Q. Okay. When was the first time you
09:32:41 2 recall seeing waste come to the landfill from
09:32:44 3 McCall's?
09:32:48 4 A. Well, it probably wasn't till the
09:32:53 5 winter I worked for Larry Brandon and removed
09:32:58 6 snow from McCall's and actually worked at
09:33:02 7 McCall's.
09:33:03 8 See, Larry Brandon, his employees
09:33:06 9 were allowed to come and go, they were sort of
09:33:09 10 like employees of McCall's, but they were
09:33:13 11 subcontractors, I guess you'd say.
09:33:15 12 And so it wasn't till then that I
09:33:18 13 realized and paid more attention to McCall's,
09:33:21 14 but before, I just thought they were -- you
09:33:23 15 know, other than seeing McCall's letterhead on
09:33:28 16 magazines and stuff, I really didn't pay much
09:33:30 17 attention, but after that, I did.
09:33:32 18 Q. Okay. That's what I'm asking.
09:33:34 19 When was the first time that you recall seeing
09:33:38 20 waste from McCall's at the landfill?
09:33:40 21 A. So you want a date?
09:33:42 22 Q. As best as you can define it.
09:33:46 23 A. '68.
09:33:46 24 Q. Okay. What year did you work for
09:33:51 25 Larry Brandon at McCall's?

09:33:55 1 A. That was '68.
09:33:55 2 Q. So prior to '68, you don't recall
09:33:58 3 seeing any waste from McCall's at the landfill?
09:34:02 4 A. Yes, I did.
09:34:05 5 Q. I asked you, when is the first
09:34:07 6 time you recall seeing waste at the landfill
09:34:12 7 from McCall's?
09:34:14 8 A. Well, like I just said a few
09:34:17 9 minutes ago, if I saw a letterhead and it said
09:34:20 10 McCall's, but it really didn't stick with me
09:34:23 11 real well until after I worked there, because
09:34:24 12 I -- oh, I used to work here -- or I worked
09:34:26 13 there, you know, so -- but seeing magazines and
09:34:28 14 stuff, just sometimes a full magazine would get
09:34:30 15 in there and we'd look at it, so, you know.
09:34:32 16 Q. When was the first time?
09:34:35 17 A. A year would have been '63 maybe.
09:34:46 18 Q. When was the last time you
09:34:49 19 personally saw waste from McCall's come to the
09:34:54 20 landfill?
09:35:02 21 A. Early '70s, maybe '72.
09:35:15 22 Q. What was the name of Larry
09:35:18 23 Brandon's company that did work at McCall's?
09:35:24 24 A. Container Service.
09:35:27 25 Q. So besides providing waste removal

09:35:33 1 from McCall's, Container Service did other work
09:35:37 2 at McCall's?
09:35:39 3 A. No. I mean, they -- their team
09:35:44 4 that was hired to be there worked the
09:35:50 5 compactor, if it broke down, would be able to
09:35:53 6 service it and would take the skids and put
09:35:57 7 them on the pickup truck, so -- but I did say,
09:36:01 8 they can come and go as they please, you know,
09:36:03 9 they didn't actually, you know, go to other
09:36:06 10 buildings, I don't believe.
09:36:07 11 Q. Were they full-time at McCall's?
09:36:10 12 A. Yes.
09:36:11 13 Q. But they were not McCall's
09:36:13 14 employees --
09:36:13 15 A. No.
09:36:14 16 Q. -- they were Container Service
09:36:15 17 employees?
09:36:15 18 A. Right.
09:36:15 19 Q. Were you a Container Service
09:36:17 20 employee when you worked at McCall's?
09:36:19 21 A. Yes.
09:36:33 22 MR. COUGHLIN: Did someone join or
09:36:35 23 drop off?
09:36:36 24 MR. ANDREASEN: Did someone join the
09:36:37 25 call that didn't previously identify themselves?

09:36:43 1 Thank you.
09:36:43 2 BY MR. ANDREASEN:
09:36:57 3 Q. When the burn pit stopped
09:37:00 4 operating -- I think you testified yesterday
09:37:04 5 there was some point in time where you could no
09:37:06 6 longer use the burn pit, is that correct?
09:37:08 7 A. Well, it was very hard, but we
09:37:11 8 used it till the concrete one was fully in
09:37:15 9 operation, so, you know, business went on as
09:37:19 10 usual, but there wasn't a shutdown time.
09:37:24 11 Q. So during the entire period of
09:37:26 12 time that you worked at the landfill, there was
09:37:30 13 waste being burned or incinerated in some form
09:37:33 14 or another?
09:37:34 15 A. Correct.
09:37:34 16 Q. Yesterday you identified customers
09:38:00 17 that had keys to the gate lock at the landfill.
09:38:05 18 A. Correct.
09:38:06 19 Q. One of the customers that you
09:38:08 20 identified was McCall's.
09:38:14 21 A. Correct.
09:38:15 22 Q. Why did McCall's need a key to the
09:38:18 23 landfill if Container Service collected their
09:38:22 24 waste?
09:38:23 25 A. It was prior to when Larry had

09:38:28 1 hired full-time employees at McCall's, and I
09:38:33 2 don't recall the years. It would have been
09:38:36 3 early '60s when -- before Dumpsters came into
09:38:41 4 existence that they carried the key.
09:38:48 5 And when I say McCall's, I just --
09:38:50 6 I don't know who the drivers were. I don't
09:38:52 7 know if they hired independent, but when I say
09:38:55 8 McCall's, I just say the debris that was left
09:38:59 9 that day was McCall's material.
09:39:05 10 Q. And that material would have been
09:39:06 11 brought in during the day?
09:39:08 12 A. Yes, um-hum.
09:39:08 13 Q. So why did -- wasn't the landfill
09:39:11 14 open?
09:39:17 15 A. No. I'm not sure about that.
09:39:28 16 It -- it might have been a Saturday or -- I'm
09:39:42 17 not sure.
09:39:42 18 Q. Are you sure that someone, an
09:39:44 19 employee of McCall's, had a key to that lock?
09:39:49 20 A. I'm not sure.
09:39:52 21 Q. It could have been an employee of
09:39:54 22 Container Service?
09:39:56 23 A. No, because that particular early
09:39:59 24 time, Container Service really didn't exist,
09:40:03 25 the earlier years.

09:40:04 1 Q. Tell me what you mean by early
09:40:07 2 time or earlier years. What time period are
09:40:11 3 you talking about?
09:40:11 4 A. '60 to maybe '64, something like
09:40:15 5 that.
09:40:16 6 Q. Now, you say that the first time
09:40:18 7 you're aware of McCall's waste coming to the
09:40:20 8 landfill was 1963.
09:40:23 9 A. No, I thought I said '60, but it
09:40:26 10 could have been '63.
09:40:27 11 Q. Was -- the first time that you
09:40:28 12 recall seeing McCall waste being brought to the
09:40:35 13 landfill, was it brought by Container Service?
09:40:39 14 A. Not the first time, no.
09:40:40 15 Q. Who was it brought by?
09:40:42 16 A. Like I said, that's where I'm kind
09:40:46 17 of having a hard time remembering, because I
09:40:48 18 don't -- other than seeing McCall's, who had a
09:40:53 19 key when it was dropped off, I really haven't
09:40:58 20 thought that much about it until now, so --
09:41:06 21 Q. So prior to the time that
09:41:08 22 Container Service brought waste from McCall's
09:41:12 23 to the landfill, you don't know how that waste
09:41:15 24 got there?
09:41:15 25 A. No.

09:41:15 1 Q. When did Container Service begin
09:41:20 2 bringing McCall waste to the landfill?
09:41:22 3 A. Like I said, I think around '64.
09:41:30 4 Q. And did Container -- you testified
09:41:37 5 earlier today that the last time you recall
09:41:40 6 seeing waste from McCall's brought to the
09:41:43 7 landfill was in the early 1970s and possibly
09:41:48 8 1972, correct?
09:41:49 9 A. Um-hum.
09:41:49 10 Q. At that point in time, was the
09:41:53 11 waste brought into the landfill by Container
09:41:56 12 Service?
09:41:56 13 A. I'm sorry, I didn't follow.
09:41:58 14 Q. In the early '70s when McCall's
09:42:02 15 waste was brought to the landfill, was it
09:42:04 16 brought there by Container Service?
09:42:05 17 A. Yes.
09:42:06 18 Q. Now, you testified that these keys
09:42:16 19 to the gate lock also opened the lock at
09:42:20 20 Powell?
09:42:21 21 A. Yes.
09:42:21 22 Q. Okay. So any of the customers
09:42:27 23 that you identified yesterday that had keys to
09:42:32 24 the gate lock at the South Dayton landfill,
09:42:39 25 could have used those keys to open the gate

09:42:42 1 lock at Powell Landfill, is that correct?
09:42:44 2 A. Correct.
09:42:52 3 Q. You testified yesterday that the
09:42:55 4 companies that had the keys, other than
09:42:58 5 McCall's, which you say now you're not sure
09:43:00 6 about, you testified that the companies that
09:43:04 7 you recall having keys were General Refuse,
09:43:07 8 Container Service, GM and Frigidaire. Are
09:43:11 9 there any other customers that you recall today
09:43:14 10 that had keys to the lock?
09:43:17 11 A. Not to my recollection, no.
09:43:18 12 Q. Okay. Did General Refuse ever
09:43:21 13 take waste to the Powell Landfill.
09:43:26 14 A. General Refuge? Yes.
09:43:27 15 Q. Is it Refuge or Refuse with an
09:43:31 16 S E?
09:43:34 17 A. Refuge.
09:43:34 18 Q. Can you spell it?
09:43:36 19 A. No. Well, R E F -- I think it
09:43:42 20 ended with an E. I'm not sure.
09:43:47 21 Q. Okay. So, I'm sorry, I forgot
09:43:48 22 your answer. Did General Refuge ever take
09:43:52 23 waste to the Powell Landfill?
09:43:53 24 A. Yes. Yes.
09:43:54 25 Q. Did Container Service ever take

09:43:56 1 waste to the Powell Landfill?
09:43:59 2 A. Yes.
09:43:59 3 Q. Did GM ever take waste to the
09:44:03 4 Powell Landfill?
09:44:04 5 A. No.
09:44:05 6 Q. Did Frigidaire ever take waste to
09:44:07 7 the Powell Landfill?
09:44:10 8 A. Not to my knowledge.
09:44:13 9 MR. ROMINE: I'm going to object on
09:44:14 10 the grounds that this wasn't covered in direct and
09:44:16 11 it's a violation of the judge's order not to go
09:44:19 12 over material that was gone over before.
09:44:20 13 MR. ANDREASEN: I disagree.
09:44:29 14 BY MR. ANDREASEN:
09:44:29 15 Q. Did Container Service ever take
09:44:33 16 waste from McCall's to the Powell Landfill?
09:44:36 17 MR. ROMINE: Same objection.
09:44:38 18 THE WITNESS: I'm sorry?
09:44:40 19 BY MR. ANDREASEN:
09:44:40 20 Q. Did Container Service ever take
09:44:42 21 waste from McCall's to the Powell Landfill?
09:44:45 22 MR. ROMINE: Same objection.
09:44:46 23 THE WITNESS: Not to my recollection.
09:44:48 24 BY MR. ANDREASEN:
09:44:49 25 Q. And how would you know that they

09:44:51 1 didn't?
09:44:52 2 MR. ROMINE: Same objection.
09:44:54 3 THE WITNESS: I wasn't there till
09:44:56 4 after I started helping Larry over at Powell Road,
09:45:00 5 so, you know, I don't know.
09:45:02 6 BY MR. ANDREASEN:
09:45:03 7 Q. So you don't know whether or not
09:45:04 8 Container Service ever took McCall waste to the
09:45:07 9 Powell Landfill?
09:45:08 10 MR. ROMINE: Same objection.
09:45:10 11 THE WITNESS: I don't know.
09:45:11 12 BY MR. ANDREASEN:
09:45:11 13 Q. Okay. Would you take a look at
09:45:22 14 defendant --
09:45:22 15 MR. ROMINE: I'm not your lawyer,
09:45:22 16 so --
09:45:22 17 THE WITNESS: Huh?
09:45:24 18 MR. ROMINE: I can't give you advice,
09:45:25 19 I'm not your lawyer.
09:45:25 20 THE WITNESS: I'm not feeling good.
09:45:26 21 MR. ROMINE: You're not feeling good?
09:45:27 22 THE WITNESS: No. I'm having a hard
09:45:28 23 time --
09:45:29 24 MR. ROMINE: Take a break.
09:45:31 25 THE WITNESS: -- thinking.

09:45:31 1 MR. ROMINE: Yeah, take a break.
09:45:31 2 MR. ANDREASEN: Okay.
09:45:31 3 MR. COUGHLIN: I'm sorry, did you get
09:45:31 4 that on the record? What did you just say, sir?
09:45:37 5 THE WITNESS: I'm not feeling well
09:45:37 6 and I need to take a small break.
09:45:37 7 MR. COUGHLIN: Did you say something
09:45:41 8 about you're having a hard time thinking?
09:45:41 9 THE WITNESS: Right now, yeah.
09:45:43 10 MR. COUGHLIN: Are you going to be
09:45:43 11 able to continue today?
09:45:45 12 THE WITNESS: I'm going to try. So
09:45:45 13 can we take a break?
09:45:45 14 MR. ANDREASEN: Sure. Sure, whenever
09:45:57 15 you need to.
09:45:57 16 (Pause in proceedings.)
09:48:32 17 MR. ANDREASEN: We're back on the
09:57:11 18 record.
09:57:11 19 BY MR. ANDREASEN:
09:57:13 20 Q. Mr. Grillot, before we took a
09:57:15 21 break, you indicated that you weren't feeling
09:57:18 22 well and having trouble thinking, is that
09:57:18 23 correct?
09:57:18 24 A. Yes.
09:57:20 25 Q. Are you feeling better now, worse

09:57:21 1 or the same as before the break?
09:57:23 2 A. Better.
09:57:24 3 Q. Okay. Was there any point in time
09:57:27 4 yesterday when you didn't feel well and had
09:57:31 5 trouble thinking during your testimony?
09:57:33 6 A. No, I had a good day yesterday.
09:57:35 7 Q. Okay. I want to show you again
09:57:45 8 what's been marked as Defendants' Exhibit
09:57:49 9 Number 2, the waste receipts. We were talking
09:57:56 10 about the handwriting on the middle two tickets
09:58:02 11 that says DPL?
09:58:05 12 A. DP&L, yeah.
09:58:06 13 Q. Okay. Besides Container Service,
09:58:15 14 what other waste haulers in the Dayton area
09:58:22 15 brought waste to the South Dayton Landfill?
09:58:25 16 MR. ROMINE: Same objection.
09:58:28 17 THE WITNESS: Other than indicating
09:58:30 18 to you -- I thought we went over this yesterday,
09:58:34 19 so you want me to make the list again, is that
09:58:37 20 what you're saying?
09:58:37 21 BY MR. ANDREASEN:
09:58:38 22 Q. Just the waste haulers. Did you
09:58:41 23 identify waste haulers or customers yesterday?
09:58:43 24 A. Okay. Waste haulers --
09:58:46 25 MR. ROMINE: Same objection.

09:58:47 1 MR. ANDREASEN: David, can we just
09:58:48 2 have a standing objection?
09:58:51 3 MR. ROMINE: Yes.
09:58:53 4 MR. ANDREASEN: Okay.
09:58:53 5 THE WITNESS: I don't know at this
09:58:54 6 moment.
09:58:54 7 BY MR. ANDREASEN:
09:58:55 8 Q. Okay. If Container Service
09:59:00 9 brought in a load of waste from a customer,
09:59:07 10 would Container Service's name be placed on
09:59:11 11 that waste ticket or the customer's name?
09:59:14 12 A. It would be the customer's name.
09:59:21 13 Q. And the landfill would know what
09:59:30 14 customer's name to put on the ticket based upon
09:59:33 15 being told by the waste hauler where the waste
09:59:36 16 came from?
09:59:37 17 A. Correct.
09:59:51 18 Q. I'm going to hand you what's been
09:59:53 19 marked as Defendants' Exhibit Number 1, and
09:59:57 20 that's the map from yesterday that identifies
10:00:01 21 various landfills in the Dayton area.
10:00:03 22 A. Right.
10:00:04 23 Q. Do you know if waste from McCall's
10:00:13 24 went to any of the landfills indicated on that
10:00:19 25 map other than South Dayton Landfill?

10:00:25 1 A. Over what time period?
10:00:26 2 Q. During the time period that waste
10:00:29 3 was coming to the landfill at South Dayton from
10:00:33 4 McCall's.
10:00:34 5 A. From -- from Larry Brandon's
10:00:37 6 operation or from the other -- early days when
10:00:43 7 I said I didn't know who had hauled waste from
10:00:46 8 McCall's?
10:00:46 9 Q. From the -- from the earliest time
10:00:49 10 that you recall -- recall waste from McCall's
10:00:53 11 coming to South Dayton Landfill to the last
10:00:56 12 time you recall waste from McCall's coming to
10:01:00 13 the South Dayton Landfill, do you know if
10:01:03 14 McCall's waste, during that period of time,
10:01:05 15 went to any of the other landfills indicated on
10:01:09 16 Exhibit 1?
10:01:09 17 A. No.
10:01:10 18 Q. You don't -- no, you don't know?
10:01:12 19 A. I don't know.
10:01:13 20 Q. Okay. The key to the lock on the
10:01:23 21 gate at South Dayton that also opened the lock
10:01:29 22 on the gate at Powell Landfill, did that key
10:01:34 23 open gate locks to any other landfills in the
10:01:39 24 Dayton area?
10:01:40 25 A. No, not -- not to my knowledge.

10:01:43 1 Q. And if you would, please, tell me
10:01:51 2 again, why was this -- why did the same key
10:01:54 3 open the locks at Powell and South Dayton?
10:01:58 4 MR. ROMINE: Asked and answered.
10:01:59 5 THE WITNESS: Because Larry Brandon
10:02:01 6 wanted to make sure no load was sitting out front
10:02:04 7 to get -- of any dump waiting to be dumped. He
10:02:08 8 wanted a steady stream, so also the key would --
10:02:11 9 the key fit various locations of like Larry
10:02:17 10 Brandon's other facilities.
10:02:24 11 BY MR. ANDREASEN:
10:02:24 12 Q. So the same key provided access to
10:02:30 13 the South Dayton Landfill, the Powell Landfill
10:02:37 14 and other facilities owned or operated by Mr.
10:02:41 15 Brandon?
10:02:41 16 A. Correct.
10:02:42 17 Q. Do you know what those other
10:02:44 18 facilities were?
10:02:47 19 A. The gas pumps, the diesel pumps,
10:02:55 20 some of the equipment was chained and locked
10:02:57 21 with a 2246 key. Some other Dumpsters that --
10:03:05 22 I don't know what were in them, but -- you
10:03:08 23 know, so at his site where he serviced the dump
10:03:14 24 trucks and so on and so forth, there was a
10:03:16 25 service building.

10:03:17 1 Q. So all those locks that you just
10:03:23 2 mentioned, were those all located at Larry
10:03:28 3 Brandon's facility?
10:03:29 4 A. Correct.
10:03:30 5 MR. COUGHLIN: Excuse me, did someone
10:03:34 6 join again?
7 MR. ANDREASEN: Did someone join the
8 call?
9 (Thereupon, the court reporter
10 interrupted the proceedings.)
11 (Record read.)
12 BY MR. ANDREASEN:
10:04:07 13 Q. And where was Larry Brandon's
10:04:09 14 facility located?
10:04:12 15 A. They changed the name of the
10:04:15 16 streets so much down there. It was about a
10:04:18 17 quarter mile from the South Dayton Dump.
10:04:21 18 Q. Which direction?
10:04:23 19 A. Going southeast. If it's not
10:04:28 20 called Sandridge, it would be Springboro Pike,
10:04:35 21 South Springboro Pike -- or North Springboro
10:04:37 22 Pike.
10:04:37 23 Q. And did that key unlock any other
10:04:41 24 locks besides the locks you have just
10:04:45 25 mentioned, the two landfills and items at Larry

10:04:50 1 Brandon's facility?
10:04:50 2 A. I don't know at this time, no.
10:05:25 3 MR. ANDREASEN: That's all I have.
10:05:26 4 Thank you, sir.
10:05:27 5 THE WITNESS: Thank you.
10:06:03 6 CROSS-EXAMINATION
10:06:12 7 BY MR. COUGHLIN:
10:06:13 8 Q. Good morning, sir. I'm Bill
10:06:13 9 Coughlin.
10:06:13 10 A. Hi, Bill.
10:06:16 11 Q. And this is without prejudice to
10:06:18 12 any of our objections and motions as of
10:06:21 13 yesterday, but that's legalese that doesn't
10:06:24 14 relate to you, sir.
10:06:25 15 A. Pardon me?
10:06:25 16 Q. That's something that doesn't
10:06:27 17 relate for purposes of the questions I'm going
10:06:30 18 to ask to you.
10:06:31 19 A. Okay.
10:06:31 20 Q. You're feeling well enough to
10:06:34 21 testify now?
10:06:35 22 A. Yeah, much better. Thank you.
10:06:36 23 Q. Able to think --
10:06:37 24 A. Yeah.
10:06:37 25 Q. -- about your answers and give

10:06:39 1 them?
10:06:39 2 A. Yes, sir.
10:06:39 3 Q. Sir, now you recall in your
10:06:43 4 deposition you gave on April 24, 2012, that you
10:06:47 5 did not know how DAP stuff, as you called it,
10:06:52 6 got to the site, correct?
10:06:54 7 MR. ROMINE: Objection. Covers old
10:06:57 8 ground that the judge ordered not to be covered.
10:07:01 9 THE WITNESS: I'm sorry, I --
10:07:03 10 MR. COUGHLIN: Well, let me -- let me
10:07:04 11 address that. Let's have --
10:07:06 12 THE WITNESS: No. May I say
10:07:06 13 something?
10:07:07 14 MR. COUGHLIN: No. Let's clear up
10:07:08 15 the objection first --
10:07:08 16 THE WITNESS: Okay.
10:07:09 17 MR. COUGHLIN: Because I think we
10:07:10 18 should have a continuing objection on that, if
10:07:13 19 that's okay with you, David?
10:07:14 20 MR. ROMINE: No.
10:07:15 21 MR. COUGHLIN: Okay. Well, I think
10:07:16 22 you should, because you'll have to agree, I think,
10:07:20 23 that this is the first time DAP, or anybody acting
10:07:23 24 on behalf of DAP, has had any opportunity
10:07:26 25 whatsoever to examine this witness concerning any

10:07:31 1 aspect of his testimony. That's true, is it not,
10:07:33 2 sir?
10:07:34 3 MR. ROMINE: Ask your questions.
10:07:36 4 MR. COUGHLIN: Do you know of any
10:07:36 5 other opportunity?
10:07:38 6 MR. ROMINE: Ask your questions.
10:07:39 7 MR. COUGHLIN: Well, that's why I'm
10:07:39 8 saying it's not appropriate for you to say that
10:07:43 9 you need to object to every question I'm going to
10:07:46 10 ask this witness, and as you saw from before when
10:07:49 11 you did that, it then prevented him from
10:07:52 12 testifying in answer to Mr. Andreasen's questions,
10:07:55 13 and I don't want that to happen now, do you, sir?
10:07:58 14 MR. ROMINE: Ask your questions.
10:08:00 15 MR. COUGHLIN: So you don't want to
10:08:01 16 answer anything I'm asking about trying to resolve
10:08:04 17 your objections on the record?
10:08:05 18 MR. ROMINE: Ask your questions.
10:08:07 19 MR. COUGHLIN: Yes, sir.
10:08:07 20 MR. HAUGHEY: This is Steve Haughey.
10:08:09 21 I would like to add to the discussion that I'm a
10:08:12 22 bit surprised, David, at your position today,
10:08:14 23 because yesterday when I was doing some of my
10:08:19 24 cross-exam before we had to make changes for
10:08:23 25 purposes of people leaving, you did agree to enter

10:08:27 1 a continuing objection to my questions relating to
10:08:31 2 the testimony that Mr. Grillot provided in 2002
10:08:37 3 (sic), and I said okay and that seemed to work and
10:08:40 4 stop the -- you know, you having to interject so
10:08:43 5 many objections, so why are you changing your
10:08:45 6 position today?
10:08:46 7 MR. ROMINE: This is all time that
10:08:47 8 could be spent for the questioner to ask the
10:08:51 9 witness questions. I'm going to say, ask your
10:08:55 10 questions, I'll object when I think it's
10:08:56 11 appropriate. When it's not appropriate, I won't
10:08:58 12 object.
10:08:59 13 BY MR. COUGHLIN:
10:08:59 14 Q. Mr. Grillot, you recall from your
10:09:07 15 prior deposition that you testified that you
10:09:10 16 did not know how any of, what you call the DAP
10:09:14 17 stuff, got to the site, correct?
10:09:16 18 MR. ROMINE: Objection.
10:09:17 19 Mischaracterizes his former testimony. Go ahead.
10:09:19 20 THE WITNESS: Well --
10:09:19 21 BY MR. COUGHLIN:
10:09:20 22 Q. Sir, is that -- do I state that
10:09:22 23 correctly?
10:09:22 24 A. Well, first of all, you didn't
10:09:24 25 state who you represented. I hear DAP. Is

10:09:26 1 that who you represent?
10:09:27 2 Q. Well, does that affect your
10:09:28 3 answer?
10:09:29 4 A. No, but I'm just trying to make it
10:09:31 5 clear in my mind.
10:09:32 6 Q. Well, let me -- let me make it
10:09:34 7 clear.
10:09:34 8 A. Okay.
10:09:34 9 Q. I represent DAP Products Inc., no
10:09:37 10 comma.
10:09:37 11 A. All right. Good. Okay.
10:09:37 12 Q. It's true, is it not, sir, that
10:09:43 13 you testified in 2012 that you did not know how
10:09:48 14 stuff from DAP, as you called it, got to the
10:09:50 15 site, correct?
10:09:51 16 MR. ROMINE: Same objection.
10:09:53 17 THE WITNESS: I don't recall.
10:09:56 18 BY MR. COUGHLIN:
10:09:56 19 Q. You don't recall your testimony or
10:09:58 20 you don't recall how?
10:10:04 21 A. I don't recall at this moment,
10:10:07 22 because some of the --
10:10:08 23 Q. I didn't ask you why, sir.
10:10:08 24 A. Okay.
10:10:10 25 Q. Let me show you a copy of your

10:10:12 1 testimony --
10:10:12 2 A. Okay.
10:10:12 3 Q. -- from April 24, 2012.
10:10:15 4 A. Sure.
10:10:15 5 Q. And I'll represent to you and
10:10:17 6 counsel and to the Court, that this is all of
10:10:19 7 your testimony from that deposition relating to
10:10:21 8 DAP.
10:10:22 9 A. Okay. All right.
10:10:22 10 Q. And I'd ask you to turn to page
10:10:29 11 120, line three. Do you have that in front of
10:10:34 12 you?
10:10:35 13 A. I do now.
10:10:35 14 Q. And do you see where it says, how
10:10:41 15 did they get their stuff to your site? Answer
10:10:42 16 at line five, I don't know. Did I read that
10:10:45 17 correctly, sir?
10:10:47 18 A. Correct.
10:10:47 19 Q. Thank you. Would you hand that
10:10:49 20 back to me?
10:10:49 21 A. Um-hum.
10:10:50 22 Q. And as you testified yesterday, it
10:10:56 23 was your belief that DAP did not have a truck
10:10:59 24 of its own that came to the site, correct?
10:11:02 25 A. Correct, um-hum.

10:11:03 1 Q. Now, sir, you talked yesterday
10:11:12 2 about an unidentified driver, I think were your
10:11:16 3 words, telling you something about a glazing
10:11:19 4 window display at the DAP plant.
10:11:22 5 A. Yeah.
10:11:22 6 Q. Do you remember that testimony?
10:11:23 7 A. Yeah.
10:11:23 8 Q. Well, actually that was your
10:11:25 9 father who told you about that, right, not some
10:11:30 10 driver?
10:11:30 11 A. It could have been.
10:11:32 12 Q. Okay. And do you recall -- do you
10:11:35 13 recall exactly who that was?
10:11:38 14 A. That told me that?
10:11:39 15 Q. Yeah. Was it --
10:11:40 16 A. Since you mentioned it, I think it
10:11:42 17 was Dad that -- we drove by there, yeah.
10:11:43 18 Q. And, in fact, just to confirm
10:11:45 19 that, if you'd take a look at the same
10:11:47 20 testimony on a different page, and this would
10:11:49 21 be page 142.
10:11:56 22 A. 142?
10:11:57 23 Q. Yes, page 142 --
10:11:57 24 A. Okay.
10:12:00 25 Q. -- line fifteen.

10:12:00 1 A. Okay.
10:12:02 2 Q. It's your answer there that -- if
10:12:04 3 you'll follow along with me --
10:12:04 4 A. Um-hum.
10:12:05 5 Q. -- we went out to DAP because Dad
10:12:07 6 told me that DAP had -- they had displays of
10:12:09 7 windows that they would glaze to see how long
10:12:12 8 their product would last. Did I read that
10:12:14 9 correctly, sir?
10:12:14 10 A. Yes.
10:12:15 11 Q. Thank you. May I have that back?
10:12:17 12 A. Um-hum.
10:12:18 13 Q. Now, sir, you also talked
10:12:26 14 yesterday about a putty and aluminum and wood
10:12:30 15 crates and pallets, but you didn't mention any
10:12:33 16 of that in your 2012 testimony, did you?
10:12:38 17 A. No.
10:12:41 18 Q. And you also said something
10:12:43 19 yesterday about maybe there was stuff that came
10:12:48 20 from DAP one time a month. You didn't say
10:12:51 21 anything about that in your testimony in 2012,
10:12:53 22 did you?
10:12:54 23 A. No.
10:13:01 24 Q. Now, I think you mentioned
10:13:03 25 yesterday as well that there were times after

10:13:06 1 your work at the landfill that you were
10:13:09 2 involved in various construction jobs, correct?
10:13:12 3 A. Correct.
10:13:12 4 MR. ROMINE: Objection.
10:13:14 5 Unnecessarily repeats testimony from yesterday and
10:13:15 6 from 2012.
10:13:18 7 BY MR. COUGHLIN:
10:13:18 8 Q. You with me, sir?
10:13:20 9 A. Correct.
10:13:20 10 Q. And do you recall you thought that
10:13:23 11 you used DAP products in various ways when you
10:13:28 12 were doing construction work, right?
10:13:29 13 A. Yeah.
10:13:29 14 Q. Now, you have no idea whether --
10:13:32 15 what you were using in construction had the
10:13:35 16 same formulations as what may have been DAP
10:13:38 17 products from a prior time, correct?
10:13:40 18 A. Correct, um-hum.
10:13:43 19 Q. And you also testified before that
10:14:04 20 you did not recall any particular emblem that
10:14:09 21 related to DAP, correct?
10:14:10 22 A. Correct.
10:14:11 23 Q. And that at no point in time did
10:14:19 24 you ever tour a DAP plant, did you?
10:14:20 25 A. No.

10:14:20 1 Q. Sir, who was it you walked into
10:14:30 2 the office off the elevator with this morning,
10:14:34 3 kind of a tall man with -- looked like he had a
10:14:37 4 goatee maybe?
10:14:38 5 A. Off the elevator?
10:14:39 6 Q. When you came in this morning, who
10:14:42 7 were you accompanied by? He showed you to the
10:14:45 8 restroom.
10:14:47 9 A. Bill.
10:14:48 10 Q. Bill who?
10:14:50 11 A. Wilts, Walsh.
10:14:52 12 Q. Is that the investigator who works
10:14:54 13 with Mr. Silver?
10:14:54 14 A. Correct.
10:14:56 15 Q. Okay. And when did you meet with
10:14:57 16 him this morning?
10:15:00 17 A. Around 7:30.
10:15:01 18 Q. And where did you meet with him?
10:15:03 19 A. At Marriott motel.
10:15:06 20 Q. And what did you discuss with him?
10:15:11 21 A. At 7:30 or when you saw me off the
10:15:16 22 elevator?
10:15:16 23 Q. Well, let's start from 7:30 until
10:15:19 24 when you got off the elevator.
10:15:21 25 A. We discussed breakfast. Asked,

10:15:25 1 you know, did I sleep well. Just various
10:15:30 2 things about the morning.
10:15:32 3 Q. Anything else?
10:15:34 4 A. Well, I told him I wasn't feeling
10:15:36 5 well. That I slept well, but that I was
10:15:40 6 feeling the pain in my chest again and --
10:15:42 7 Q. And did he -- how did he respond
10:15:43 8 to what you told him?
10:15:45 9 A. He just kind of laughed, because I
10:15:51 10 had had a steak a couple nights before and he
10:15:54 11 said meat was kind of a -- a bad thing for the
10:15:57 12 pancreas, you know, so we were just talking
10:16:00 13 about that, so --
10:16:00 14 Q. Did you have a steak with him the
10:16:02 15 couple nights before?
10:16:03 16 A. Yes.
10:16:03 17 Q. Anybody else join you for that
10:16:09 18 steak?
10:16:09 19 A. Yes.
10:16:09 20 Q. Who?
10:16:10 21 A. Be Dave.
10:16:13 22 Q. Dave, Mr. Romine?
10:16:15 23 A. And -- and the lady behind me.
10:16:19 24 Q. One of Mr. Romine's colleagues?
10:16:21 25 A. Yeah.

10:16:21 1 Q. And who's present in the room?
10:16:24 2 A. Pardon me?
10:16:24 3 Q. The lawyer with him in the room?
10:16:26 4 MR. COUGHLIN: I'm sorry, ma'am, I
10:16:27 5 don't remember your name.
10:16:28 6 MS. MEYER: Jennifer Meyer.
10:16:28 7 BY MR. COUGHLIN:
10:16:28 8 Q. Jennifer?
10:16:29 9 A. It was Jennifer.
10:16:29 10 Q. And where did you eat?
10:16:31 11 A. Downstairs at -- the Marriott had
10:16:35 12 a -- like a dinner place.
10:16:38 13 Q. And did you discuss your
10:16:40 14 deposition at all then with them?
10:16:40 15 A. No.
10:16:44 16 Q. Did they say anything about your
10:16:46 17 deposition?
10:16:51 18 A. We -- we talked about what time to
10:16:53 19 meet in the morning. I think it was -- if it
10:17:03 20 wasn't snowing, is it going to snow in the
10:17:06 21 morning and we were just discussing how to get
10:17:07 22 here and so on and so forth, so --
10:17:09 23 Q. Did you talk about the South
10:17:11 24 Dayton Dump or any of its customers?
10:17:11 25 A. No.

10:17:14 1 Q. How about with Mr. Walsh today?
10:17:15 2 A. No.
10:17:16 3 Q. Does Mr. Walsh, was he -- has he
10:17:18 4 been driving you locally over the last couple
10:17:18 5 days?
10:17:21 6 A. Correct, um-hum.
10:17:22 7 Q. Now, you mentioned the Marriott in
10:17:34 8 Dayton. Actually a couple hours after
10:17:37 9 yesterday's deposition adjourned, you and I
10:17:40 10 bumped into each other on the concierge's level
10:17:43 11 at that hotel, right?
10:17:44 12 A. Yes.
10:17:45 13 Q. And --
10:17:45 14 A. Now, what -- concierge --
10:17:49 15 concierge what?
10:17:49 16 Q. Concierge, the 6th floor --
10:17:50 17 A. Yes.
10:17:51 18 Q. -- where you need a special key to
10:17:52 19 get on the elevator to get you to that floor.
10:17:56 20 A. Um-hum.
10:17:56 21 Q. That's where you were staying?
10:17:56 22 A. Yeah.
10:17:58 23 Q. And I got a free frequent traveler
10:18:01 24 upgrade, did you?
10:18:02 25 A. I don't know what that means.

10:18:03 1 Q. Did they provide you a room on
10:18:06 2 that floor at no extra charge?
10:18:07 3 A. I wouldn't know that.
10:18:09 4 Q. I paid one seventy-nine for my
10:18:12 5 room. What did your room cost?
10:18:14 6 A. No clue.
10:18:16 7 Q. Well, who's paying for your room?
10:18:18 8 A. Bill.
10:18:21 9 Q. And how did he pay for it?
10:18:23 10 A. I have no clue.
10:18:25 11 Q. Did he pay for dinner and the room
10:18:27 12 the night before?
10:18:29 13 A. Correct.
10:18:30 14 Q. Why were you staying at the
10:18:32 15 Marriott?
10:18:33 16 A. I don't know.
10:18:37 17 Q. Has he been arranging your
10:18:39 18 transportation while you were here at his cost?
10:18:42 19 In other words, you have not been paying him to
10:18:44 20 transport you in town?
10:18:45 21 A. No. No.
10:18:45 22 Q. I state that correctly?
10:18:46 23 A. Correct.
10:18:47 24 Q. Has he -- has Mr. Walsh, or
10:18:54 25 anybody acting with him, paid any other

10:18:56 1 expenses on your behalf during this trip?
10:19:02 2 A. No.
10:19:03 3 Q. How about in 2012?
10:19:06 4 A. No.
10:19:07 5 Q. Altogether, what would you
10:19:10 6 estimate the expenses that have been paid for
10:19:14 7 by Mr. Walsh or his associates for you?
10:19:19 8 A. I don't know.
10:19:20 9 Q. Are we talking in the thousands of
10:19:23 10 dollars?
10:19:24 11 A. I don't know.
10:19:28 12 Q. And as it turns out, since we're
10:19:39 13 talking about the Marriott, we again bumped
10:19:42 14 into each other a couple hours later in the
10:19:45 15 concierge's lounge, right?
10:19:45 16 A. Um-hum.
10:19:46 17 Q. You have to answer audibly, sir.
10:19:48 18 A. Oh, yes.
10:19:49 19 Q. And at that point in time, you
10:19:51 20 were on the computer terminal doing Internet
10:19:55 21 searches, right?
10:19:55 22 A. Yeah.
10:19:56 23 Q. And you were entering information
10:19:58 24 into the keyboard and reading what was up on
10:20:01 25 the screen?

10:20:01 1 A. Correct.
10:20:02 2 Q. And then at one point at least you
10:20:04 3 printed out what looked like a pretty long
10:20:06 4 document, a series of pages that you collected
10:20:08 5 and then went and read, right?
10:20:10 6 A. Yes.
10:20:11 7 Q. And I was at the terminal next to
10:20:15 8 you.
10:20:15 9 A. Correct.
10:20:16 10 Q. And if I recall correctly, your
10:20:20 11 search involved something, since you were
10:20:22 12 sitting next to me, relating to Guinness?
10:20:25 13 A. To what?
10:20:26 14 Q. Guinness, G U I N N E S S.
10:20:31 15 A. I don't --
10:20:31 16 Q. You don't recall doing any
10:20:34 17 research -- search concerning Guinness?
10:20:37 18 A. Just Google, you know.
10:20:39 19 Q. A Google search concerning
10:20:39 20 Guinness?
10:20:40 21 A. I don't know.
10:20:40 22 Q. You know how to use Google?
10:20:43 23 A. A little bit.
10:20:44 24 Q. What were you searching on the
10:20:47 25 computer last night?

10:20:47 1 A. I've only been using a computer
10:20:50 2 now for about --
10:20:51 3 Q. I didn't ask you how long you were
10:20:52 4 using it, so I'll move to strike. I asked you
10:20:54 5 what were you searching last night?
10:20:57 6 MR. ROMINE: Objection. Relevance.
10:20:58 7 THE WITNESS: Reading material.
10:20:58 8 BY MR. COUGHLIN:
10:20:58 9 Q. Reading material concerning what?
10:21:00 10 A. Storage.
10:21:01 11 Q. Did anything relate to the South
10:21:04 12 Dayton Dump or its customers?
10:21:06 13 A. Oh, no.
10:21:06 14 Q. Or this lawsuit?
10:21:07 15 A. No.
10:21:07 16 Q. Where did you have dinner last
10:21:21 17 night?
10:21:23 18 A. In Dayton.
10:21:24 19 Q. With whom?
10:21:25 20 A. With the parties just spoken of,
10:21:29 21 which would be Mr. Walsh -- Welch -- Walsh and
10:21:34 22 the two people behind me.
10:21:35 23 Q. David and his colleague?
10:21:37 24 MR. COUGHLIN: And, ma'am, I'm sorry,
10:21:38 25 I'm just having trouble with your name.

10:21:40 1 THE WITNESS: Me too.
10:21:41 2 BY MR. COUGHLIN:
10:21:41 3 Q. And where did you eat?
10:21:43 4 A. Pardon me?
10:21:43 5 Q. Where did you eat?
10:21:44 6 A. Old Hickory.
10:21:45 7 Q. What's that?
10:21:46 8 A. It's a barbecue/steakhouse on
10:21:50 9 Brown -- Brown Street. Warren or Brown.
10:21:53 10 Q. Who picked up the tab?
10:21:54 11 A. I don't know.
10:21:55 12 Q. How much was it?
10:21:57 13 A. I didn't even look at the menu. I
10:21:57 14 don't know.
10:21:59 15 Q. What was the tab from the night
10:22:00 16 before?
10:22:00 17 A. I don't know.
10:22:01 18 Q. What did you discuss at dinner
10:22:04 19 after your deposition?
10:22:05 20 A. Pardon me?
10:22:06 21 Q. What did you talk about at your
10:22:07 22 dinner after your deposition yesterday?
10:22:09 23 A. Mostly about my dog and my
10:22:19 24 girlfriend -- or my ex-girlfriend that I live
10:22:23 25 with. Just various -- we talked about the

10:22:26 1 holidays coming up and stuff like that, so --
10:22:27 2 Q. Did you talk about your deposition
10:22:29 3 testimony at all?
10:22:30 4 A. No.
10:22:31 5 Q. Did you talk about the landfill?
10:22:32 6 A. No.
10:22:33 7 Q. Did you talk about any of its
10:22:35 8 customers?
10:22:35 9 A. No.
10:22:35 10 Q. Did you talk about any of the
10:22:39 11 lawyers?
10:22:40 12 A. Pardon me?
10:22:41 13 Q. Did you talk about any of the
10:22:42 14 lawyers?
10:22:44 15 A. No.
10:22:49 16 Q. Now, along the same lines, I
10:22:53 17 understood you to be saying during one of the
10:22:55 18 breaks in the deposition yesterday when you
10:22:57 19 were talking to Mr. Romine, that there was
10:22:59 20 going to be some kind of a charge associating
10:23:03 21 with changing airline reservations. Did that
10:23:06 22 relate to you?
10:23:08 23 A. No.
10:23:09 24 Q. Has anyone bought you -- Mr. Walsh
10:23:12 25 or others with respect to the landfill, bought

10:23:14 1 you any airfare?
10:23:16 2 A. No.
10:23:16 3 Q. Now, you gave us your cell phone
10:23:24 4 number yesterday during your testimony.
10:23:25 5 A. Correct.
10:23:25 6 Q. It's true, is it not though, sir,
10:23:30 7 that you instructed the plaintiffs' lawyers
10:23:33 8 prior to yesterday's testimony not to give your
10:23:37 9 cell phone number to any of the lawyers
10:23:39 10 representing the defendants?
10:23:40 11 A. Could you rephrase the question,
10:23:41 12 please?
10:23:41 13 Q. Yes. Up until yesterday, hadn't
10:23:43 14 you told Mr. Romine and his colleagues that you
10:23:46 15 didn't want them to give your cell phone number
10:23:48 16 to any of the defendants or their lawyers,
10:23:48 17 correct?
10:23:51 18 A. I don't remember.
10:23:52 19 Q. Did you give any instructions
10:23:54 20 about you didn't want anybody contacting you
10:23:58 21 concerning the case --
10:23:58 22 A. No.
10:23:59 23 Q. -- other than them?
10:24:00 24 A. No.
10:24:01 25 Q. You did not do that?

10:24:02 1 A. No.
10:24:03 2 Q. Now, in your testimony yesterday,
10:24:13 3 you mentioned at one point that you thought
10:24:16 4 you'd be the owner of the landfill, remember
10:24:18 5 that?
10:24:19 6 A. Oh, yeah.
10:24:19 7 Q. Who told you that?
10:24:22 8 A. My father, Uncle Alcine and Horace
10:24:28 9 Boesch.
10:24:28 10 Q. And that didn't happen, right?
10:24:32 11 A. Nope.
10:24:32 12 Q. And I sensed a little
10:24:35 13 disappointment or maybe even bitterness on your
10:24:37 14 part with respect to that, is that true?
10:24:39 15 A. Could be.
10:24:40 16 Q. And why is that?
10:24:41 17 A. I gave up a lot through my life
10:24:46 18 for that particular thing, so --
10:24:50 19 Q. Well, did they prevent you from
10:24:53 20 becoming the owner?
10:24:53 21 A. No.
10:24:53 22 Q. Did they refuse to grant you any
10:24:57 23 kind of ownership interest?
10:24:59 24 A. Did they grant me?
10:25:00 25 Q. Did they refuse to give you any

10:25:03 1 kind of ownership in the landfill or the
10:25:03 2 business?
10:25:05 3 A. Oh, no. No. No.
10:25:05 4 Q. Why didn't you become the owner?
10:25:11 5 A. I wanted to be a carpenter.
10:25:17 6 Q. And you went on and pursued that
10:25:19 7 career?
10:25:19 8 A. Correct.
10:25:20 9 Q. Did you become, in fact, a union
10:25:23 10 carpenter or joiner?
10:25:24 11 A. Not a union, no.
10:25:26 12 Q. Did you go through any kind of
10:25:28 13 apprenticeship or training in that regard?
10:25:31 14 A. No.
10:25:32 15 Q. Kind of self taught?
10:25:33 16 A. Correct.
10:25:34 17 Q. At any point, including up to now,
10:25:46 18 did you have any ownership interest in the
10:25:49 19 landfill?
10:25:55 20 A. Just word of mouth possibly.
10:25:58 21 Q. And what do you mean by that, sir?
10:26:01 22 A. After my father passed away, my
10:26:03 23 stepmom talked to me about the situation.
10:26:09 24 Q. Did you have any ownership
10:26:12 25 interest in the business as opposed to the

10:26:14 1 landfill?
10:26:14 2 A. No.
10:26:15 3 Q. You were an heir to your father's
10:26:19 4 estate, correct?
10:26:19 5 A. Correct.
10:26:20 6 Q. And the landfill passed to his
10:26:22 7 estate?
10:26:24 8 A. Pardon me?
10:26:25 9 Q. And the landfill passed to his
10:26:27 10 estate upon his death, correct?
10:26:30 11 A. To be -- be more specific, it was
10:26:35 12 his property, not the dump. The dump had
10:26:39 13 no -- well, how -- connection to my father.
10:26:46 14 Q. The real property upon which the
10:26:48 15 dump sat passed into your father's estate,
10:26:51 16 right?
10:26:51 17 A. Correct, and Horace Boesch.
10:26:54 18 Q. Okay. Thank you.
10:27:04 19 A. May I say something else?
10:27:05 20 Q. No.
10:27:07 21 A. Okay.
10:27:08 22 Q. Sir, you understand -- I'm going
10:27:26 23 to withdraw that. Has anybody made any
10:27:29 24 promises to you in exchange for your testimony?
10:27:33 25 A. No.

10:27:33 1 Q. Either now or in 2012?
10:27:34 2 A. No.
10:27:35 3 Q. Anybody make any threats or
10:27:40 4 inducements to you concerning your testimony
10:27:42 5 now or before?
10:27:43 6 A. No.
10:27:43 7 Q. Did you feel under any duress by
10:27:47 8 anybody concerning what you should say in your
10:27:49 9 testimony?
10:27:49 10 A. No.
10:27:49 11 Q. Did you make any deals or
10:27:53 12 agreements with anybody about what your
10:27:55 13 testimony would or should be?
10:27:57 14 A. No.
10:27:57 15 Q. Did you ever receive any
10:28:01 16 instructions from anybody as to how you should
10:28:05 17 testify?
10:28:05 18 A. No.
10:28:06 19 Q. Did anybody ever tell you that you
10:28:08 20 should be sure to say something or not to say
10:28:11 21 something in particular during your
10:28:12 22 depositions?
10:28:13 23 A. No.
10:28:14 24 Q. Sir, now you understand that your
10:28:40 25 deposition is being taken now as opposed to

10:28:43 1 some other point in this case because the
10:28:45 2 plaintiffs' lawyers have told the Court that
10:28:48 3 they are concerned that your health is so
10:28:52 4 fragile that your death may be imminent. Were
10:28:55 5 you aware of that?
10:28:55 6 A. I think I said that, yesterday.
10:28:57 7 Q. You did?
10:28:57 8 A. Yes.
10:28:58 9 Q. And I think you indicated that
10:29:05 10 your pancreatitis is responding to the
10:29:05 11 medications you're taking?
10:29:07 12 A. I believe so, other than today.
10:29:10 13 Q. I'm sorry, did you say other than
10:29:11 14 today?
10:29:11 15 A. Other than today.
10:29:12 16 Q. And you turned 61 last month, was
10:29:14 17 it?
10:29:15 18 A. 62.
10:29:16 19 Q. 62?
10:29:17 20 A. Yeah.
10:29:17 21 Q. Sir, has any licensed health
10:29:21 22 professional told you at any time in the last
10:29:25 23 year that you have a terminal illness?
10:29:27 24 A. No.
10:29:28 25 Q. Has any licensed health

10:29:30 1 professional told you that you are in imminent
10:29:33 2 danger of death?
10:29:35 3 A. No.
10:29:35 4 Q. Now, you mentioned yesterday that
10:29:36 5 you felt like, you know, you have a sense of
10:29:40 6 something that you may be dying?
10:29:41 7 A. Right, um-hum.
10:29:42 8 Q. Has any licensed health
10:29:44 9 professional confirmed that sense to you?
10:29:46 10 A. No.
10:29:51 11 Q. Did you receive any instructions
10:29:53 12 from any health professional not to travel?
10:29:57 13 A. No.
10:29:58 14 Q. Did you receive any instructions
10:29:59 15 from any health professional not to testify
10:30:02 16 today?
10:30:02 17 A. No.
10:30:03 18 Q. Do you plan on traveling back to
10:30:06 19 North Carolina in the new year?
10:30:08 20 A. I'm not sure.
10:30:10 21 Q. What are your travel plans after
10:30:12 22 the holidays?
10:30:13 23 A. I'm not sure.
10:30:15 24 Q. Well, what are you contemplating?
10:30:17 25 MR. ROMINE: Asked and answered.

10:30:20 1 THE WITNESS: At this time, I'm not
10:30:21 2 sure.
10:30:21 3 BY MR. COUGHLIN:
10:30:22 4 Q. Where do you plan on being in the
10:30:23 5 month of January?
10:30:24 6 MR. ROMINE: Asked and answered.
10:30:24 7 THE WITNESS: I'm not sure.
10:30:25 8 BY MR. COUGHLIN:
10:30:26 9 Q. Where are possible places where
10:30:28 10 you would be in January as a matter of course?
10:30:31 11 MR. ROMINE: Asked and answered.
10:30:32 12 THE WITNESS: Ohio, Michigan or North
10:30:35 13 Carolina or Florida.
10:30:35 14 BY MR. COUGHLIN:
10:30:36 15 Q. Okay. And do you have residences
10:30:38 16 in each of those states?
10:30:41 17 A. No.
10:30:41 18 Q. Where would you stay in Florida?
10:30:44 19 A. People I've done work for.
10:30:48 20 Q. And where is that located in
10:30:51 21 Florida?
10:30:51 22 A. Marco Beach -- Marco Island. Snow
10:30:57 23 Hill, North Carolina. Ypsilanti, Michigan, and
10:31:02 24 Dayton, Ohio.
10:31:03 25 Q. The same people have properties in

10:31:06 1 each -- and I think I'm misunderstanding. Who
10:31:09 2 is it you would stay with at Marco?
10:31:10 3 MR. ROMINE: Objection. Beyond the
10:31:12 4 scope of the direct. Beyond the scope of Judge
10:31:14 5 Rice's guidelines for this deposition.
10:31:15 6 THE WITNESS: What, do I answer?
10:31:17 7 BY MR. COUGHLIN:
10:31:17 8 Q. Yeah, you can -- you can point the
10:31:18 9 laugh box at that. Where would you -- where
10:31:22 10 would you be if you went down to Marco?
10:31:24 11 A. A doctor friend of mine is a
10:31:30 12 doctor here in Dayton, his property down there.
10:31:32 13 Q. What's his name?
10:31:33 14 MR. ROMINE: Objection. Beyond the
10:31:35 15 scope of the direct. Beyond the scope of Judge
10:31:38 16 Rice's guidelines for this deposition.
10:31:38 17 BY MR. COUGHLIN:
10:31:38 18 Q. What's his name, sir?
10:31:39 19 A. Al Samkari.
10:31:41 20 Q. Could you spell that, please, or
10:31:42 21 something close to it?
10:31:43 22 MR. ROMINE: Same objection.
10:31:43 23 BY MR. COUGHLIN:
10:31:43 24 Q. Samkari?
10:31:46 25 A. A L, S A M C A R I (sic), I think.

10:31:48 1 Q. And he's a physician practicing in
10:31:50 2 Dayton?
10:31:50 3 MR. ROMINE: Objection. Relevance.
10:31:52 4 Beyond the scope of the direct. Beyond the scope
10:31:54 5 of Judge Rice's guidelines for this deposition.
10:31:56 6 BY MR. COUGHLIN:
10:31:58 7 Q. He's a physician practicing in
10:31:59 8 Dayton?
10:31:59 9 A. Yes.
10:31:59 10 MR. ROMINE: Same objection.
10:32:00 11 BY MR. COUGHLIN:
10:32:00 12 Q. And when you mentioned -- what was
10:32:03 13 the name of the city in North Carolina, I
10:32:04 14 forgot?
10:32:04 15 MR. ROMINE: Same objection.
10:32:05 16 THE WITNESS: Snow Hill.
10:32:05 17 BY MR. COUGHLIN:
10:32:06 18 Q. That's where you were staying
10:32:07 19 before where you --
10:32:07 20 A. Correct.
10:32:08 21 MR. ROMINE: Objection. Beyond the
22 scope --
23 BY MR. COUGHLIN:
24 Q. And then what is the property in
25 Michigan?

(Thereupon, the court reporter interrupted the proceedings.)

10:32:13 MR. ROMINE: Beyond the scope of the direct. Beyond the scope of Judge Rice's guidelines for this deposition.

10:32:15 BY MR. COUGHLIN:

10:32:16 Q. And who is it you'd be staying with in Michigan?

10:32:18 MR. ROMINE: Objection. Beyond the scope of the direct. Beyond the scope of Judge Rice's guidelines for this deposition. Relevance.

10:32:23 THE WITNESS: A woman that I had done work.

10:32:25 BY MR. COUGHLIN:

10:32:25 Q. And what's her name?

10:32:25 MR. ROMINE: Objection. Beyond the scope of the direct. Beyond the scope of Judge Rice's guidelines for this deposition. Relevance.

10:32:30 BY MR. COUGHLIN:

10:32:30 Q. And what's her name, sir?

10:32:33 MR. ROMINE: Objection. Beyond the scope of the direct. Beyond the scope of Judge Rice's guidelines for this deposition.

10:32:37 BY MR. COUGHLIN:

10:32:37 Q. You -- you may answer.

10:32:38 1 MR. ROMINE: Relevance.
10:32:38 2 BY MR. COUGHLIN:
10:32:39 3 Q. No, we understand that Mr. Romine
10:32:40 4 is simply trying to overtalk both you and me,
10:32:43 5 but at some point or another, you'll be free to
10:32:45 6 answer that question, so when you're ready,
10:32:47 7 please do.
10:32:47 8 A. Okay.
10:32:49 9 Q. And is -- and her name, sir?
10:32:51 10 A. Let's not be inappropriate to her,
10:32:51 11 because --
10:32:52 12 Q. Yes, the -- Barb is working hard.
10:32:55 13 A. Okay. Carol Smith is her name.
10:32:56 14 Q. And where is she located?
10:32:58 15 MR. ROMINE: Same objection.
10:32:59 16 THE WITNESS: Ypsilanti, Michigan.
10:33:15 17 MR. EDDY: Mr. Grillot, if you could
10:33:16 18 kind of keep your voice up. It's a little hard
10:33:18 19 for us down here to hear you sometimes, especially
10:33:21 20 with the back and forth here.
10:33:21 21 THE WITNESS: Sure. Okay.
10:33:22 22 MR. EDDY: So when you answer, if you
10:33:24 23 could try to keep your voice up, it would be
10:33:27 24 greatly appreciated.
10:33:27 25 THE WITNESS: I'll do that.

10:33:28 1 MR. EDDY: Thank you.
10:33:28 2 THE WITNESS: Um-hum.
10:33:29 3 BY MR. COUGHLIN:
10:33:29 4 Q. Sir, do you have any military
10:33:31 5 service?
10:33:31 6 MR. ROMINE: Same objection.
10:33:31 7 THE WITNESS: No, I don't.
10:33:32 8 BY MR. COUGHLIN:
10:33:33 9 Q. Did you -- since you turned
10:33:35 10 roughly 18 in 1970, did you register with the
10:33:38 11 Selective Service of the United States?
10:33:40 12 MR. ROMINE: Same objection.
10:33:40 13 THE WITNESS: No.
10:33:41 14 BY MR. COUGHLIN:
10:33:41 15 Q. You did not?
10:33:41 16 A. No.
10:33:42 17 Q. Why not?
10:33:43 18 MR. ROMINE: Same objection.
10:33:44 19 THE WITNESS: I don't know.
10:33:45 20 BY MR. COUGHLIN:
10:33:51 21 Q. Now, you mentioned in your prior
10:33:53 22 deposition that you had a history of alcohol
10:33:55 23 abuse and psychiatric treatment. Do you
10:33:58 24 remember that testimony?
10:33:59 25 A. Correct.

10:34:00 1 Q. Sir, you indicated that you have
10:34:05 2 not been drinking since 2008, correct?
10:34:08 3 A. Correct.
10:34:08 4 Q. And is that still the case?
10:34:11 5 A. Correct.
10:34:11 6 Q. In your prior testimony, sir, you
10:34:16 7 indicated that you had two felony convictions,
10:34:18 8 one relating to a drug offense and one relating
10:34:20 9 to domestic violence.
10:34:22 10 A. Correct.
10:34:22 11 Q. Did the drug conviction involve
10:34:25 12 any intent to distribute?
10:34:27 13 A. No.
10:34:28 14 Q. And, I'm sorry, I don't remember
10:34:44 15 if I asked this. Have you had any convictions,
10:34:46 16 criminal convictions, of any sort since your
10:34:49 17 last testimony --
10:34:50 18 A. No.
10:34:50 19 Q. -- in 2012? Are there any
10:34:52 20 criminal charges pending against you anywhere,
10:34:55 21 to your knowledge?
10:34:55 22 A. No.
10:34:56 23 Q. Now, sir, you're aware that in
10:35:03 24 this case, NCR and a company that is a
10:35:09 25 successor to Dayton-Walther and a company --

10:35:14 1 and Hobart are the plaintiffs that brought the
10:35:16 2 lawsuit in which you're testifying now --
10:35:18 3 MR. ROMINE: Objection.
10:35:18 4 BY MR. COUGHLIN:
10:35:19 5 Q. -- do you understand that?
10:35:19 6 A. Yes, I do.
10:35:19 7 MR. ROMINE: Objection. It goes
10:35:19 8 beyond --
10:35:19 9 THE WITNESS: Yes, I do.
10:35:21 10 MR. ROMINE: -- the scope of what the
10:35:22 11 judge said. Objection.
12 BY MR. COUGHLIN:
13 Q. Are you trying to -- are you
14 trying to talk over Mr. Romine?
15 A. I was trying to help them here.
16 (Thereupon, the court reporter
17 interrupted the proceedings.)
10:35:32 18 MR. ROMINE: It goes beyond the scope
10:35:33 19 of the direct. It goes beyond the scope of what
10:35:36 20 Judge Rice ordered for this deposition.
10:35:38 21 MR. EDDY: May I make a suggestion?
10:35:38 22 MR. COUGHLIN: Sure.
10:35:39 23 MR. EDDY: And probably should have
10:35:41 24 made it yesterday. Sometimes the witness has a
10:35:44 25 tendency to speak immediately upon a question mark

10:35:50 1 at the end of a statement, and it might be helpful
10:35:54 2 if the witness pause for just a moment before
10:35:57 3 attempting to answer so that if Mr. Romine wants
10:36:00 4 to make an objection, he can start it, get it over
10:36:04 5 with before you start your answer, but when he
10:36:06 6 stops his objection, you are then allowed to
10:36:08 7 answer.
10:36:09 8 THE WITNESS: I'll try that.
10:36:10 9 MR. EDDY: All right. That might
10:36:11 10 help.
10:36:12 11 MR. SHARETT: I'm sorry, this is
10:36:13 12 Anthony Sharett on behalf of DP&L. Whoever was
10:36:16 13 just speaking, the people on the telephone could
10:36:18 14 not hear a word of that.
10:36:18 15 MR. COUGHLIN: Well, we have --
10:36:21 16 Anthony, what we have is a working understanding
10:36:22 17 among the witness and the lawyers that Mr. Grillot
10:36:26 18 is going to try to pause at the end of my question
10:36:29 19 and other lawyers' questions, and then to allow
10:36:33 20 Mr. Romine to make his objection or not, and then
10:36:37 21 at the conclusion of the objection, if there is
10:36:41 22 one, proceed with his answer.
10:36:41 23 BY MR. COUGHLIN:
10:36:42 24 Q. Does that work for you, Mr.
10:36:44 25 Grillot?

10:36:44 1 A. Now I'm confused.
10:36:46 2 Q. Well, I was afraid of that. How
10:36:48 3 about if you let the lawyer, like me, answer
10:36:52 4 the question -- ask the question.
10:36:53 5 A. Okay.
10:36:53 6 Q. Then somebody may or may not
10:36:55 7 object, you never know.
10:36:56 8 A. Okay.
10:36:57 9 Q. And then when that objection is
10:37:00 10 done, proceed with your answer. Is that okay
10:37:04 11 with you?
10:37:04 12 A. Yes.
10:37:05 13 Q. Thank you. Now, before we took
10:37:09 14 that helpful break, you indicated that you were
10:37:13 15 aware that NCR and a successor to
10:37:17 16 Dayton-Walther and Hobart are plaintiffs in the
10:37:20 17 action in which you are testifying, correct?
10:37:23 18 MR. ROMINE: Same objection.
10:37:24 19 THE WITNESS: Yes.
10:37:25 20 BY MR. COUGHLIN:
10:37:25 21 Q. And you understand they're the
10:37:31 22 ones who brought the lawsuit in which you are
10:37:33 23 testifying?
10:37:33 24 MR. ROMINE: Asked and answered.
10:37:34 25 Same objection.

10:37:36 1 THE WITNESS: Yes.
10:37:36 2 BY MR. COUGHLIN:
10:37:37 3 Q. And -- Bob, that was very helpful.
10:37:42 4 And if I heard correctly yesterday, it was your
10:37:49 5 testimony that you were not aware that
10:37:52 6 Dayton-Walther was a major customer of the
10:37:55 7 South Dayton Dump?
10:37:58 8 A. Could you repeat, please?
10:38:01 9 Q. Did you say yesterday that South
10:38:03 10 Dayton -- that withdrawn. Did you say
10:38:06 11 yesterday that Dayton-Walther was not, to your
10:38:10 12 memory, a major customer of the South Dayton
10:38:16 13 Dump?
10:38:16 14 A. I don't think so.
10:38:17 15 Q. What do you recall is -- involving
10:38:21 16 Walther -- Dayton-Walther's involvement with
10:38:23 17 the South Dayton Dump?
10:38:25 18 A. I'm still confused about that.
10:38:27 19 Q. In what way, sir?
10:38:29 20 A. Because the -- the last of the
10:38:33 21 three, I don't recognize the name. I know it
10:38:36 22 by -- or I don't -- I'm not sure if it's the
10:38:40 23 name connected to the Walther Corporation or
10:38:45 24 not at this point.
10:38:47 25 Q. You're unclear about who or what

10:38:50 1 Walther is?
10:38:50 2 A. No, the -- the name that's
10:38:53 3 indicated on the third party, does not have the
10:39:02 4 name that I would relate to.
10:39:04 5 Q. Is that Kelsey-Hayes or TRW?
10:39:08 6 A. Kelsey-Hayes, I think.
10:39:09 7 Q. You don't recognize?
10:39:10 8 A. Kelsey-Hayes, I don't think.
10:39:12 9 Q. Okay. What is your understanding
10:39:14 10 of who or what Dayton-Walther was in relation
10:39:17 11 to the South Dayton Dump?
10:39:21 12 A. Please rephrase the question
10:39:22 13 again.
10:39:22 14 Q. What is your understanding of what
10:39:25 15 Dayton-Walther -- Walther's involvement was
10:39:28 16 with the South Dayton Dump?
10:39:30 17 MR. ROMINE: Same objection as before
10:39:31 18 and also vague.
10:39:32 19 THE WITNESS: Friends of the family,
10:39:35 20 and they would dump -- they brought waste, stuff
10:39:42 21 to the dump.
10:39:43 22 BY MR. COUGHLIN:
10:39:43 23 Q. What did they bring to the dump?
10:39:44 24 MR. ROMINE: Same objection as
10:39:45 25 before.

10:39:46 1 THE WITNESS: I don't recall.
10:39:49 2 BY MR. COUGHLIN:
10:39:49 3 Q. Were they a large customer of the
10:39:49 4 dump?
10:39:51 5 A. Pardon me?
10:39:51 6 Q. Were they a large customer of the
10:39:51 7 dump?
10:39:54 8 A. Oh, no. No.
10:39:55 9 Q. Were they a regular customer of
10:39:55 10 the dump?
10:39:57 11 A. No.
10:39:57 12 Q. Is Hobart a name that you recall
10:40:04 13 associated with the dump?
10:40:05 14 MR. ROMINE: Same objection as
10:40:07 15 before.
10:40:07 16 THE WITNESS: Yes.
10:40:08 17 BY MR. COUGHLIN:
10:40:08 18 Q. Hobart was a customer of the dump?
10:40:11 19 A. Yes.
10:40:11 20 MR. ROMINE: Same objection.
10:40:11 21 BY MR. COUGHLIN:
10:40:12 22 Q. Did you view them to be a large
10:40:13 23 customer of the dump?
10:40:14 24 MR. ROMINE: Same objection.
10:40:15 25 THE WITNESS: No.

10:40:16 1 BY MR. COUGHLIN:
10:40:16 2 Q. What did they bring to the dump?
10:40:22 3 A. I can't recall.
10:40:27 4 Q. And, of course, you remember NCR
10:40:29 5 was a large customer of the dump, correct?
10:40:31 6 A. Yes.
10:40:32 7 Q. Now, how was Dayton -- withdraw
10:40:36 8 that. How is somebody from Dayton-Walther a
10:40:38 9 friend of your family? What was the
10:40:41 10 relationship?
10:40:43 11 A. His son was a race car driver for
10:40:46 12 the Indy 500, and my father had a fireworks
10:40:52 13 business and Dad would provide fireworks for
10:40:56 14 displays after a big show at their house or
10:41:01 15 stuff like that.
10:41:01 16 Q. What was the son's name?
10:41:04 17 A. Salt.
10:41:04 18 Q. Pardon me?
10:41:05 19 A. Salt Walther.
10:41:06 20 Q. Saul?
10:41:07 21 A. Salt, like salt.
10:41:07 22 Q. Salt, as in salt and pepper,
10:41:07 23 Walther?
10:41:10 24 A. Um-hum.
10:41:11 25 Q. Is he still alive, sir?

10:41:12 1 A. I don't know.
10:41:13 2 Q. When's the last time you saw him?
10:41:16 3 A. I have never really seen him
10:41:19 4 personally.
10:41:36 5 MR. COUGHLIN: Glenn or Jay, do you
10:41:39 6 have anything?
10:41:39 7 MR. DICKERSON: No follow-up. Thank
10:41:39 8 you.
10:41:41 9 MR. COUGHLIN: Glenn, anything you'd
10:41:42 10 like to follow up with on that, if Glenn Harris is
10:41:47 11 on the line still?
10:41:50 12 MR. HARRIS: Oh, yes, he is, and I
10:41:51 13 don't have any follow-up. Thanks.
10:41:54 14 MR. COUGHLIN: Pass the witness.
10:41:56 15 MR. ROMINE: Can I do my redirect on
10:41:58 16 this or do you want to wait until the end?
10:42:01 17 MR. COUGHLIN: We -- we discussed
10:42:02 18 that during a break and thought it -- although
10:42:03 19 it's going to mess up some schedules for people on
10:42:06 20 travel, it probably makes more sense to just do
10:42:08 21 all that at the end. Is that okay with you?
10:42:10 22 MR. ROMINE: That's fine with me.
10:42:13 23 MR. COUGHLIN: Thank you, sir.
10:42:14 24 THE WITNESS: You're welcome.
10:42:14 25 (Interruption in proceedings.)

10:42:14 1 (Thereupon, an off-the-record
10:42:14 2 discussion was had.)
10:42:40 3 MR. COUGHLIN: Okay. There are no
10:42:41 4 questions for me or the witness? Then we're
10:42:44 5 passing the witness to the next questioner. Thank
10:42:47 6 you.
10:42:47 7 CROSS-EXAMINATION
10:43:08 8 BY MR. COLLIER:
10:43:08 9 Q. Mr. Grillot, my name is Orla
10:43:08 10 Collier. I'm with the law firm of Benesch,
10:43:13 11 Friedlander, Coplan and Aronoff, and I
10:43:14 12 represent L.M. Berry Company, and my
10:43:16 13 questioning will be limited to that company.
10:43:17 14 A. Okay. Thank you.
10:43:20 15 Q. And in the course of my
10:43:22 16 questioning, I would like to elicit your direct
10:43:25 17 knowledge. I don't want an -- an understanding
10:43:28 18 maybe what -- from what somebody told you. I
10:43:31 19 want your own testimony from your own personal
10:43:34 20 knowledge, things that you observed.
10:43:35 21 A. Okay.
10:43:35 22 Q. And if you need to go beyond that,
10:43:37 23 then we'll deal with that as the questioning
10:43:39 24 progresses, but the thrust of my questioning is
10:43:41 25 solely on your personal knowledge and

10:43:43 1 involvement with this landfill --
10:43:44 2 A. Correct.
10:43:44 3 Q. -- okay? All right.
10:43:47 4 MR. COLLIER: And for purposes of the
10:43:49 5 record, I'm taking this -- I'm doing this
10:43:51 6 examination as if on cross-examination.
10:43:51 7 BY MR. COLLIER:
10:44:01 8 Q. I want to start with your work
10:44:06 9 experience, and as I understand it, while you
10:44:12 10 did some part-time work at the landfill, did
10:44:15 11 you ever become a full-time employee?
10:44:19 12 A. I -- I was led to believe I was a
10:44:21 13 full-time employee.
10:44:23 14 Q. Over what period of time?
10:44:28 15 A. From '60 to '69.
10:44:34 16 Q. 1960 to 1969?
10:44:36 17 A. Right.
10:44:36 18 Q. Now, 1960, as you've testified
10:44:39 19 before in this deposition, you were in school,
10:44:43 20 you were eight years old?
10:44:44 21 A. Right.
10:44:45 22 Q. Well, how old were you then, eight
10:44:50 23 years old?
10:44:51 24 A. Eight, something like that.
10:44:52 25 Q. Okay. And did you consider

10:44:57 1 yourself a full-time employee when you were
10:44:58 2 eight years old?
10:45:00 3 A. Made a dollar a day, yep.
10:45:01 4 Q. Okay. You were also going to
10:45:04 5 school, I hope, full-time?
10:45:06 6 A. When I couldn't get out of it,
10:45:10 7 yeah.
10:45:10 8 Q. And I believe in terms of
10:45:12 9 chronology, you had quit school when you were
10:45:15 10 16?
10:45:15 11 A. Correct.
10:45:16 12 Q. And you were in the 9th grade at
10:45:16 13 that time?
10:45:16 14 MR. ROMINE: I'm going to object to
10:45:18 15 this line of questioning on the ground that it
10:45:20 16 rehashes testimony from 2012, which is beyond the
10:45:23 17 scope of Judge Rice's order.
10:45:25 18 THE WITNESS: Correct.
10:45:26 19 BY MR. COLLIER:
10:45:26 20 Q. All right. And were you a
10:45:28 21 full-time student between the ages of eight and
10:45:28 22 16?
10:45:31 23 MR. ROMINE: Same objection.
10:45:36 24 THE WITNESS: Tried to be.
10:45:36 25 BY MR. COLLIER:

10:45:36 1 Q. Okay. Do you know whether the
10:45:41 2 South Dayton Landfill was a corporation or
10:45:44 3 partnership or any kind of legal entity?
10:45:48 4 A. I don't know.
10:45:49 5 Q. You were not an officer of that
10:45:51 6 corporation at any time, were you?
10:45:53 7 A. No.
10:45:54 8 Q. You were not a director of South
10:45:57 9 Dayton Landfill?
10:45:57 10 A. No.
10:45:58 11 Q. You were not in management?
10:46:01 12 A. No.
10:46:01 13 Q. What were your job duties between
10:46:05 14 the time you were eight and the time you were
10:46:07 15 16?
10:46:08 16 MR. ROMINE: Same objection.
10:46:12 17 THE WITNESS: You want a description
10:46:13 18 or just --
10:46:14 19 BY MR. COLLIER:
10:46:14 20 Q. What -- did you have a title or a
10:46:16 21 job description?
10:46:19 22 A. Salvage man.
10:46:20 23 Q. Salvage man.
10:46:22 24 A. (Witness nodding head up and
10:46:22 25 down.)

10:46:22 1 Q. Now, from 1969 to 1970 and during
10:46:28 2 that period, you left the dump, did you not, as
10:46:32 3 far as being a full-time employee?
10:46:33 4 A. Full-time, yes.
10:46:34 5 Q. All right. And you, as you
10:46:37 6 testified previously, went to work for other
10:46:39 7 entities?
10:46:39 8 A. Correct.
10:46:39 9 Q. From time to time, weekends or
10:46:42 10 evenings, you may have been at the dump, but
10:46:45 11 you did not consider yourself a full-time
10:46:49 12 employee?
10:46:49 13 MR. ROMINE: Same objection.
10:46:50 14 THE WITNESS: Correct.
10:46:50 15 BY MR. COLLIER:
10:46:53 16 Q. All right. Now, during this
10:46:54 17 period -- and I don't really want to focus on
10:46:56 18 what you've referred to as the '60s and I'm --
10:47:00 19 what I'm going to define is the period from
10:47:04 20 1960 to 1969.
10:47:04 21 A. Okay.
10:47:04 22 Q. All right. In terms of fixing
10:47:06 23 certain events, you testified that an
10:47:10 24 incinerator was installed at the dump in 1969
10:47:12 25 or thereabouts?

10:47:14 1 A. Somewhere abouts (sic), yeah.
10:47:15 2 Q. Okay. And was there any kind of
10:47:18 3 incinerator before that period of time?
10:47:20 4 A. No.
10:47:20 5 Q. All right. But the dump itself
10:47:22 6 had always been a burning dump, isn't that
10:47:25 7 true?
10:47:25 8 A. Correct.
10:47:25 9 Q. That is, any -- anything that
10:47:27 10 could be burned was burned prior to disposal?
10:47:30 11 A. Correct.
10:47:30 12 Q. All right. And at this site,
10:47:35 13 there were other operations, recycling
10:47:37 14 operations, weren't there?
10:47:39 15 A. Correct.
10:47:39 16 Q. So some material would be recycled
10:47:42 17 and never dumped at the site, isn't that true?
10:47:44 18 MR. ROMINE: Same objection.
10:47:46 19 THE WITNESS: We would have to be
10:47:47 20 more specific on --
10:47:48 21 BY MR. COLLIER:
10:47:48 22 Q. Well, for -- you mentioned
10:47:50 23 predominantly skids were recycled and never
10:47:53 24 disposed of at the site.
10:47:54 25 A. But what I'm saying is, it was

10:47:55 1 dumped, but after it was dumped, then it was --
10:47:55 2 Q. Okay.
10:47:59 3 A. -- then it was separated.
10:48:00 4 Q. Okay. And one thing I want to
10:48:02 5 focus on is the difference between transport to
10:48:04 6 the site and actual disposal in the landfill.
10:48:07 7 I want to be clear about that, okay?
10:48:09 8 A. Right.
10:48:09 9 Q. Okay. But there was some
10:48:12 10 materials that were actually transported to the
10:48:13 11 site that were never disposed of at the
10:48:16 12 landfill?
10:48:17 13 A. Correct.
10:48:17 14 Q. Okay. Now, you mentioned skids
10:48:23 15 and papers being a couple of examples of that,
10:48:23 16 correct?
10:48:27 17 MR. ROMINE: Same objection.
10:48:29 18 THE WITNESS: Speaking of L.M. Berry
10:48:31 19 or are we speaking in general?
10:48:31 20 BY MR. COLLIER:
10:48:31 21 Q. We're speaking generally at this
10:48:33 22 point.
10:48:33 23 MR. ROMINE: Same objection.
10:48:34 24 THE WITNESS: Yes.
10:48:34 25 BY MR. COLLIER:

10:48:38 1 Q. All right. Now, I'd like to ask
10:48:39 2 you about where you lived during this period of
10:48:42 3 time. Did you live in the Dayton area?
10:48:44 4 A. Yes, I did.
10:48:45 5 Q. Between 1960 and 1969?
10:48:47 6 A. Correct.
10:48:47 7 Q. At what point did you leave the
10:48:49 8 Dayton area?
10:48:51 9 A. I didn't leave Dayton till '04. I
10:48:59 10 think '04 or '05.
10:48:59 11 Q. All right. At one point in time,
10:49:02 12 the South Dayton Dump ceased acceptance of
10:49:05 13 waste, isn't that correct?
10:49:07 14 A. To my knowledge.
10:49:08 15 Q. All right. And do you know when
10:49:09 16 that was?
10:49:10 17 MR. ROMINE: Same objection.
10:49:11 18 THE WITNESS: No.
10:49:12 19 BY MR. COLLIER:
10:49:13 20 Q. Was the South Dayton Dump ever a
10:49:15 21 licensed facility, to your knowledge?
10:49:18 22 A. I don't know.
10:49:18 23 Q. Don't know if it was licensed as a
10:49:21 24 solid waste facility?
10:49:22 25 MR. ROMINE: Asked and answered.

10:49:23 1 THE WITNESS: I don't know.
10:49:24 2 BY MR. COLLIER:
10:49:24 3 Q. Or a --
10:49:25 4 A. I don't know.
10:49:26 5 Q. Was it licensed as a hazardous
10:49:28 6 waste facility?
10:49:30 7 MR. ROMINE: Asked and answered.
10:49:30 8 THE WITNESS: I don't know.
10:49:30 9 BY MR. COLLIER:
10:49:30 10 Q. Was it licensed in any respect as
10:49:32 11 a recycling facility?
10:49:34 12 A. I don't know.
10:49:34 13 Q. Okay. In your deposition earlier
10:49:50 14 in this round, I think it was yesterday, you
10:49:54 15 did talk about L.M. Berry Company, did you not?
10:49:56 16 A. I did.
10:49:57 17 Q. All right. And you talked about
10:50:01 18 old phone books, remember that testimony?
10:50:03 19 A. Yes, sir.
10:50:04 20 Q. All right. I want to focus now
10:50:07 21 just on the phone books and not the source of
10:50:11 22 who may have transported the phone books.
10:50:13 23 A. Okay.
10:50:13 24 Q. All right. The old phone books,
10:50:18 25 do you know on how many occasions you

10:50:20 1 personally observed phone books being
10:50:22 2 transported to the facility?
10:50:26 3 A. Within a year to ten -- nine,
10:50:31 4 ten years of my -- what we're speaking of or
10:50:34 5 what?
10:50:34 6 Q. Whenever you recall, the 1960 or
10:50:39 7 1969 or periodically thereafter.
10:50:41 8 A. I forgot the question.
10:50:42 9 Q. Can you tell me the dates of
10:50:46 10 transport of phone books to the facility?
10:50:48 11 A. The dates?
10:50:49 12 Q. Yeah.
10:50:50 13 A. I'll stick with the '60s to '69.
10:50:54 14 Q. All right. '60 to '69?
10:50:57 15 A. Yeah.
10:50:57 16 Q. All right. And you personally
10:50:58 17 observed these transport of phone books?
10:51:05 18 A. Some of the time.
10:51:06 19 Q. Some of the time?
10:51:07 20 A. (Nodding head up and down.)
10:51:07 21 Q. Can you identify what dates of
10:51:10 22 shipment you actually observed phone books
10:51:12 23 being transported to the facility?
10:51:17 24 A. '65, '66, maybe '67.
10:51:19 25 Q. 1965, 1966 and 1967?

10:51:24 1 A. Right.
10:51:24 2 Q. And you testified in your
10:51:27 3 deposition here that you thought those
10:51:29 4 shipments occurred in March or April?
10:51:33 5 A. Somewhere maybe the beginning of
10:51:35 6 summer, but I thought it was springtime, but,
10:51:37 7 you know.
10:51:38 8 Q. Well, now, March or April, you
10:51:41 9 thought it was in the springtime?
10:51:43 10 A. Right.
10:51:43 11 Q. But you can't be any more
10:51:48 12 definitive?
10:51:48 13 A. No.
10:51:48 14 Q. All right. Isn't it true in your
10:51:52 15 deposition in 2012, you thought those shipments
10:51:55 16 occurred in January or February?
10:51:57 17 A. At this -- without dwelling on it
10:52:01 18 more because of previous knowledge of the phone
10:52:09 19 books, I haven't had a chance to make those
10:52:17 20 decisions at this point.
10:52:18 21 Q. So you can't say whether these
10:52:20 22 shipments in the period of time you described
10:52:22 23 were in January and February or March or April?
10:52:27 24 A. I can't at this point.
10:52:29 25 Q. All right. Now, these phone

10:52:31 1 books, were they White Pages or Yellow Pages or
10:52:36 2 some other form of phone book?
10:52:39 3 A. I think at that particular time
10:52:48 4 there was a White Pages, and then the -- the
10:52:51 5 Yellow Pages.
10:52:53 6 Q. Did these come in separate
10:52:56 7 shipments?
10:52:56 8 A. I don't remember.
10:52:59 9 Q. Can you -- and we'll start with
10:53:01 10 the White Pages. Can you identify the city for
10:53:05 11 which these White Pages would have been
10:53:07 12 published?
10:53:12 13 A. The surrounding area of Dayton.
10:53:15 14 Q. Can you be more specific? Do you
10:53:18 15 personally recollect any city for which these
10:53:21 16 White Pages referred?
10:53:22 17 A. There's a list of them. I mean,
10:53:25 18 do you want me to mention all of them?
10:53:26 19 Q. No. I'm asking you, as you
10:53:27 20 personally observed these shipments, what
10:53:31 21 cities were the Whites Page directories for?
10:53:34 22 A. Dayton.
10:53:35 23 Q. Dayton?
10:53:35 24 A. Yeah.
10:53:36 25 Q. Okay. Anything else? Any other

10:53:39 1 city?
10:53:40 2 A. No.
10:53:41 3 Q. And you're sure these White Pages
10:53:44 4 were from the City of Dayton?
10:53:46 5 A. Pretty sure.
10:53:47 6 Q. And were these shipments on
10:53:54 7 pallets?
10:53:54 8 A. No.
10:53:55 9 Q. And your testimony was these
10:54:03 10 shipments came in by truck, is that correct?
10:54:05 11 A. Correct.
10:54:06 12 Q. All right. But the trucks had no
10:54:08 13 markings?
10:54:09 14 A. Correct.
10:54:10 15 Q. Didn't identify L.M. Berry in any
10:54:13 16 respect?
10:54:13 17 A. No.
10:54:13 18 Q. All right. The -- the phone
10:54:18 19 books, starting with the White Pages, was there
10:54:20 20 any identification of L.M. Berry on these phone
10:54:23 21 books, to your personal recollection?
10:54:26 22 A. I'm not sure.
10:54:27 23 Q. What about the Yellow Pages, same
10:54:32 24 question?
10:54:32 25 A. Same -- same thing.

10:54:33 1 Q. Okay. All you know is there were
10:54:36 2 phone books shipped to the facility?
10:54:39 3 A. Correct.
10:54:40 4 Q. Now, at the time of these
10:54:52 5 shipments -- I think you said it was 1965 to
10:54:55 6 1968? 1965, '66 and '67?
10:55:01 7 A. Correct.
10:55:02 8 Q. Three shipments?
10:55:04 9 A. That I remember quite well, yes.
10:55:07 10 Q. Yes. Your -- again, your personal
10:55:09 11 knowledge.
10:55:09 12 A. Yes.
10:55:09 13 Q. Okay. At that time, you would
10:55:14 14 have been how old in 1965?
10:55:17 15 A. Let's see. 13, I think.
10:55:20 16 Q. 13?
10:55:21 17 A. 13, I think.
10:55:22 18 Q. 13. 14 in 1966 and 15 in 1967?
10:55:26 19 A. Yes.
10:55:27 20 Q. And your response was you were not
10:55:28 21 a full-time employee during that period or were
10:55:34 22 you?
10:55:34 23 MR. ROMINE: Asked and answered.
10:55:35 24 BY MR. COLLIER:
10:55:35 25 Q. You didn't quit school until 1968.

10:55:38 1 A. During the summertime. Full-time
10:55:40 2 during off school periods.
10:55:43 3 Q. Now, the actual operations were
10:55:46 4 under the supervision of Kenneth Grillot, isn't
10:55:50 5 that correct?
10:55:50 6 A. Correct.
10:55:52 7 Q. And the actual handling of the
10:55:53 8 accounting and invoicing was under Alcine's
10:55:56 9 responsibility?
10:55:57 10 A. Correct.
10:55:57 11 Q. And, again, you had no defined
10:55:59 12 duties with respect to either accounting or
10:56:02 13 processing and operations, you were in salvage?
10:56:05 14 A. Correct. Well, I did mention I
10:56:09 15 stapled these tickets -- these things here
10:56:13 16 together (indicating).
10:56:14 17 Q. Now, I'm going to focus on this
10:56:31 18 period, 1965 to 1967, which you can recall
10:56:36 19 shipments of phone books having been made. The
10:56:37 20 incinerator was not in operation during that
10:56:39 21 period of time.
10:56:43 22 A. Yes.
10:56:44 23 Q. That's correct?
10:56:45 24 A. Correct.
10:56:46 25 Q. All right. But there was still

10:56:48 1 burning at the facility?
10:56:50 2 A. Correct.
10:56:50 3 Q. Did you have -- did you personally
10:56:54 4 observe what happened to these annual shipments
10:56:56 5 in '65 through '67? Were the phone books
10:56:56 6 burnt?
10:57:01 7 A. No, no. The earlier years, yes,
10:57:06 8 but after I spoke about the two gentlemen that
10:57:11 9 had the trash truck that threw them in for Bob
10:57:18 10 Aldridge, no.
10:57:19 11 Q. But, again, we want to focus on
10:57:23 12 the period of '65 through '67. We've
10:57:24 13 established the incinerator was not in
10:57:25 14 operation, but there was still burning at the
10:57:28 15 facility.
10:57:28 16 A. Yes.
10:57:28 17 Q. All right. The phone books
10:57:31 18 shipped between '65 and '67, did they go into
10:57:34 19 the burning pit?
10:57:35 20 A. No.
10:57:36 21 Q. Where did they go?
10:57:38 22 A. It depends on what happened to
10:57:42 23 them during the time they were on the dump. If
10:57:45 24 they were left out and got wet, then they were
10:57:47 25 sent down to the third pier to be --

10:57:48 1 Q. Again, this is your personal
10:57:50 2 recollection?
10:57:50 3 A. Yes. They were sent down to the
10:57:53 4 third pier to be buried. If they were still
10:57:55 5 dry and was able to be shredded, they were put
10:57:58 6 on the garbage -- or the dump truck or they
10:58:05 7 call them trash truck.
10:58:08 8 Q. Trash truck?
10:58:08 9 A. You know, like one you see that
10:58:08 10 goes around the neighborhood that they put the
10:58:14 11 garbage in and then it goes down and pushes it
10:58:15 12 up into the thing.
10:58:16 13 Q. All right. Well, let me break it
10:58:17 14 down a little bit more.
10:58:18 15 A. Okay.
10:58:19 16 Q. Again, this period '65 through
10:58:22 17 '67, phone books at the site, were they
10:58:28 18 shredded?
10:58:28 19 A. Not there, no. No.
10:58:30 20 Q. Not at the site?
10:58:31 21 A. No.
10:58:31 22 Q. Did they leave the site?
10:58:33 23 A. Yes, they did.
10:58:34 24 Q. Where did they go?
10:58:36 25 A. I don't know.

10:58:38 1 Q. They were -- were they recycled?
10:58:41 2 MR. COUGHLIN: Objection.
10:58:43 3 THE WITNESS: I don't know.
10:58:43 4 BY MR. COLLIER:
10:58:44 5 Q. But they -- the phone books from
10:58:49 6 '65 to '67 that were at the site, were not
10:58:52 7 disposed of at the site?
10:58:52 8 MR. ROMINE: Asked and answered.
10:58:53 9 Mischaracterizes his testimony.
10:58:53 10 THE WITNESS: Then, again, if they --
10:58:53 11 BY MR. COLLIER:
10:58:57 12 Q. Can you answer that question?
10:58:59 13 A. -- were wet --
10:58:59 14 MR. ROMINE: Object.
10:59:01 15 THE WITNESS: Yes. I'm sorry. Yes.
10:59:02 16 BY MR. COLLIER:
10:59:02 17 Q. Yes, they were taken off the site?
10:59:05 18 MR. ROMINE: Same objection.
10:59:06 19 THE WITNESS: No.
10:59:07 20 BY MR. COLLIER:
10:59:08 21 Q. All right. Were some of them
10:59:11 22 taken offsite?
10:59:12 23 A. Yes.
10:59:12 24 Q. And where did they go?
10:59:16 25 A. Then, again -- I'm trying to --

10:59:21 1 you know, I --
10:59:23 2 Q. And this is your personal
10:59:24 3 recollection. If you don't recall --
10:59:25 4 MR. ROMINE: Asked and answered.
10:59:27 5 THE WITNESS: No, I recall, but I'm
10:59:27 6 trying to, you know --
10:59:27 7 BY MR. COLLIER:
10:59:28 8 Q. Then answer the question.
10:59:30 9 A. Vague, but, yes -- but yet
10:59:38 10 informative, they went to Larry Brandon's
10:59:40 11 Dayton Fiber, I'm almost sure, but to be
10:59:46 12 totally accurate, I don't know.
10:59:49 13 Q. Okay. Do you think it more likely
10:59:58 14 than not that they were taken to Larry
11:00:01 15 Brandon's facility?
11:00:01 16 A. Correct.
11:00:02 17 Q. Okay. And that is whether they
11:00:05 18 were wet or not?
11:00:08 19 A. Dry.
11:00:09 20 Q. Dry?
11:00:10 21 A. (Nodding head up and down.)
11:00:10 22 Q. If they were -- if the phone books
11:00:12 23 during this period, '65 to '67, were dry, they
11:00:16 24 were shredded and then taken to Larry Brandon's
11:00:19 25 recycling facility?

11:00:20 1 A. No.
11:00:20 2 Q. Were they shredded?
11:00:23 3 A. Yes.
11:00:23 4 Q. And then what happened to them?
11:00:26 5 A. They were processed into
11:00:28 6 insulation.
11:00:29 7 Q. At Larry's facility?
11:00:31 8 A. Correct.
11:00:31 9 Q. Okay. And was Larry's facility at
11:00:35 10 the site of the South Dayton Dump or somewhere
11:00:37 11 else?
11:00:37 12 A. Somewhere else.
11:00:37 13 Q. Okay. So they were taken offsite?
11:00:40 14 A. Correct.
11:00:40 15 Q. Okay. And would that be the
11:00:43 16 routine then, if phone books were dry and
11:00:47 17 salvageable, they were taken offsite for
11:00:50 18 recycling?
11:00:50 19 A. Correct.
11:00:51 20 Q. Now, if they weren't taken offsite
11:00:58 21 to Larry's facility, what, if anything, would
11:01:02 22 happen to those phone books during the period
11:01:02 23 of '65 to '67?
11:01:06 24 A. Taken down to the third pier and
11:01:08 25 buried.

11:01:09 1 Q. Okay. And did you personally
11:01:13 2 observe phone books being buried in the third
11:01:16 3 tier?
11:01:16 4 A. Yes.
11:01:16 5 Q. And they were never burned onsite?
11:01:23 6 A. No.
11:01:25 7 Q. And after 1969, when the
11:01:33 8 incinerator was in place, and, again, based on
11:01:38 9 your personal knowledge, were the phone books
11:01:41 10 incinerated?
11:01:44 11 A. No. As I indicated yesterday and
11:01:48 12 possibly this morning, nothing could go but
11:01:50 13 wood.
11:01:50 14 Q. All right. After 1969 when the
11:01:53 15 Dayton Fiber facility was opened by Larry
11:01:56 16 Brandon, phone books were routinely taken to
11:01:58 17 that facility?
11:02:01 18 A. Some of them.
11:02:03 19 Q. Well, again, question, some of
11:02:06 20 them were and some of them weren't?
11:02:08 21 A. Correct.
11:02:09 22 Q. All right. And what would -- what
11:02:12 23 would be the circumstances defining where they
11:02:12 24 went?
11:02:16 25 A. Whether they were wet or not.

11:02:17 1 Q. Whether they were wet. Okay.
11:02:25 2 Now, for purposes of your testimony in 2012 and
11:02:28 3 for purposes of your deposition yesterday and
11:02:32 4 today, you were provided no documents with
11:02:37 5 regard to the source of these phone books, were
11:02:39 6 you?
11:02:39 7 A. No.
11:02:40 8 Q. You had no dump receipts to
11:02:42 9 review?
11:02:43 10 A. No.
11:02:44 11 Q. You had no logs?
11:02:46 12 A. No.
11:02:46 13 Q. No deposit tickets?
11:02:48 14 A. No.
11:02:49 15 Q. No invoices?
11:02:50 16 A. No.
11:02:51 17 Q. None of those that would indicate
11:02:52 18 the source as being L.M. Berry?
11:02:54 19 A. No.
11:02:54 20 Q. You had no other shipping
11:02:57 21 documents?
11:02:57 22 A. No.
11:02:57 23 Q. You had no waste profile sheets?
11:03:01 24 A. No.
11:03:01 25 Q. You had no documents whatsoever to

11:03:06 1 establish that L.M. Berry was the source of
11:03:07 2 those phone books?
11:03:09 3 A. Correct.
11:03:10 4 Q. All right. And you had no contact
11:03:20 5 at L.M. Berry that you personally dealt with?
11:03:22 6 A. No.
11:03:23 7 Q. You did no billing to L.M. Berry?
11:03:25 8 A. No.
11:03:26 9 Q. In terms of the volume that
11:03:31 10 actually was disposed of in the landfill of
11:03:35 11 these phone books, there's no way you can
11:03:38 12 determine what the volume of those phone books
11:03:41 13 was?
11:03:43 14 A. I don't understand the question.
11:03:44 15 Q. There's no -- you have no
11:03:46 16 documentation to establish what the volume of
11:03:48 17 those phone books were --
11:03:50 18 A. No.
11:03:50 19 Q. -- during the period from '65 to
11:03:53 20 '67, or what the weight would have been?
11:03:56 21 A. No.
11:03:57 22 Q. When you say the old phone books
11:04:03 23 were disposed of at the site that were wet, was
11:04:06 24 there a particular tier that they were disposed
11:04:09 25 of?

11:04:09 A. Right, the third tier.
11:04:10 Q. The third tier?
11:04:11 A. Right.
11:04:12 Q. Okay. If I can have a moment.
11:04:25 Oh, is the South Dixie Highway also the
11:04:32 Kettering Road?
11:04:33 A. Kettering Boulevard, yeah.
11:04:44 MR. COLLIER: Okay. Just give me a
11:04:45 moment, I think I'm about done. I'm going to take
11:05:12 a break, and just give me a minute.
11:05:19 (Pause in proceedings.)
11:05:21 BY MR. COLLIER:
11:16:04 Q. Real quick -- we can go back on
11:16:07 the record -- I did just have one area -- small
11:16:09 area of questions, and that skids, you
11:16:12 mentioned skids and L.M. Berry. Skids were
11:16:14 routinely recycled, repaired and taken offsite?
11:16:20 A. Other than broken ones, they were
11:16:20 incinerated.
11:16:23 Q. And there's no way today you can
11:16:25 identify any skids that were broken and
11:16:28 incinerated from L.M. Berry?
11:16:29 A. No.
11:16:30 MR. COLLIER: That's all the
11:16:32 questions I have. Thank you.

11:16:32 1 THE WITNESS: Thank you.

11:16:32 2 CROSS-EXAMINATION

11:16:32 3 BY MR. HARBECK:

11:17:15 4 Q. Good morning, Mr. Grillot.

11:17:16 5 A. Good morning.

11:17:17 6 Q. Are you still feeling okay?

11:17:19 7 A. Yes. Thank you.

11:17:19 8 Q. Please let me know if you don't

11:17:21 9 understand a question that I ask.

11:17:23 10 A. Okay.

11:17:23 11 Q. And also make sure -- this has

11:17:26 12 happened from time to time -- that when you

11:17:28 13 answer either yes or no, you -- you verbally

11:17:31 14 say it as opposed to nodding or shaking your

11:17:33 15 head or saying uh-huh or um-hum.

11:17:34 16 A. Okay.

11:17:35 17 Q. Because then we don't know what

11:17:37 18 you said later when we're reading the

11:17:38 19 transcript.

11:17:39 20 A. Correct.

11:17:39 21 Q. I want to talk just very briefly

11:17:42 22 about McCall's --

11:17:45 23 A. Okay.

11:17:46 24 Q. -- waste that you testified about

11:17:47 25 earlier. I believe that you said the first

11:17:52 1 time you personally observed McCall's waste
11:17:54 2 being taken to the site was in 1968, is that
11:17:59 3 correct?
11:17:59 4 A. No, I thought I said that I
11:18:00 5 remember magazine covers and sometime
11:18:05 6 magazines, find them in piles of trash.
11:18:08 7 Q. I understand that.
11:18:09 8 A. Okay.
11:18:09 9 Q. But the first time you saw a load
11:18:13 10 of any type of waste from McCall's personally
11:18:15 11 was around 1968, that's what you said earlier.
11:18:19 12 Do you remember that?
11:18:20 13 A. Yes.
11:18:20 14 Q. And you testified that you may
11:18:23 15 have seen some magazines before 1968 that had
11:18:27 16 the name McCall's on them, right?
11:18:29 17 A. Right. Correct.
11:18:30 18 Q. Now, you don't know at that point
11:18:32 19 whether those magazines actually were waste
11:18:35 20 from McCall's or waste from another company
11:18:38 21 that was throwing away old magazines, do you?
11:18:40 22 A. Correct.
11:18:41 23 Q. Okay. And would it be fair to say
11:18:45 24 that the -- the vast majority of the waste that
11:18:49 25 you personally observed being disposed of by

11:18:53 1 McCall's consisted of cardboard, paper waste
11:18:58 2 and skids?
11:18:59 3 A. Correct.
11:19:02 4 Q. The vast majority, correct?
11:19:03 5 A. The vast majority.
11:19:06 6 Q. Okay. I want to talk just briefly
11:19:10 7 about NCR waste. You testified earlier that
11:19:15 8 waste from NCR and waste from Standard Register
11:19:18 9 was pretty much the same, correct?
11:19:20 10 A. Correct.
11:19:20 11 Q. And you described the Standard
11:19:24 12 Register waste as including some plastic
11:19:27 13 related waste, some things that were coated in
11:19:29 14 plastic, correct?
11:19:29 15 A. Correct.
11:19:30 16 Q. And did the NCR waste also consist
11:19:32 17 of that type of waste, as best you can
11:19:32 18 remember?
11:19:36 19 A. I don't remember.
11:19:36 20 Q. Okay. Would it be -- since they
11:19:39 21 were similar, would you agree that the NCR
11:19:42 22 waste likely contained that type of plastic
11:19:44 23 waste, too?
11:19:45 24 MR. ROMINE: Objection. Calls for
11:19:45 25 opinion.

11:19:45 1 BY MR. HARBECK:
11:19:45 2 Q. Go ahead.
11:19:46 3 A. Yes.
11:19:48 4 Q. Okay. And any plastic waste from
11:19:50 5 NCR would have been burned just like the waste
11:19:53 6 from Standard Register, is that correct?
11:19:54 7 A. No.
11:19:56 8 Q. Because you testified that the
11:19:58 9 waste from plastic -- from Standard Register
11:20:03 10 would have been first burned and then later
11:20:05 11 buried. That's what you said happened to the
11:20:09 12 Standard Register plastic type waste --
11:20:10 13 A. No, I --
11:20:10 14 Q. -- is that correct?
11:20:11 15 A. I thought I -- do you want me to
11:20:12 16 correct what I thought I said or what I might
11:20:14 17 have said?
11:20:15 18 Q. Tell me what you -- tell me what
11:20:15 19 you thought you said.
11:20:16 20 A. I thought I said I had to take
11:20:19 21 screwdrivers and stuff and take the plastic
11:20:22 22 off, and then they were put on the third pier,
11:20:24 23 I thought.
11:20:24 24 Q. Okay. That's fine. I think we're
11:20:27 25 saying the same thing. So the plastics that

11:20:29 1 were on any waste from either Standard Register
11:20:31 2 or NCR, you removed the plastics and those were
11:20:35 3 then put on the third tier, correct?
11:20:35 4 A. Correct.
11:20:37 5 Q. And those were ultimately then
11:20:39 6 buried?
11:20:40 7 A. Yes.
11:20:42 8 Q. Okay. Could some of that waste
11:20:45 9 also have been burned when the pit caught on
11:20:47 10 fire from time to time?
11:20:47 11 A. Correct.
11:20:48 12 Q. Now, Dayton-Walther, in your first
11:20:56 13 deposition, you recalled a little bit more
11:20:59 14 about the waste from Dayton-Walther than you
11:21:01 15 see to recall this morning.
11:21:03 16 A. Correct.
11:21:03 17 Q. So let me just tell you what you
11:21:05 18 said then and see if that's consistent now
11:21:06 19 with -- if that rings a bell.
11:21:08 20 A. Okay.
11:21:08 21 Q. You said Dayton-Walther waste
11:21:11 22 included metal products.
11:21:12 23 A. To my knowledge, yes.
11:21:13 24 Q. Okay. And you also testified in
11:21:16 25 your first deposition that Dayton-Walther waste

11:21:18 1 was delivered to the site about once a month.
11:21:24 2 A. I don't recall, but, yes.
11:21:25 3 Q. Does that sound about right now as
11:21:26 4 you're sitting here?
11:21:28 5 A. Yes.
11:21:28 6 Q. Okay. You talked about wood
11:21:32 7 waste, and at one point you were talking about
11:21:34 8 wood waste kind of overwhelming the
11:21:36 9 incinerator. Do you remember that?
11:21:37 10 A. Yeah.
11:21:37 11 Q. And that wood waste, was it --
11:21:42 12 I -- is it fair to assume or fair to say that
11:21:44 13 that wood waste was wood waste from all sorts
11:21:47 14 of customers, not just from one particular
11:21:49 15 customer?
11:21:50 16 A. Yes.
11:21:50 17 Q. Okay. I want to talk just a
11:21:57 18 little bit more about Container Services and
11:22:01 19 General Refuge.
11:22:02 20 A. Okay.
11:22:03 21 Q. Now, you earlier testified you
11:22:06 22 believed that those two companies were somehow
11:22:08 23 affiliated or connected, correct?
11:22:10 24 A. Correct.
11:22:10 25 Q. And in your first deposition you

11:22:13 1 said Container Services was involved in the
11:22:16 2 servicing of the containers themselves and that
11:22:20 3 General Refuge was the actual hauling company.
11:22:22 4 Do you remember that?
11:22:23 5 A. Yes.
11:22:24 6 Q. Okay. And that's -- is that
11:22:26 7 consistent with your memory today?
11:22:27 8 A. But I think I'm maybe not coming
11:22:33 9 forth or -- you know, how it actually works,
11:22:36 10 but, yes.
11:22:37 11 Q. Okay. So just so I'm clear,
11:22:39 12 General Refuge was the company that would pick
11:22:43 13 up waste from various customers, and that was
11:22:45 14 the company that would actually haul it to the
11:22:49 15 South Dayton Dump, is that right?
11:22:50 16 A. No.
11:22:50 17 Q. Well, you -- again, when you were
11:22:53 18 talking about this in your first deposition,
11:22:54 19 you said Container Services did things like
11:22:58 20 service the containers, fix them, rebuild them,
11:23:01 21 paint them, weld them, and that General Refuse
11:23:03 22 was the arm of the company that was actually
11:23:06 23 the hauling business.
11:23:06 24 A. No, I -- what I thought I said was
11:23:10 25 that General Refuge handled most garbage, okay,

11:23:16 which wasn't allowed on South Dayton Dump.

11:23:18 And that Container Service did

11:23:23 most of the big Dumpsters, the 44 yard and the

11:23:28 60 yard that serviced big companies, and then

11:23:31 there was a third entity within Aldridge and

11:23:35 Brandon's operation.

11:23:36 Q. Was that the Dayton Fiber entity?

11:23:36 A. No.

11:23:40 Q. What was the name of that entity?

11:23:41 A. I still can't remember the actual

11:23:43 name, but they're the ones that built the

11:23:46 containers and -- brand new from metal and then

11:23:50 spray painted.

11:23:53 Q. Okay. And I just want to go back

11:23:56 to your first deposition when you testified

11:23:57 about General Refuse and Container Services.

11:24:12 You were being asked about

11:24:15 Container Service, and the question was, what

11:24:20 was their connection to South -- to SDD, did

11:24:22 they bring waste, and you testified Larry

11:24:25 Brandon and another gentleman ran that company

11:24:28 before they were bought out by a Chicago-based

11:24:30 outfit, and they would mainly dump at

11:24:33 Blaylock's because it was mostly garbage and

11:24:35 stuff.

11:24:35 1 There was a couple chicken packing
11:24:37 2 places, Valley Farms, I think, all the chicken
11:24:40 3 parts would come in that.
11:24:42 4 Question, they would go to
11:24:43 5 Blaylock, the chicken parts? Yeah. Question,
11:24:46 6 or to you? Yeah. Okay.
11:24:50 7 Answer, but that was General
11:24:51 8 Refuse and Container Service. Container
11:24:53 9 Service was more of a service of the
11:24:55 10 containers. They'd bring them in.
11:24:57 11 When I worked for Larry's that --
11:24:59 12 they would bring them in and we would reweld
11:25:02 13 them if they got bent up and paint them, but
11:25:04 14 General Refuse was the actual hauling company.
11:25:07 15 A. That last statement is not
11:25:12 16 completely accurate, and what I just said there
11:25:16 17 is correct, that's what I'm trying to say, that
11:25:24 18 General Refuge mostly handled garbage, the
11:25:28 19 waste of -- of chicken parts. And that
11:25:37 20 Container Service, you know, serviced -- or
11:25:38 21 brought the containers in if they were broke.
11:25:42 22 They're the ones that did the
11:25:43 23 biggest hauling of stuff that was, you know,
11:25:49 24 burnt at the incinerator, so I haven't -- I
11:25:52 25 wasn't -- haven't been more directly dividing

11:25:55 1 them up, you know, and from what you just read,
11:25:59 2 I think it sounds consistent with what I'm
11:26:02 3 saying right now, so --
11:26:02 4 Q. Okay. So let me understand this
11:26:03 5 now. It's your testimony that -- I think I've
11:26:07 6 got it -- General Refuge -- the garbage that
11:26:11 7 General Refuge picked up, which wasn't the
11:26:13 8 burnable sort of stuff, would go to another
11:26:17 9 dumpsite, is that correct?
11:26:17 10 A. Correct.
11:26:18 11 Q. And the stuff that Container
11:26:21 12 Services picked up would be the burnable stuff
11:26:25 13 and the wood and the paper, correct?
11:26:27 14 A. Correct.
11:26:27 15 Q. Okay. Do you know where the
11:26:34 16 Blaylock dump was?
11:26:39 17 A. I do. I don't recall right at
11:26:42 18 this moment.
11:26:42 19 Q. Have you ever heard of the
11:26:46 20 Cardington Road Landfill?
11:26:46 21 A. If I did, it was from that piece
11:26:52 22 of paper, but I don't -- it's not real common
11:26:54 23 to my knowledge right now.
11:26:56 24 Q. And the piece of paper is
11:26:58 25 Exhibit 1 that the -- the map of the landfills

11:27:01 1 that you were shown earlier.
11:27:03 2 A. Right. Yes.
11:27:03 3 Q. Okay. Was the reason that the
11:27:11 4 garbage went to the Blaylock site was because
11:27:16 5 Blaylock was not a burning dump?
11:27:18 6 A. Correct.
11:27:19 7 Q. So the stuff that was taken by
11:27:23 8 Container Services to the South Dayton Dump was
11:27:27 9 the burnable stuff, correct?
11:27:28 10 A. Correct.
11:27:29 11 Q. And that consisted of cardboard,
11:27:33 12 skids and other wood, correct?
11:27:35 13 A. Correct.
11:27:35 14 Q. Okay. As far as you know, were
11:27:40 15 the loads from -- any loads from Container
11:27:44 16 Services, therefore, burned at the -- that were
11:27:46 17 taken to the South Dayton Dump burned at the
11:27:48 18 South Dayton Dump?
11:27:48 19 A. Could you please rephrase that?
11:27:49 20 Q. Were -- any loads that were from
11:27:52 21 Container Services that were taken to the South
11:27:54 22 Dayton Dump, did they end up being burned at
11:27:56 23 the South Dayton Dump?
11:27:57 24 A. Yes.
11:27:57 25 Q. Okay. Do you know, did Container

11:28:04 1 Service or General Refuge have its own
11:28:06 2 landfill?
11:28:10 3 A. Yeah, that would be -- well, it
11:28:15 4 would be the Powell Road Landfill, but that
11:28:20 5 wasn't till later, like '68, '69, that it got
11:28:24 6 into operation.
11:28:26 7 Q. So it's your -- at least your
11:28:30 8 belief today that the Powell Road Landfill was
11:28:35 9 owned by the Container Service, General Refuge
11:28:39 10 operation?
11:28:39 11 A. To my knowledge, yes.
11:28:40 12 Q. Okay. Do you know where Bertwin
11:28:48 13 Drive is?
11:28:51 14 A. It rings a bell, but -- I know it
11:28:55 15 like I know my name, but it's not coming to me.
11:28:57 16 Q. Okay. You said the location where
11:29:00 17 Container Services, Larry's Brandon's --
11:29:03 18 A. Facility.
11:29:04 19 Q. -- facility was, the name has
11:29:05 20 changed over time?
11:29:06 21 A. Yes.
11:29:07 22 Q. You believe it's now on North
11:29:09 23 Springboro Pike?
11:29:09 24 A. Yes.
11:29:09 25 Q. At one point could the address --

11:29:12 1 or if you can remember, was the address 2208
11:29:17 2 Bertwin Drive?
11:29:17 3 A. Yeah, I think so.
11:29:18 4 Q. That sounds right?
11:29:19 5 A. Yeah.
11:29:19 6 Q. Okay. You believe that this
11:29:22 7 facility was -- you said your belief was it's
11:29:25 8 about a quarter mile away?
11:29:28 9 A. Right.
11:29:28 10 Q. Could it have been longer than
11:29:28 11 that, maybe a couple miles away?
11:29:28 12 A. Oh, no.
11:29:30 13 Q. Are you sure about that?
11:29:32 14 A. I'm sure.
11:29:32 15 Q. Okay. But it's on North
11:29:34 16 Springboro Pike. Has Bertwin Drive -- the name
11:29:39 17 of Bertwin Drive changed to North Springboro
11:29:42 18 Pike in the last number of years?
11:29:43 19 A. Like I said, there for a while, it
11:29:45 20 was changing so much, I -- so I -- I don't
11:29:48 21 remember.
11:29:48 22 Q. Okay.
11:29:54 23 A. I do remember where Baylock (sic)
11:29:56 24 now was, so --
11:29:56 25 Q. I'm sorry?

11:29:58 1 A. I remember now where Baylock was.
11:29:59 2 Q. Where was that?
11:30:01 3 A. On South Dixie Drive and Dorothy
11:30:01 4 Lane.
11:30:06 5 Q. Okay. On both of those roads or
11:30:10 6 was it off South Dixie?
11:30:12 7 A. It was more on South Dixie.
11:30:14 8 Q. Than -- than Dorothy Lane?
11:30:14 9 A. Correct.
11:30:17 10 Q. The tipping fee for the landfill
11:30:24 11 or the fee, you know, the amount that people
11:30:25 12 would pay when they disposed at landfills,
11:30:28 13 you've talked about the cash transactions and
11:30:31 14 what people were charged for that.
11:30:32 15 Do you know what the charge was
11:30:33 16 for people that were the regular accounts or
11:30:36 17 the ones that were billed, you know, on a
11:30:39 18 monthly basis, how much they paid per load?
11:30:42 19 A. No.
11:30:43 20 Q. Okay. So throughout any period of
11:30:45 21 time, either the '60s or '70s, that's something
11:30:49 22 you just didn't know about, is that fair, in
11:30:51 23 terms of how much?
11:30:52 24 A. Correct.
11:30:52 25 Q. Okay. Dayton Fiber, this

11:31:05 1 operation that Larry Brandon operated --
11:31:10 2 A. Correct.
11:31:10 3 Q. -- where was that located?
11:31:13 4 A. West River Road, I believe.
11:31:20 5 Q. Do you know -- and I'm sorry if
11:31:25 6 you were asked this before, I just can't
11:31:27 7 remember what your answer was -- when he
11:31:29 8 started that company?
11:31:36 9 A. I would have to say '68.
11:31:39 10 Q. Okay. And as you described it, it
11:31:43 11 was a -- an operation that would take in paper
11:31:47 12 waste from various places, including paper
11:31:49 13 waste that had been taken to the South Dayton
11:31:51 14 Dump, and he -- he made it into insulation?
11:31:54 15 A. Correct.
11:31:54 16 Q. How long did he run that business?
11:31:58 17 A. I think Larry had sold that
11:32:04 18 business, I think, in '72, '73, something like
11:32:06 19 that, I think. I'm not sure.
11:32:08 20 Q. Okay. So you think it was in --
11:32:09 21 in operation for roughly five years or so?
11:32:12 22 A. Yeah.
11:32:12 23 Q. Okay. And you worked for Larry
11:32:18 24 at Dayton Fiber for a period of time, correct?
11:32:18 25 A. No.

11:32:21 1 Q. Never?
11:32:21 2 A. No.
11:32:22 3 Q. Okay. You worked for Larry at
11:32:27 4 Container Services or General Refuge for a
11:32:30 5 chunk of time, correct?
11:32:31 6 A. Not General Refuge -- well, yes, I
11:32:34 7 did. Yes, I did.
11:32:34 8 Q. Okay. And in your first
11:32:38 9 deposition, you said you started working for
11:32:40 10 Larry at General Refuge, and the first thing
11:32:42 11 you did was built some offices, do you remember
11:32:44 12 that?
11:32:46 13 A. That was in the time period, yes.
11:32:48 14 Q. In the time period -- when did you
11:32:50 15 start doing that? I assume that was after
11:32:52 16 Doyle's?
11:32:52 17 A. Yes.
11:32:53 18 Q. Okay.
11:32:54 19 A. I don't remember.
11:32:59 20 Q. Was it in the '70s?
11:33:05 21 A. No. I don't remember.
11:33:06 22 Q. Okay. Well, I know you started
11:33:08 23 working for Doyle's around, what, when you were
11:33:11 24 16 years old?
11:33:11 25 A. '68, something --

11:33:13 1 Q. So that puts you in '68?
11:33:15 2 A. (Witness nodding head up and
11:33:15 3 down.)
11:33:15 4 Q. And then you had a job at Liberal
11:33:15 5 Markets --
11:33:18 6 A. Um-hum.
11:33:18 7 Q. -- a little bit after that?
11:33:19 8 A. (Witness nodding head up and
11:33:19 9 down.)
11:33:19 10 Q. And then sometime after that, did
11:33:22 11 you --
11:33:23 12 A. It would have to be '70s, yeah.
11:33:25 13 Q. It would be in the '70s?
11:33:27 14 A. Yeah.
11:33:27 15 Q. Okay. You also stated that you
11:33:33 16 pressure washed and painted some General Refuse
11:33:34 17 trucks while working for Larry, do you remember
11:33:36 18 that?
11:33:36 19 A. Correct.
11:33:36 20 Q. Was that the same period of time
11:33:38 21 that you were working for him as Container
11:33:40 22 Services or General Refuge?
11:33:41 23 A. At the beginning, but -- yeah, at
11:33:43 24 the beginning.
11:33:44 25 Q. Okay. How long did you work for

11:33:45 1 Larry at Container Services or General Refuge?
11:33:52 2 A. I was switched around to so many
11:33:57 3 different locations, I couldn't really narrow
11:34:00 4 it down.
11:34:01 5 Because one day they might send me
11:34:02 6 up to one place and another day somewhere else,
11:34:05 7 so I was sort of a go between all of them,
11:34:08 8 so --
11:34:08 9 Q. Okay. Do you remember roughly for
11:34:11 10 what period of time you worked for him in that
11:34:14 11 capacity?
11:34:18 12 A. I think '70 --
11:34:22 13 Q. I don't know -- I know you can't
11:34:23 14 pinpoint a year. I want to know just about how
11:34:26 15 long.
11:34:26 16 A. I'm trying to think. '70 to '73,
11:34:28 17 something like that maybe.
11:34:30 18 Q. So you think about three years?
11:34:32 19 A. Yeah, something like that.
11:34:34 20 Q. And it could have been sometime in
11:34:35 21 the mid '70s?
11:34:36 22 A. Right.
11:34:37 23 Q. Is that how you also became
11:34:44 24 familiar with the General Refuge trucks by
11:34:47 25 working at that facility?

11:34:48 1 A. Yes.
11:34:49 2 Q. I assume you got paid by Container
11:34:55 3 Services for doing that work, correct?
11:34:57 4 A. Correct.
11:34:57 5 Q. Do you recall how much?
11:35:04 6 A. By hour or weekly?
11:35:08 7 Q. Weekly.
11:35:12 8 A. I probably grossed a couple
11:35:15 9 hundred dollars.
11:35:15 10 Q. Okay. And then taxes would come
11:35:17 11 off of that?
11:35:19 12 A. Correct.
11:35:19 13 Q. Okay. Was there ever a trailer
11:35:27 14 park at the South Dayton Dump site?
11:35:29 15 A. A trailer park?
11:35:30 16 Q. A trailer park.
11:35:34 17 A. No.
11:35:34 18 Q. How long have you been back in the
11:35:42 19 Dayton area after your last deposition? How
11:35:47 20 long have you been living or residing in the
11:35:50 21 Dayton area?
11:35:50 22 A. A year and a half maybe.
11:36:27 23 MR. HARBECK: Okay. That's it.
11:36:30 24 Thanks so much for your time.
11:36:32 25 THE WITNESS: You're welcome.

11:37:07 1 CROSS-EXAMINATION

11:37:07 2 BY MR. McCALL:

11:37:09 3 Q. Mr. Grillot, my name is Duke

11:37:10 4 McCall. I represent Reynolds and Reynolds in

11:37:12 5 this case. I'm going to ask you a few

11:37:15 6 follow-up questions as well. I just wanted to

11:37:17 7 first make sure you're still feeling okay.

11:37:20 8 A. Yes.

11:37:20 9 Q. And you're at this point feeling

11:37:24 10 well enough to continue to testify?

11:37:26 11 A. Yes, I am.

11:37:27 12 Q. Okay. I want to start by asking

11:37:31 13 you a few clarifying questions concerning the

11:37:35 14 testimony you gave yesterday as well as earlier

11:37:38 15 today. When did you first move to North

11:37:38 16 Carolina?

11:37:52 17 A. '78 -- I mean '08.

11:37:56 18 Q. Did you live continuously in North

11:37:59 19 Carolina from 2008 till some point in the

11:38:03 20 future?

11:38:04 21 A. No.

11:38:04 22 Q. Okay. How long did you live in

11:38:07 23 North Carolina after moving there in 2008?

11:38:11 24 A. Could you rephrase that, please?

11:38:12 25 Q. My question is, after you moved to

11:38:14 1 North Carolina in 2008, how long did you live
11:38:17 2 there before moving to somewhere else?
11:38:19 3 A. Thirteen weeks.
11:38:21 4 Q. Thirteen weeks. At some point in
11:38:27 5 time, did you live in North Carolina
11:38:29 6 permanently?
11:38:29 7 A. Yes.
11:38:29 8 Q. And when did that happen?
11:38:36 9 A. I think 2010.
11:38:38 10 Q. And how long did you live in North
11:38:40 11 Carolina after moving there permanently in
11:38:42 12 2010?
11:38:44 13 A. Two years.
11:38:48 14 Q. And when did you -- when you moved
11:38:51 15 out of North Carolina, where did you move to?
11:38:54 16 A. Dayton, Ohio.
11:38:54 17 Q. And when was that?
11:39:01 18 A. Oh, spring of 2012.
11:39:04 19 Q. And at some point, did you return
11:39:09 20 back to North Carolina after moving to Dayton
11:39:11 21 in the spring of 2012?
11:39:14 22 A. No.
11:39:14 23 Q. I want to step back a little bit
11:39:30 24 in time and ask you about an earlier time
11:39:32 25 period, specifically the 1970s. I understand

11:39:39 1 from -- let me rephrase that.
11:39:41 2 You were not present at the site
11:39:44 3 during normal working hours during the week in
11:39:48 4 the 1970s, were you? By the site, I'm
11:39:49 5 referring to the South Dayton Dump.
11:39:53 6 A. Could you repeat that, please?
11:39:54 7 Q. I will try hard to clarify that
11:39:58 8 question. I'm trying to understand when you
11:40:02 9 were at the dump in the 1970s, so let me try to
11:40:06 10 put that question a little more artfully.
11:40:09 11 You were not present at the site
11:40:12 12 during normal working hours during the weekday
11:40:15 13 in the 1970s, were you?
11:40:20 14 A. No.
11:40:20 15 Q. When did -- and you've talked a
11:40:37 16 bit about cardboard recycling. When did that
11:40:39 17 begin at the South Dayton Dump?
11:40:43 18 A. '67. Around '67.
11:40:59 19 Q. You've also testified a bit about
11:41:02 20 paper recycling. When did that begin?
11:41:06 21 A. Two -- about two years later, so
11:41:10 22 at least '68, something like that.
11:41:15 23 Q. You also testified about the reuse
11:41:19 24 of pallet or skids. When did that begin?
11:41:26 25 A. I don't know.

11:41:29 1 Q. Did that begin in -- what decade
11:41:32 2 did the -- were -- did folks at the South
11:41:38 3 Dayton Dump begin to reuse or recycle or send
11:41:40 4 the pallets to Skid Row, as you referred to it?
11:41:43 5 A. '70 -- or I mean, '60s.
11:41:47 6 Q. So it began at some point in the
11:41:51 7 '60s, is that correct?
11:41:51 8 A. Right.
11:41:53 9 Q. Are you familiar with an address,
11:42:11 10 7561 Walmac Street in Huber Heights, Ohio?
11:42:12 11 A. Yes.
11:42:12 12 Q. Okay. And what's at that
11:42:15 13 location?
11:42:17 14 A. Donna's residence.
11:42:19 15 Q. And what's Donna's last name?
11:42:21 16 A. Moeller, M O E L L E R.
11:42:24 17 Q. Now, you've been asked a number of
11:42:32 18 questions already today about your prior
11:42:34 19 deposition in April of 2012. I'm going to ask
11:42:39 20 you a few more.
11:42:39 21 A. Okay.
11:42:40 22 Q. And one of the questions you were
11:42:43 23 asked during that deposition was about the
11:42:45 24 companies that disposed of waste at the South
11:42:48 25 Dayton Dump. Do you recall being asked that?

11:42:52 1 A. Yes.
11:42:52 2 Q. And specifically you were asked
11:42:59 3 about the -- providing a list of companies who
11:43:02 4 disposed of at the dump by what you -- the list
11:43:08 5 you provided to Mr. Walsh. Do you recall that
11:43:11 6 line of questioning?
11:43:11 7 A. Yes.
11:43:12 8 Q. Okay. And you were asked -- I'm
11:43:15 9 going to read this to you and then ask you a
11:43:15 10 question about it.
11:43:17 11 You were asked, did you give them
11:43:17 12 the name first or did they give you the name
11:43:20 13 first? Your answer was, I gave them the name
11:43:22 14 first.
11:43:23 15 Question, with what names did you
11:43:25 16 give them? And your answer was, several, but
11:43:28 17 your company was mentioned.
11:43:30 18 I don't recall who asked you the
11:43:32 19 question, but the follow-up question was, what
11:43:34 20 names did you give them? And your answer was,
11:43:36 21 it would have been General Motors, Inland,
11:43:40 22 Delphi, Frigidaire, Monsanto, Dayton Tire and
11:43:44 23 Rubber, McCall's, Sherwin-Williams, Durrel
11:43:49 24 Paint, Franklin Iron and Metal, Patterson Iron
11:43:52 25 and Metal, Duriron, A.E. Fickert and Son,

11:43:56 1 Dayton-Walther. That's pretty much the list I
11:43:59 2 can remember.
11:44:00 3 A. Correct.
11:44:01 4 Q. Was that testimony true and
11:44:04 5 accurate when you gave it at your deposition?
11:44:06 6 A. At that particular time, yes.
11:44:08 7 Q. And it was complete, to the best
11:44:11 8 of your recollection, at that time, wasn't it?
11:44:14 9 A. No.
11:44:15 10 MR. ROMINE: Objection.
11:44:15 11 Mischaracterizes his testimony.
11:44:16 12 THE WITNESS: No.
11:44:16 13 BY MR. McCALL:
11:44:19 14 Q. So your -- the testimony you gave
11:44:20 15 at your deposition, you knew it was then
11:44:22 16 complete at the time you gave it?
11:44:23 17 A. Pardon me? I couldn't hear.
11:44:24 18 Q. My question was, was your
11:44:27 19 testimony complete, to the best of your
11:44:30 20 recollection, as of April 24th, 2012?
11:44:33 21 A. Correct.
11:44:34 22 Q. You did not intentionally fail to
11:44:37 23 disclose any companies that you recalled
11:44:42 24 disposing of waste at your prior deposition?
11:44:42 25 A. Correct.

11:44:43 1 Q. Now, you did not mention, during
11:44:48 2 that deposition on April 24th, 2012, any
11:44:51 3 disposal by Reynolds and Reynolds, did you?
11:44:53 4 A. No.
11:44:54 5 Q. Now, the list you provided to Mr.
11:45:02 6 Walsh that you identified in the April 24th,
11:45:04 7 2012, deposition, was that your recollection of
11:45:07 8 the main customers at the dump?
11:45:09 9 A. Correct.
11:45:10 10 Q. And by virtue of the fact that
11:45:14 11 Reynolds and Reynolds was not included, is it
11:45:14 12 fair to say that Reynolds and Reynolds was not
11:45:16 13 a main customer of the South Dayton Dump?
11:45:19 14 A. Correct.
11:45:19 15 Q. Now, you testified, also, in your
11:45:26 16 deposition, that Mr. Walsh wrote down a list of
11:45:29 17 companies you identified for him. Do you
11:45:31 18 recall that?
11:45:31 19 A. Yes.
11:45:32 20 Q. And you saw him write that on a
11:45:34 21 list of -- a piece of paper?
11:45:36 22 A. Correct.
11:45:37 23 MR. McCALL: Mr. Romine, I'm going to
11:45:39 24 ask that you produce a copy of that list to me,
11:45:41 25 along with any and all other interview notes, that

11:45:44 1 Mr. Walsh took during his interviews of Mr.
11:45:48 2 Grillot.
11:45:48 3 MR. ROMINE: I will take your request
11:45:50 4 under advisement.
11:45:52 5 BY MR. McCALL:
11:45:53 6 Q. Do you recall, speaking of other
11:45:56 7 notes, Mr. Grillot, Mr. Walsh taking other
11:45:58 8 notes during your discussions with him?
11:46:01 9 A. Yes.
11:46:02 10 Q. On how many occasions did he take
11:46:05 11 notes?
11:46:06 12 A. During our conversation.
11:46:07 13 Q. On how many times did you have
11:46:10 14 conversations with him in which you remember
11:46:12 15 him writing notes?
11:46:14 16 A. The one time.
11:46:18 17 Q. Well, let me try to clarify that,
11:46:21 18 because I asked you a moment ago if you recall
11:46:23 19 him taking notes on other occasions, other than
11:46:26 20 the first list that -- that you saw him write
11:46:29 21 down, and I understood you said yes. Was that
11:46:34 22 correct?
11:46:34 23 A. I'm confused.
11:46:37 24 Q. As -- as am I. Let's try to
11:46:40 25 clarify. You testified at your April 24, 2012,

11:46:47 1 deposition, that Mr. Walsh prepared a list of
11:46:50 2 the companies that you identified for him, is
11:46:54 3 that correct?
11:46:54 4 A. For himself, yes.
11:46:55 5 Q. And you saw him write that down?
11:46:58 6 A. Yes.
11:46:58 7 Q. And my question for you is, did
11:47:00 8 you see him take notes during any other
11:47:03 9 meetings you had with him?
11:47:04 10 A. No.
11:47:04 11 Q. Do you know whether he did or did
11:47:08 12 not take notes?
11:47:08 13 A. I don't know.
11:47:16 14 Q. Now, Mr. Grillot, do you recall
11:47:21 15 after your deposition on April 24th, 2012,
11:47:26 16 executing a series of declarations?
11:47:29 17 A. Pardon me?
11:47:30 18 Q. Do you recall signing a few
11:47:34 19 declarations after your deposition on
11:47:36 20 April 24th, 2012?
11:47:37 21 A. No.
11:47:38 22 Q. You don't recall that?
11:47:39 23 A. No.
11:47:49 24 Q. Is it your testimony, as you sit
11:47:51 25 here today, that you did not execute any

11:47:54 1 declarations after your April 24th, 2012,
11:47:57 2 deposition?
11:47:57 3 A. I don't understand declaration.
11:47:59 4 Q. Okay. Were you asked to sign a
11:48:02 5 statement about other customers of the South
11:48:06 6 Dayton Dump after your deposition on
11:48:07 7 April 24th, 2012?
11:48:09 8 A. No.
11:48:10 9 Q. You were not asked to sign any
11:48:11 10 statements?
11:48:11 11 A. No.
11:48:27 12 MR. COUGHLIN: Excuse me. May I
11:48:30 13 interject? Did you sign any statements?
11:48:30 14 THE WITNESS: Pardon me?
11:48:31 15 MR. COUGHLIN: Did you sign any
11:48:32 16 statements?
11:48:33 17 THE WITNESS: I don't remember. I'm
11:48:34 18 saying no at this particular time.
11:48:37 19 MR. COUGHLIN: Thank you.
11:48:57 20 BY MR. McCALL:
11:48:57 21 Q. I want to turn now to your
11:49:03 22 testimony yesterday about Reynolds and
11:49:06 23 Reynolds, and although you had not mentioned
11:49:09 24 Reynolds and Reynolds in your prior deposition,
11:49:12 25 you did talk about Reynolds and Reynolds in

11:49:15 1 response to questions you were asked by Mr.
11:49:18 2 Romine yesterday. Do you recall that?
11:49:19 3 A. Yes, I do.
11:49:20 4 Q. You told Mr. Romine that you did
11:49:26 5 not recall any Reynolds and Reynolds trucks at
11:49:30 6 the dump, is that correct?
11:49:31 7 A. Correct.
11:49:32 8 Q. And that was true and accurate
11:49:33 9 testimony?
11:49:34 10 A. Correct.
11:49:37 11 Q. You also told Mr. Romine that you
11:49:39 12 did not recall any of the drivers who allegedly
11:49:45 13 delivered waste from Reynolds and Reynolds to
11:49:48 14 the South Dayton Dump. Do you recall that?
11:49:50 15 A. Correct.
11:49:50 16 Q. And that was true and accurate
11:49:52 17 testimony?
11:49:52 18 A. Yes.
11:49:53 19 Q. You described various products
11:50:02 20 that you believed were delivered to the dump,
11:50:06 21 the South Dayton Dump by -- or waste, excuse
11:50:10 22 me. Let me rephrase that.
11:50:12 23 You described various categories
11:50:14 24 of waste that you believe were from Reynolds
11:50:17 25 and Reynolds that were disposed of at the South

11:50:20 1 Dayton Dump, the first of which was paper
11:50:20 2 shreds.
11:50:23 3 Can you describe that in a little
11:50:24 4 more detail, what the paper shreds are that
11:50:27 5 you're referring to?
11:50:28 6 A. More like office trash can, stuff
11:50:32 7 like that.
11:50:36 8 Q. When you say more like office
11:50:39 9 trash cans, are you referring to shredded paper
11:50:41 10 from an office trash can?
11:50:43 11 A. Some, yes.
11:50:45 12 Q. What else would fall in the
11:50:46 13 category of paper shred?
11:50:49 14 A. Bathroom stuff, but mostly paper.
11:50:59 15 Like sheets of paper like this (indicating)
11:51:01 16 and --
11:51:02 17 Q. Okay. And let me -- I asked a
11:51:05 18 terrible question, so let me try to ask a
11:51:07 19 better one.
11:51:08 20 When you referred to paper shreds
11:51:12 21 during your testimony that you believe came
11:51:13 22 from Reynolds and Reynolds, specifically what
11:51:15 23 are you talking about?
11:51:18 24 MR. ROMINE: Asked and answered.
11:51:22 25 THE WITNESS: I'm still a little

11:51:23 1 confused, but paper products that looked like
11:51:28 2 office things.
11:51:29 3 BY MR. McCALL:
11:51:29 4 Q. Okay. Could you tell what was
11:51:34 5 written on these shredded papers?
11:51:38 6 A. Well, that's how I know and why I
11:51:41 7 made the comment, because I remember being down
11:51:46 8 in the dump sitting on a couch reading stuff
11:51:48 9 and it was just office talking stuff, you know.
11:51:57 10 Q. You were reading the shredded
11:51:57 11 papers?
11:51:59 12 A. No, the papers that -- some of
11:52:00 13 them were together, you know. I don't remember
11:52:09 14 the detail, what they are, but, you know,
11:52:17 15 that's it.
11:52:18 16 Q. Well, let me try to be a little
11:52:20 17 bit more clear. I -- my question was, could
11:52:22 18 you see what was written on the shredded
11:52:25 19 paper?
11:52:26 20 A. No.
11:52:26 21 Q. You referred to other papers that
11:52:32 22 were not shredded. What did you read on those
11:52:35 23 papers? And I'm specifically talking about any
11:52:38 24 paper that you believe came from Reynolds and
11:52:40 25 Reynolds.

11:52:40 1 A. I was mostly looking for scrap
11:52:45 2 paper to take home to make -- write things on,
11:52:49 3 and I think the letterhead is what caught my
11:52:54 4 attention.
11:52:56 5 Q. Okay. Well, what's the letterhead
11:52:57 6 that you're referring to?
11:52:58 7 A. That would be Reynolds and
11:53:03 8 Reynolds.
11:53:03 9 Q. And what did this letterhead look
11:53:06 10 like?
11:53:06 11 A. It was just lettering, you know,
11:53:09 12 that I remember.
11:53:10 13 Q. You also referred to skids
11:53:30 14 yesterday among the list of -- of things that
11:53:33 15 you believe may have come from Reynolds and
11:53:36 16 Reynolds and been disposed of at the dump.
11:53:38 17 What specifically do you recall
11:53:39 18 about these skids?
11:53:43 19 A. I thought I mentioned that it was
11:53:45 20 just paper waste, but if I did, I don't
11:53:48 21 remember.
11:53:48 22 Q. So you don't remember any skids
11:53:49 23 coming from Reynolds and Reynolds?
11:53:51 24 A. No, I don't.
11:53:51 25 Q. Okay. What about boxes?

11:53:55 1 A. Yes.
11:53:56 2 Q. And can you describe for me the
11:53:59 3 boxes you observed that you believe may have
11:54:02 4 come from Reynolds and Reynolds for disposal?
11:54:05 5 Well, actually let me rephrase
11:54:07 6 that. Can you describe for me the boxes that
11:54:10 7 you believe came from Reynolds and Reynolds and
11:54:12 8 arrived at the South Dayton Dump?
11:54:16 9 A. They were just ordinary cardboard
11:54:19 10 boxes that had tape that some of the papers
11:54:25 11 were loose into it. It might be a -- some kind
11:54:31 12 of insulation to hold something in, but they
11:54:34 13 were brown boxes.
11:54:35 14 Q. And these were -- did you see any
11:54:42 15 writing on these brown boxes?
11:54:44 16 A. No.
11:54:51 17 Q. Now, you've testified you don't
11:54:56 18 recall any Reynolds and Reynolds trucks at the
11:55:01 19 South Dayton Dump.
11:55:02 20 MR. ROMINE: Asked and answered.
11:55:04 21 MR. McCALL: I've not asked a
11:55:05 22 question yet.
11:55:05 23 BY MR. McCALL:
11:55:05 24 Q. You've also testified that you
11:55:08 25 don't recall any drivers delivering Reynolds

11:55:13 1 and Reynolds material to the dump.
11:55:15 2 MR. ROMINE: Objection. That's not a
11:55:17 3 question.
11:55:17 4 BY MR. McCALL:
11:55:21 5 Q. My question for you, Mr. Grillot,
11:55:25 6 is the sole basis for your belief that Reynolds
11:55:29 7 and Reynolds waste was delivered to the South
11:55:33 8 Dayton Dump, the letterhead that you saw?
11:55:34 9 A. Correct.
11:55:56 10 Q. Now, Mr. Grillot, I want to ask
11:55:59 11 you a few questions about the legal troubles,
11:56:04 12 which I think you've touched on briefly today
11:56:08 13 as well as discussed at your prior deposition.
11:56:12 14 You testified at your prior
11:56:13 15 deposition that you were -- you had two prior
11:56:17 16 felony convictions, do you recall that?
11:56:18 17 MR. ROMINE: Asked and answered.
11:56:20 18 THE WITNESS: Correct.
11:56:25 19 MR. McCALL: And I will stipulate for
11:56:26 20 the record, I previously had not asked that
11:56:29 21 question.
11:56:38 22 BY MR. McCALL:
11:56:38 23 Q. Mr. Grillot, the first felony
11:56:41 24 conviction you mentioned was a -- related to
11:56:46 25 marijuana possession, is that correct?

11:56:47 1 A. Correct.

11:56:48 2 MR. ROMINE: Objection. Asked and

11:56:48 3 answered. Goes beyond the scope of direct. It's

11:56:51 4 against Judge Rice's order not to go back and

11:56:53 5 rehash former testimony.

11:56:55 6 BY MR. McCALL:

11:56:55 7 Q. Now, Mr. Grillot, you also

11:56:57 8 mentioned a 2003 domestic violence felony

11:57:02 9 conviction, is that correct?

11:57:03 10 A. Correct.

11:57:04 11 MR. ROMINE: Same objection.

11:57:30 12 MR. McCALL: I'd like to mark this as

11:57:32 13 Defense Exhibit 3.

11:57:32 14 (Thereupon, Defendants' Exhibit

11:57:32 15 Number 3, petition to enter a plea of guilty, was

11:57:53 16 marked for purposes of identification.)

11:57:53 17 BY MR. McCALL:

11:57:54 18 Q. Mr. Grillot, you've been handed a

11:57:57 19 document which we have marked as Defendants'

11:57:58 20 Exhibit 3. It's entitled petition to enter a

11:58:00 21 plea of guilty. It has a file date of

11:58:05 22 January 21st, 2004.

11:58:07 23 If you could turn to the last

11:58:13 24 page, there's a signature appearing in the top

11:58:16 25 third of the page. Is that your signature?

11:58:18 1 MR. ROMINE: Objection. This goes
11:58:21 2 beyond the scope of the direct and also it
11:58:24 3 violates Judge Rice's order not to rehash former
11:58:27 4 subject matter.
11:58:33 5 THE WITNESS: Yes.
11:58:33 6 BY MR. McCALL:
11:58:35 7 Q. And is that you're handwriting
11:58:37 8 directly above your signature where it's dated
11:58:39 9 the 21st day of January, 2004?
11:58:41 10 A. Yes.
11:58:42 11 MR. ROMINE: Same objection.
11:58:42 12 MR. COUGHLIN: Excuse me, could I
11:58:48 13 interject? Could you tell us the name of the
11:58:48 14 court and the case number, please?
11:58:51 15 MR. McCALL: Sure. I mean, we've
11:58:52 16 marked it as an exhibit, but I'll go ahead and
11:58:52 17 read it off. It's in the Court of Pleas -- excuse
11:58:52 18 me.
11:58:57 19 In the Common Pleas Court of Greene
11:58:58 20 County, Ohio. State of Ohio, plaintiff, versus
11:59:01 21 Edward R. Grillot, Sr., case Number 2004 CR 005.
11:59:11 22 MR. COUGHLIN: Thank you.
11:59:14 23 BY MR. McCALL:
11:59:14 24 Q. Now, Mr. Grillot, the indictment
11:59:20 25 for this offense states that you had previously

11:59:23 1 been convicted of domestic violence in Dayton
11:59:26 2 Municipal Court in Case Number 00 CRB 5302.
11:59:31 3 Do you recall that prior
11:59:32 4 conviction for domestic violence in Dayton
11:59:34 5 Municipal Court?
11:59:34 6 MR. ROMINE: Same objection.
11:59:35 7 THE WITNESS: Yes, I do.
11:59:36 8 BY MR. McCALL:
11:59:36 9 Q. When -- what do you recall about
11:59:37 10 that?
11:59:38 11 MR. ROMINE: Same objection.
11:59:44 12 THE WITNESS: What do I recall about
11:59:45 13 it?
11:59:45 14 BY MR. McCALL:
11:59:45 15 Q. Yes.
11:59:47 16 A. That I was arrested for domestic
11:59:51 17 violence.
11:59:51 18 Q. And who was -- who else was
11:59:54 19 involved in that domestic violence incident?
11:59:56 20 A. It would have been my wife at that
11:59:58 21 time.
11:59:58 22 Q. And who was your wife at that
12:00:00 23 time?
12:00:00 24 MR. ROMINE: Same objection.
12:00:01 25 THE WITNESS: Lisa Ann Grillot.

12:00:07 1 BY MR. McCALL:
12:00:10 2 Q. Do you also recall domestic
12:00:17 3 violence charges being filed against you in
12:00:19 4 2000 --
12:00:21 5 MR. ROMINE: Same objection.
12:00:23 6 BY MR. McCALL:
12:00:23 7 Q. -- involving your wife, Lisa A.
12:00:26 8 Grillot?
12:00:26 9 MR. ROMINE: Same objection.
12:00:26 10 THE WITNESS: Yes, I do.
12:00:47 11 MR. McCALL: I have no further
12:00:48 12 questions at this time. Thank you.
12:00:51 13 MR. HAUGHEY: What is that time -- go
12:00:56 14 off the record, please.
12:00:57 15 (Thereupon, an off-the-record
12:00:57 16 discussion was had.)
12:01:17 17 MR. HARBECK: I just want to go back
12:01:19 18 on the record and just reiterate that the request
12:01:19 19 he made for documents to you, which you'd take
12:01:24 20 under advisement, I'm assuming all counsel would
12:01:25 21 concur in that request, so if we could just -- if
12:01:28 22 there's an exchange, I want it be to public
12:01:32 23 knowledge going forward.
12:01:32 24 Let's just put it on the record just
12:01:34 25 so we've got it. Bill Harbeck. I just want to

12:01:39 also request, I think on my behalf and on behalf
12:01:43 of all other counsel here, that Mr. McCall asked
12:01:46 for documents related to the discussions with Bill
12:01:51 Walsh, that that request is made by all of us, and
12:01:54 I understand, David, you'll take it under
12:01:55 advisement.
12:01:56 MR. ROMINE: That is correct.
12:01:58 MR. HARBECK: Okay. Thank you.
12:02:01 MR. SHARETT: Hello. This is Anthony
12:02:02 Sharett on behalf of DP&L. I know I've got about
12:02:03 ten minutes of questions to ask.
12:02:04 I guess it would be nice to take,
12:02:06 before we break, a little bit of a roll call to
12:02:08 see how many other attorneys may have some
12:02:12 questions so I that can gauge what time I think we
12:02:15 might be finished today.
12:02:16 MR. HARBECK: Can we go off the
12:02:17 record for this so we don't --
12:02:18 MR. ROMINE: Yes.
12:02:18 (Thereupon, an off-the-record
discussion was had.)
(Thereupon, the proceedings were
adjourned for lunch.)
(Thereupon, the proceedings were
reconvened.)

CROSS-EXAMINATION

BY MR. MUSTO:

Q. Let's go ahead and start. Mr. Grillot, my name is John Musto. I'm an attorney for the City of Dayton, Ohio. I just want to start off with -- I know you were having some -- you weren't feeling well earlier today. How do you feel right now?

A. Good.

Q. Are you able to truthfully and accurately testify?

A. Yes, I am.

Q. Okay. Great. I'm going to cut to the chase here, Mr. Grillot. Other than your testimony yesterday that you believed that vehicles were disposed of for the City of Dayton at Doyle's Auto Salvage Yard at the South Dayton Dump --

A. To my knowledge.

Q. -- do you have any other knowledge of anything else, materials, waste, otherwise that has been disposed of at the South Dayton Dump on behalf of the City of Dayton?

A. Yes.

Q. And what is that?

12:47:53 1 A. A lot of blacktop material,
12:48:01 2 concrete, dirt, barrels. I think there was
12:48:17 3 some like guards that you see along the road
12:48:21 4 that's got telephone poles connected to them,
12:48:26 5 but --
12:48:26 6 Q. Guardrails?
12:48:27 7 A. -- like rails that keep you -- a
12:48:30 8 car from going over something. I think that's
12:48:33 9 it.
12:48:34 10 Q. So the entire list that you claim
12:48:38 11 that you have knowledge of that was disposed of
12:48:41 12 at the South Dayton Dump on behalf of the City
12:48:44 13 of Dayton is blacktop materials, concrete,
12:48:48 14 dirt, barrels, guardrails and abandoned
12:48:52 15 vehicles?
12:48:53 16 A. Yes.
12:48:53 17 Q. Is that it?
12:48:54 18 A. I think so.
12:48:55 19 Q. Okay. Let's start off with the
12:48:58 20 blacktop material. What is the basis of your
12:49:01 21 knowledge concerning the blacktop material?
12:49:05 22 A. That trucks from the City of
12:49:07 23 Dayton would come and dump down towards the
12:49:10 24 pit.
12:49:17 25 Q. And on -- was this on one occasion

12:49:21 1 or more than one occasion that you personally
12:49:24 2 witnessed?
12:49:24 3 A. Several occasions.
12:49:25 4 Q. More than five occasions?
12:49:27 5 A. Yes.
12:49:28 6 Q. More than ten occasions?
12:49:31 7 A. Yes.
12:49:31 8 Q. More than 15 occasions?
12:49:33 9 A. Yes.
12:49:34 10 Q. More than 20 occasions?
12:49:36 11 A. I don't know.
12:49:37 12 Q. And during what time period did
12:49:45 13 this occur?
12:49:50 14 A. We're still referring to the
12:49:52 15 blacktop, correct?
12:49:52 16 Q. Yes.
12:49:58 17 A. Okay. From around '68 to '70.
12:50:09 18 Q. Any other time period?
12:50:11 19 A. No. No. Am I speaking loud
12:50:19 20 enough down there?
12:50:20 21 MR. HARBECK: Yeah, you're doing
12:50:21 22 fine.
12:50:22 23 THE WITNESS: Okay.
12:50:22 24 BY MR. MUSTO:
12:50:22 25 Q. Now, on these 20 occasions when

12:50:26 you said the City of Dayton trucks came to drop
12:50:29 off blacktop material, where did they deposit
12:50:33 that from the site?
12:50:35 A. That would go down to the pit.
12:50:37 Q. And each time, were these marked
12:50:40 City of Dayton vehicles?
12:50:41 A. Yes.
12:50:41 Q. What color were they?
12:50:44 A. I believe yellow.
12:50:49 Q. Are you aware of any contract
12:50:51 between the City of Dayton and South Dayton
12:50:53 Dump for the disposal of this material?
12:50:55 A. Not to my knowledge.
12:50:57 Q. Did -- you mentioned a key to the
12:51:01 dump. To your knowledge, did the City of
12:51:03 Dayton have a key to the dump?
12:51:05 A. Not to my reco -- no.
12:51:07 Q. Do you have any idea where the
12:51:23 blacktop material came from?
12:51:26 A. No.
12:51:27 Q. No particular project, anything
12:51:29 like that?
12:51:35 A. I don't know.
12:51:36 Q. What time of day would these
12:51:39 deliveries be made that you witnessed?

12:51:41 1 A. During the day.
12:51:42 2 Q. Mornings? Afternoons?
12:51:44 3 A. Mostly in the mornings.
12:51:50 4 Q. And when you say blacktop
12:51:52 5 material, what specifically are you talking
12:51:54 6 about?
12:51:54 7 A. Pieces of material maybe about
12:52:00 8 that thick (indicating), broken in many pieces.
12:52:03 9 Q. Asphalt?
12:52:04 10 A. Yes, uh-huh.
12:52:05 11 Q. Do you have any written records of
12:52:12 12 this?
12:52:12 13 A. No.
12:52:13 14 Q. Okay. Have you ever seen any
12:52:15 15 written records about it?
12:52:16 16 A. No.
12:52:16 17 Q. Is there a reason that you never
12:52:20 18 mentioned this in your fist deposition in April
12:52:23 19 of 2012?
12:52:25 20 A. Is there a reason?
12:52:26 21 Q. Yes.
12:52:28 22 A. It didn't -- didn't register at
12:52:31 23 the time.
12:52:31 24 Q. And in all of the conversations
12:52:33 25 you've had with the attorneys for the

12:52:35 1 plaintiff, the investigator for the plaintiff,
12:52:37 2 you never brought this up, did you?
12:52:40 3 A. No.
12:52:40 4 Q. Okay. And you've had quite a bit
12:52:46 5 of time to think about the South Dayton Dump,
12:52:48 6 correct?
12:52:49 7 A. Correct.
12:52:49 8 Q. And this is the first time, as we
12:52:52 9 sit here today, it's occurred to you that the
12:52:55 10 City of Dayton has dumped material there other
12:52:58 11 than salvaged vehicles?
12:53:00 12 A. No.
12:53:01 13 Q. What other times did it occur to
12:53:03 14 you?
12:53:04 15 A. I think it was after the
12:53:07 16 deposition in '12, because it brought back all
12:53:13 17 my memories, because it was -- I kept it kind
12:53:16 18 of behind me, and then when we went through
12:53:18 19 that deposition and a couple years after that,
12:53:21 20 I thought -- remembered other people that had
12:53:24 21 been at the dumpsite.
12:53:26 22 Q. But you never mentioned that to
12:53:28 23 anyone till -- until today right now, correct?
12:53:30 24 A. Correct. Well, no, I -- rephrase
12:53:32 25 the question, please?

12:53:33 1 Q. You never mentioned about the City
12:53:35 2 of Dayton dumping blacktop materials at the
12:53:38 3 South Dayton landfill before today, between the
12:53:40 4 time that you spoke with the plaintiffs'
12:53:44 5 attorney and investigator before the April,
12:53:46 6 2012, deposition, and today, you never
12:53:49 7 mentioned that to them, is that correct?
12:53:50 8 A. Yes, I did.
12:53:51 9 Q. Who?
12:53:52 10 A. Bill Walsh.
12:53:53 11 Q. And when was that?
12:53:54 12 A. I don't remember the month or the
12:53:57 13 year, but it was in the time frame between '12
12:54:01 14 and today.
12:54:11 15 Q. As far as the quantity of blacktop
12:54:13 16 material, can you tell me the quantity of
12:54:15 17 blacktop material that you say was dumped from
12:54:17 18 City of Dayton vehicles?
12:54:20 19 A. It was regular dump trucks, single
12:54:28 20 axle. I think -- I'm not sure of the yardage,
12:54:34 21 but it would be a full up -- hanging up from
12:54:37 22 the top.
12:54:44 23 Q. You can't estimate the yardage?
12:54:48 24 A. If I was making an assumption, I'd
12:54:51 25 say maybe 12. Between 12 and 20 yards.

12:54:54 1 Q. Total or per truck?
12:54:55 2 A. Per truck.
12:54:56 3 Q. And, again, the only time that you
12:55:06 4 personally witnessed this was between 1968 and
12:55:10 5 1970?
12:55:10 6 A. Correct.
12:55:21 7 Q. Did you fill out any slips for
12:55:23 8 this any time you witnessed any of these trucks
12:55:27 9 that came and dumped the blacktop material?
12:55:29 10 A. Not to my knowledge.
12:55:31 11 Q. Have you ever seen any slips for
12:55:32 12 this?
12:55:33 13 A. I've seen slips, but I don't know
12:55:36 14 whether it said anything about Dayton.
12:55:38 15 Q. Have you seen slips for the
12:55:41 16 blacktop material that you claim you saw
12:55:44 17 dumped --
12:55:44 18 A. No.
12:55:44 19 Q. -- by the City of Dayton?
12:55:51 20 A. No.
12:55:51 21 Q. Okay. And on each of these
12:55:55 22 occasions when you watched, did you actually
12:55:58 23 watch the material be dumped from the time the
12:56:00 24 truck came in or what were you doing on these
12:56:03 25 occasions?

12:56:03 1 A. At that -- at the time, I was
12:56:04 2 pretty much full-time on the dozer, and I would
12:56:08 3 direct them where I wanted the load so I could
12:56:11 4 push it over into the pit.
12:56:19 5 Q. Have we covered everything you
12:56:24 6 know and personally witnessed about blacktop
12:56:25 7 material that the City of Dayton you claim
12:56:27 8 dumped at the South Dayton Dump?
12:56:28 9 A. Yes.
12:56:28 10 Q. Okay. Let's talk about concrete.
12:56:33 11 Did you personally witness anyone from the City
12:56:36 12 of Dayton dumping concrete at South Dayton
12:56:39 13 Landfill?
12:56:39 14 A. Yes.
12:56:39 15 Q. Okay. On how many occasions?
12:56:41 16 A. It would pretty much repeat
12:56:45 17 what -- the concrete -- or the blacktop, so 15
12:56:49 18 times.
12:56:49 19 Q. Approximately 15 times. And each
12:56:57 20 of these times was -- involved a separate
12:57:00 21 truck?
12:57:02 22 A. Yes.
12:57:03 23 Q. And the only thing that was in the
12:57:06 24 truck that you could tell being dumped was
12:57:08 25 concrete?

12:57:08 1 A. Some dirt.
12:57:11 2 Q. Anything else?
12:57:16 3 A. Sometimes it would be like paving
12:57:21 4 blocks in mixed with them.
12:57:24 5 Q. And what would the paving blocks
12:57:27 6 be made of?
12:57:28 7 A. Do you want what I assume they
12:57:32 8 were or --
12:57:33 9 Q. Yes. What did you assume they
12:57:35 10 were made of?
12:57:35 11 A. They were underneath all the
12:57:36 12 streets in Dayton that were -- it was first --
12:57:40 13 maybe the second layer that was underneath the
12:57:44 14 blacktop and concrete in certain areas.
12:57:47 15 Q. What did you assume they were made
12:57:49 16 of?
12:57:49 17 A. That they were layers -- the
12:57:53 18 underlayment of some of the road.
12:57:54 19 Q. Concrete? Asphalt? Brick?
12:57:58 20 A. Well, like I said, the -- the
12:58:00 21 brick, I believe, was -- I think there was
12:58:01 22 dirt, brick, concrete and then asphalt or it
12:58:07 23 might have been asphalt, then concrete.
12:58:10 24 Q. What I'm trying to figure out is,
12:58:11 25 what do you believe the paving blocks were made

12:58:13 1 of that you saw --
12:58:15 2 A. Oh, okay. I don't know what they
12:58:19 3 make brick out, but like a regular house brick.
12:58:22 4 Q. Red brick?
12:58:23 5 A. Yeah. Um-hum.
12:58:24 6 Q. You can't be any more specific
12:58:27 7 than that?
12:58:29 8 A. They were solid. Approximately
12:58:30 9 four inches by 12 inches. Maybe four inches
12:58:37 10 deep or thick.
12:58:44 11 Q. Did you ever see any slips for any
12:58:46 12 of the concrete, paving blocks or dirt?
12:58:50 13 A. No.
12:58:50 14 Q. Okay. Do you have any other
12:58:58 15 information on the concrete paving blocks and
12:59:01 16 dirt, other than what you've told me?
12:59:05 17 A. Sometimes there would be metal
12:59:07 18 reinforcing rods connected to the concrete.
12:59:17 19 Q. Can you tell me what percentage of
12:59:19 20 the time there would be the metal reinforcing
12:59:22 21 rods there?
12:59:22 22 A. Twenty percent.
12:59:23 23 Q. If you had to estimate the
12:59:29 24 quantity and yards of concrete that you
12:59:31 25 personally witnessed dumped at the South Dayton

12:59:34 1 Landfill, what would you say?
12:59:36 2 A. In total?
12:59:36 3 Q. In total from the City of Dayton
12:59:39 4 trucks.
12:59:50 5 A. Maybe 300 yards.
12:59:58 6 Q. How many yards do you think the
13:00:00 7 truck could hold?
13:00:01 8 A. Well, that's what I was trying to
13:00:02 9 estimate. If a truck had, say, 12 -- I was
13:00:07 10 trying to estimate maybe ten to 12 yards, at
13:00:11 11 15, you're -- you know, I don't have -- I don't
13:00:12 12 have a calculator, but -- so what's ten --
13:00:20 13 300 -- what did I say?
13:00:21 14 Q. Three hundred, I believe.
13:00:23 15 A. How many yards did I say?
13:00:25 16 Q. In total, I thought you said 300.
13:00:28 17 A. Okay. Be close to that
13:00:31 18 guesstimate.
13:00:31 19 Q. Do you have any idea how many
13:00:32 20 yards the trucks could hold?
13:00:34 21 A. No, I'm not --
13:00:35 22 Q. Could it have been five yards a
13:00:37 23 truck?
13:00:37 24 A. I don't think so. I think it
13:00:39 25 would be more than that.

13:00:39 1 Q. Between five and ten?
13:00:42 2 A. More. Between ten -- I'm not
13:00:47 3 familiar on the single axle and --
13:00:53 4 Q. Were these the same trucks that
13:00:54 5 you said you saw deposit the -- the blacktop
13:01:01 6 material?
13:01:01 7 A. Correct.
13:01:01 8 Q. And, again, these are single axle
13:01:04 9 trucks?
13:01:05 10 A. Yeah.
13:01:05 11 Q. Can you be any more specific about
13:01:07 12 that, the type?
13:01:08 13 A. They were dump trucks, and, like I
13:01:15 14 said, I believe they were yellow.
13:01:19 15 Q. Did you notice any emblems on them
13:01:21 16 or logos?
13:01:24 17 A. I believe it said the City of
13:01:32 18 Dayton.
13:01:32 19 Q. Were you --
13:01:32 20 A. They were --
13:01:32 21 Q. Go ahead.
13:01:34 22 A. They were just located on the
13:01:35 23 door, you know.
13:01:43 24 Q. And where -- and, again, you said
13:01:45 25 these were dumped in the pit.

13:01:47 A. Correct.
13:01:51 Q. I'm going to go ahead -- what
13:01:53 exhibit number are we on now?
13:01:53 (Thereupon, Defendants' Exhibit
13:01:53 Number 4, South Dayton Dump and Landfill site map,
13:02:17 was marked for purposes of identification.)
13:02:17 BY MR. MUSTO:
13:02:17 Q. Mr. Grillot, I'm going to hand you
13:02:19 what was previously marked as Exhibit 2 in your
13:02:22 April, 2012, deposition. It's now currently
13:02:25 marked Defendants' Exhibit 4. Do you have that
13:02:29 in front of you?
13:02:31 A. Yes.
13:02:31 Q. Can you tell me what that is?
13:02:34 A. It's the map of the area of South
13:02:44 Dayton Dump -- or Broadway Sand and -- or
13:02:45 Broadway Dump and Broadway Sand and Gravel.
13:02:47 Q. Does that picture show the entire
13:02:49 area, Exhibit 4, that was the South Dayton
13:02:53 Landfill?
13:02:53 A. Correct.
13:02:53 Q. Okay. And could you show me where
13:02:57 the pit was where the concrete and the blacktop
13:03:02 material was deposited?
13:03:07 A. Be right -- this -- this isn't

13:03:20 1 right because the pond was more down -- this --
13:03:22 2 well, maybe not, but in this area right here
13:03:22 3 (indicating).
13:03:26 4 MR. MUSTO: Okay. So let the record
13:03:28 5 reflect he's pointing to an area that is circled,
13:03:33 6 it looks like black ink. It has pit written
13:03:38 7 there, and inside the circle is also a large
13:03:41 8 pond.
13:04:00 9 BY MR. MUSTO:
13:04:00 10 Q. Have we covered everything
13:04:02 11 involving the concrete, the paving blocks and
13:04:08 12 the dirt --
13:04:08 13 A. Correct.
13:04:09 14 Q. -- that you're aware of?
13:04:09 15 A. No, not the dirt. Well, if it was
13:04:12 16 mixed in with the other, yes.
13:04:14 17 Q. Okay. That brings us then to the
13:04:20 18 third category, dirt. Can you tell me what you
13:04:24 19 personally witnessed that you believe came from
13:04:28 20 the City of Dayton, that dirt that was
13:04:29 21 deposited at the South Dayton Landfill?
13:04:32 22 A. Yes. The dirt was deposited close
13:04:35 23 to the third level where -- so things could be
13:04:46 24 covered up. We used the virgin earth not mixed
13:04:50 25 with anything, it would go there so it could

13:04:54 1 cover the debris that needed to be --
13:05:00 2 eventually we'd pitch toward the pit.
13:05:02 3 Q. Was -- the dirt that you claim was
13:05:04 4 deposited at the South Dayton Landfill by the
13:05:06 5 City of Dayton, was it anything else but dirt?
13:05:11 6 Could you see any impurities or
13:05:12 7 anything in it?
13:05:14 8 A. There might be a few of those
13:05:15 9 bricks that I told you about. Some -- a little
13:05:23 10 bit of concrete. Maybe a little bit of
13:05:25 11 asphalt, but those particular -- if they
13:05:28 12 were -- it looked like pretty clear indication
13:05:31 13 they were good for, you know, covering then
13:05:35 14 we'd -- that's where it would go.
13:05:37 15 Q. You didn't notice anything that
13:05:40 16 you believed to be chemicals in there, anything
13:05:43 17 that you -- trash or anything in the dirt that
13:05:46 18 you're aware of?
13:05:49 19 A. I -- I mentioned, I think,
13:05:51 20 yesterday in my deposition, that I was only
13:05:53 21 allowed to push debris in the pit.
13:05:56 22 My Uncle Alcine -- because there
13:05:57 23 was a -- an incline going down into the pit, he
13:06:03 24 didn't want his dozer so close to the edge, so
13:06:05 25 I wasn't allow to do that, so --

13:06:07 1 Q. So is your answer to my question
13:06:09 2 no?
13:06:09 3 A. Yes.
13:06:09 4 Q. Okay. And about how much dirt do
13:06:14 5 you believe that you personally witnessed the
13:06:17 6 City of Dayton deposit in South Dayton
13:06:22 7 Landfill?
13:06:22 8 A. I think I remember -- I think
13:06:25 9 they're 30 yard dump trucks, now that I'm
13:06:27 10 thinking about it, and it's the same dump truck
13:06:31 11 we talked about previously, but they were full
13:06:35 12 dump trucks, loads.
13:06:39 13 Q. So how many full dump truck loads
13:06:42 14 of dirt do you claim the City of Dayton
13:06:44 15 deposited -- that you witnessed deposited at
13:06:47 16 the South Dayton Landfill?
13:06:48 17 A. Not near as many as the other
13:06:51 18 site. I'd probably say ten.
13:06:56 19 Q. And earlier you testified that you
13:06:58 20 thought that the single axle dump trucks the
13:07:01 21 city used could hold between ten and 12 yards
13:07:04 22 of material?
13:07:04 23 A. Um-hum.
13:07:05 24 Q. Is that correct?
13:07:06 25 A. Yes.

13:07:07 1 Q. Okay. Now you're not sure of
13:07:10 2 that?
13:07:12 3 A. Could you rephrase?
13:07:14 4 Q. Are -- you just said that you
13:07:16 5 thought they could hold 30 yards.
13:07:17 6 A. Yeah, I thought -- and I'm
13:07:20 7 debating whether -- in my mind, I'm trying to
13:07:23 8 think if -- I don't know what -- a tandem, but
13:07:26 9 there's three sets of tires, and it might have
13:07:30 10 been what they call a dually truck where
13:07:32 11 there's two -- and then the bigger trucks that
13:07:35 12 came later, I think as they were purchased
13:07:37 13 were -- I don't know what they -- four -- the
13:07:41 14 set of tires, I'm not sure.
13:07:42 15 Q. So as we sit here today, you don't
13:07:44 16 know how much -- how many yards of material the
13:07:46 17 single axle dump trucks would hold?
13:07:48 18 A. No.
13:07:49 19 Q. Okay. But you believe
13:07:51 20 approximately ten single axle dump truck loads
13:07:54 21 of dirt was deposited at the South Dayton
13:07:57 22 Landfill by the City of Dayton, correct?
13:07:58 23 A. Correct.
13:07:59 24 Q. And that was in the 1968 to 1970
13:08:04 25 time period as well?

13:08:04 1 A. Um-hum.
13:08:05 2 Q. Correct?
13:08:05 3 A. Yes.
13:08:06 4 Q. And you have no knowledge of any
13:08:08 5 other dirt in any other time period from the
13:08:10 6 City of Dayton being dumped at the South Dayton
13:08:12 7 Landfill, correct?
13:08:13 8 A. No.
13:08:13 9 Q. All right. That brings us to
13:08:24 10 barrels.
13:08:26 11 A. Yes.
13:08:26 12 Q. Could you tell me about the
13:08:30 13 barrels?
13:08:32 14 A. The barrels were 55-gallon drums
13:08:36 15 that had their lids cut off possibly from
13:08:40 16 what -- you know, I mentioned earlier in
13:08:43 17 yesterday's deposition they were painted orange
13:08:53 18 and they'd be very bent up.
13:08:55 19 Q. Okay. The -- the 55-gallon orange
13:09:00 20 drums, did you witness them come to the
13:09:00 21 landfill?
13:09:04 22 A. Yes.
13:09:04 23 Q. Okay. On how many occasions?
13:09:09 24 A. At that particular time, two or
13:09:10 25 three.

13:09:10 Q. Two, three separate occasions?
13:09:12 A. (No response.)
Q. And when -- what time period was it?
(Thereupon, the court reporter interrupted the proceedings.)
BY MR. MUSTO:
13:09:36 Q. I'm sorry. How many times did you
13:09:38 witness the 55-gallon orange drums, painted
13:09:43 orange drums, come to the South Dayton
13:09:43 Landfill?
13:09:45 A. My answer was maybe two or three
13:09:48 barrels, okay?
13:09:49 Q. Oh, you only saw two or three
13:09:49 barrels be deposited?
13:09:49 A. Right, um-hum.
13:09:49 Q. Okay. Total?
13:09:54 A. When you said occasions, I --
13:09:55 yeah, total.
13:09:56 Q. So one on each occasion?
13:10:07 A. They didn't come, you know, very
13:10:09 often, because -- they just didn't come very
13:10:16 often, no.
13:10:17 Q. And on each occasion, how did --
13:10:20 what did you see when you saw them delivered?

13:10:22 1 What kind of truck delivered them?
13:10:24 2 A. They were mixed in with the dump
13:10:27 3 truck, concrete or the asphalt.
13:10:35 4 Q. And they were metal barrels?
13:10:39 5 A. Yes, um-hum. Metal drums.
13:10:41 6 Q. And they were empty, correct?
13:10:42 7 A. Yes.
13:10:43 8 Q. And how were those disposed of, if
13:10:49 9 you know?
13:10:51 10 A. They were drug off to the side and
13:10:54 11 picked up for salvage.
13:11:04 12 Q. So did they leave the landfill
13:11:06 13 then? Did someone take them off the landfill?
13:11:08 14 A. Yes, um-hum.
13:11:09 15 Q. Okay. So you're not aware of any
13:11:13 16 orange barrels or drums from the City of Dayton
13:11:16 17 being actually buried at the South Dayton Dump,
13:11:20 18 correct?
13:11:20 19 A. No.
13:11:21 20 Q. Have we covered everything on the
13:11:30 21 barrels?
13:11:30 22 A. Yes, um-hum.
13:11:32 23 Q. Let's talk about guardrails.
13:11:40 24 A. Do you want me to describe them or
13:11:42 25 just tell you how many times?

13:11:43 1 Q. Just tell me about the guardrails
13:11:44 2 that you believe the City of Dayton deposited
13:11:44 3 at South Dayton Dump.
13:11:47 4 A. They were pretty bent up. They
13:11:51 5 were steel. Painted like a silver-ish color.
13:11:54 6 Had holes. Sometimes bolts would be and
13:11:58 7 sometimes maybe a short piece of telephone pole
13:12:02 8 connected to them, and I just saw maybe one
13:12:09 9 guardrail the whole time that I was there.
13:12:16 10 Q. And did you see that guardrail
13:12:17 11 arrive at the site?
13:12:19 12 A. Yes, um-hum.
13:12:20 13 Q. And what would it arrive in?
13:12:23 14 A. The same dump trucks.
13:12:25 15 Q. In one of the loads that brought
13:12:30 16 the dirt or the concrete?
13:12:31 17 A. Correct.
13:12:32 18 Q. Okay.
13:12:33 19 A. Um-hum.
13:12:33 20 Q. And what happened to that
13:12:36 21 guardrail?
13:12:38 22 A. I had to get off the Dumpster and
13:12:40 23 shut off and then go and drag it off to the
13:12:43 24 side so the -- it could be used for salvage.
13:12:49 25 Q. So was that then taken off the

13:12:51 1 South Dayton Dump site?
13:12:52 2 A. Yes.
13:12:52 3 Q. It was not disposed of there,
13:12:54 4 correct?
13:12:54 5 A. No.
13:12:55 6 Q. Okay. Have we covered everything
13:13:03 7 that you have any knowledge of that you believe
13:13:06 8 the City of Dayton disposed of at the South
13:13:09 9 Dayton Landfill other than the salvaged
13:13:12 10 automobiles?
13:13:12 11 A. Correct.
13:13:13 12 Q. All right. You had testified
13:13:21 13 before that you had worked for Doyle Roberson?
13:13:29 14 A. Right.
13:13:29 15 Q. Is that correct?
13:13:29 16 A. Yes.
13:13:31 17 Q. Okay. And I believe the testimony
13:13:33 18 was that you worked for him for a few months
13:13:36 19 around your 16th birthday?
13:13:39 20 A. Yes.
13:13:41 21 Q. Other than working for Doyle --
13:13:44 22 let me rephrase the question. Are you aware of
13:13:47 23 the City of Dayton salvaging or disposing of
13:13:49 24 any vehicles at the South Dayton Dump other
13:13:52 25 than through Doyle Roberson?

13:13:55 1 A. Other than through Doyle Roberson?
13:13:57 2 Q. Yes.
13:13:58 3 A. No.
13:13:58 4 Q. Okay. Just so I'm clear,
13:14:07 5 approximately how many months did you work for
13:14:10 6 Doyle Roberson?
13:14:12 7 A. Approximately a month, maybe two
13:14:18 8 months.
13:14:18 9 Q. And you said that was around your
13:14:22 10 16th birthday?
13:14:23 11 A. Yes.
13:14:23 12 Q. So that would be somewhere 1968,
13:14:26 13 1969?
13:14:27 14 A. Correct, because that's when I
13:14:31 15 finished school and Doyle signed my -- I had to
13:14:33 16 have a release form and Doyle -- and signed it
13:14:35 17 so I could quit school, so --
13:14:38 18 Q. So you were born in November of
13:14:41 19 1952?
13:14:41 20 A. Um-hum.
13:14:43 21 Q. So you would have turned 16 in
13:14:46 22 November of 1968, correct?
13:14:47 23 A. Yeah.
13:14:47 24 Q. Would you have worked with Doyle
13:14:51 25 immediately when you turned 16 or can you tell

13:14:53 1 me the time of year that it would have been
13:14:55 2 that you worked for Doyle?
13:14:57 3 A. I think it was the latter part of
13:14:59 4 winter, beginning of spring.
13:15:02 5 Q. Sometime around February, March?
13:15:04 6 A. Yeah.
13:15:04 7 Q. So that would be 1969?
13:15:09 8 A. Yeah.
13:15:09 9 Q. Other than those two months in
13:15:16 10 around 1969, did you ever perform any services
13:15:20 11 or do any work involving the auto salvage
13:15:24 12 yard or Doyle Roberson at the South Dayton
13:15:27 13 Landfill?
13:15:27 14 A. No.
13:15:27 15 Q. So your only knowledge, personal
13:15:32 16 knowledge, that you have about Doyle Roberson's
13:15:35 17 auto salvage yard comes from those two months
13:15:38 18 that you worked there, correct?
13:15:39 19 A. Correct, um-hum.
13:15:40 20 Q. All right. Let's talk about --
13:15:53 21 did he just call it Doyle's Auto Parts or what
13:15:55 22 was the name of it?
13:15:58 23 A. Doyle's Auto Parts.
13:15:58 24 Q. Let's talk about the business that
13:16:00 25 he had there. Could you describe to me

13:16:01 1 generally what the business involved?
13:16:05 2 A. It was a -- a salvage yard for
13:16:11 3 vehicles, which would then have been turned
13:16:16 4 into a salvage yard where parts would be taken
13:16:19 5 off of the vehicles as they came in, and then
13:16:24 6 he sold some new auto parts.
13:16:30 7 Then he would empty the fluids out
13:16:37 8 of them and then burn them and then they would
13:16:39 9 be picked up for salvage.
13:16:42 10 Q. Okay. Let me go over the
13:16:47 11 categories and you tell me if there's any other
13:16:49 12 business that Mr. Roberson did at the salvage
13:16:51 13 yard, okay?
13:16:52 14 A. Okay.
13:16:53 15 Q. You said he took in old vehicles,
13:16:56 16 correct?
13:16:56 17 A. Correct.
13:16:57 18 Q. He sold new auto parts?
13:16:59 19 A. Yes.
13:17:00 20 Q. He allowed people to come in and
13:17:02 21 salvage parts from the vehicles that were
13:17:06 22 brought to his yard, correct?
13:17:08 23 A. That's not correct.
13:17:09 24 Q. Okay. Correct me. What --
13:17:12 25 A. He would send -- he had hired

13:17:13 1 several gentlemen to go out and take the parts
13:17:16 2 off.
13:17:17 3 Q. Okay. So someone would come and
13:17:19 4 say I need this part for my car, and then one
13:17:22 5 of his employees would go out there and take
13:17:25 6 the part off?
13:17:25 7 A. Right. Correct.
13:17:29 8 Q. So let's go back to my list. He
13:17:29 9 would take in old vehicles, correct?
13:17:30 10 A. Yes.
13:17:30 11 Q. He would salvage parts off those
13:17:34 12 vehicles?
13:17:34 13 A. Correct.
13:17:35 14 Q. He would sell new auto parts?
13:17:38 15 A. Correct.
13:17:38 16 Q. And then he would dispose of the
13:17:44 17 vehicles by emptying the fluids out and burning
13:17:48 18 them?
13:17:48 19 A. Correct.
13:17:48 20 Q. Anything else that he did on that
13:17:51 21 property?
13:17:52 22 A. I mentioned they were then
13:17:54 23 scrapped.
13:17:56 24 Q. Okay. And when you say they were
13:17:59 25 scrapped, then would they be taken to a

13:18:02 1 different location or tell me about that?
13:18:13 2 A. I believe that they went to
13:18:17 3 Franklin Iron -- I mean -- yeah, Franklin Iron
13:18:23 4 and Metal.
13:18:23 5 Q. And when you say the scrap,
13:18:25 6 someone from Franklin Iron and Metal would come
13:18:26 7 and take them off the dumpsite?
13:18:29 8 A. No, he would -- he would load like
13:18:34 9 several onto a flatbed. He tried flattening
13:18:37 10 them as much as he could. They didn't have a
13:18:37 11 crusher at that time.
13:18:37 12 And he'd flatten as many as he
13:18:40 13 could and then stack them, chain them and send
13:18:42 14 them off to -- to be salvaged.
13:18:46 15 Q. Have we covered everything that
13:18:50 16 Mr. Roberson's Doyle Auto Parts did at the
13:18:55 17 South Dayton Landfill?
13:18:55 18 A. Yes.
13:18:56 19 Q. Is there anything else that they
13:19:00 20 did as part of his business?
13:19:01 21 A. That he did as a operation?
13:19:02 22 Q. Yeah, as part of Doyle's Auto
13:19:03 23 Parts.
13:19:03 24 A. Yes, that was it.
13:19:04 25 Q. Okay. What did you do -- tell me

13:19:09 1 the jobs that you performed during the two
13:19:11 2 months that you worked there.
13:19:12 3 A. I did office work.
13:19:18 4 Q. Anything else?
13:19:22 5 A. Sometimes I'd run out to see if
13:19:25 6 they -- if he had the certain vehicle that the
13:19:27 7 individual needed and see if the -- the car was
13:19:33 8 still there or whatever.
13:19:36 9 Q. Anything else?
13:19:37 10 A. No.
13:19:38 11 Q. Were you involved in emptying
13:19:41 12 fluids from the vehicles?
13:19:43 13 A. No.
13:19:44 14 Q. Were you involved in burning the
13:19:46 15 vehicles?
13:19:46 16 A. No.
13:19:47 17 Q. Were you involved in any fashion
13:19:49 18 in assisting the vehicles once burned to be
13:19:54 19 loaded up and taking them to Franklin Iron and
13:19:54 20 Metal?
13:19:57 21 A. No.
13:19:57 22 Q. Let's talk about the office work
13:20:03 23 that you did. Tell me about it.
13:20:07 24 A. I was to take the slips that came
13:20:12 25 in with the tow truck driver, they were like

13:20:17 1 cards, describing the vehicle and maybe the VIN
13:20:20 2 number on it.
13:20:21 3 Then I would have to take piles of
13:20:26 4 either the yellow title or the original
13:20:30 5 duplicate and staple it onto the cards.
13:20:39 6 Q. Anything else that you did?
13:20:41 7 A. No.
13:20:42 8 Q. What was on these slips?
13:20:50 9 A. I mentioned that -- the
13:20:52 10 description of the vehicle, color of the
13:20:55 11 vehicle, the mileage, the VIN number, and what
13:20:59 12 make and model.
13:21:00 13 Q. Anything else?
13:21:01 14 A. No.
13:21:02 15 Q. And then where -- you would get
13:21:12 16 the slips directly from the drivers as they
13:21:14 17 brought the cars in?
13:21:16 18 A. I didn't.
13:21:17 19 Q. Who did?
13:21:19 20 A. They would be -- there was a --
13:21:23 21 like a slot in the door and they would be
13:21:29 22 dropped there and then Doyle would get them in
13:21:32 23 the morning and go over them and then he'd hand
13:21:35 24 them to me.
13:21:36 25 Q. Okay. So that explains how you

13:21:40 1 got the slips. How did you get the yellow
13:21:43 2 title, original or duplicate?
13:21:46 3 A. Well, between the time before it
13:21:53 4 was handed to me, I -- I think he made phone
13:21:57 5 calls or -- or sent in the slips or duplicates
13:22:00 6 or whatever to -- I don't know where.
13:22:05 7 Q. So you weren't involved in getting
13:22:07 8 the yellow slips and the titles, correct?
13:22:08 9 A. No. No.
13:22:09 10 Q. And so you never even saw -- did
13:22:18 11 you even see the cars come in?
13:22:19 12 A. On -- occasionally, yes.
13:22:21 13 Q. But most of the time you were in
13:22:22 14 the office, correct?
13:22:24 15 A. Correct.
13:22:25 16 Q. Did the office have windows that
13:22:28 17 you would look out to see the vehicles come
13:22:29 18 in?
13:22:29 19 A. Oh, yeah. Um-hum.
13:22:32 20 Q. So the only thing that you would
13:22:41 21 do then would be just to match up the slip with
13:22:44 22 the title and staple it?
13:22:46 23 A. Um-hum.
13:22:46 24 Q. Is that correct?
13:22:47 25 A. Yes.

13:22:47 1 Q. All right. In that time period,
13:22:57 2 the two months that you worked for Doyle's Auto
13:23:03 3 Parts, did you ever see a City of Dayton
13:23:05 4 vehicle tow in another vehicle?
13:23:09 5 A. No.
13:23:15 6 Q. Did you ever see tow companies
13:23:19 7 bring vehicles in?
13:23:20 8 A. Yes.
13:23:20 9 Q. Can you remember the names of any
13:23:23 10 of the tow companies?
13:23:25 11 A. The one I remember mostly was
13:23:36 12 Sandy's Towing Company.
13:23:36 13 Q. Okay. Any other tow companies
13:23:39 14 that you can recall towing in vehicles to
13:23:43 15 Doyle's Auto Parts?
13:23:47 16 A. Sometimes I saw like a Shell sign
13:23:50 17 or Marathon.
13:24:00 18 Q. As far as the titles, would you
13:24:05 19 ever read the titles other than just to get the
13:24:09 20 information to match it with the slip?
13:24:15 21 A. No.
13:24:15 22 Q. So the only thing you were
13:24:18 23 looking -- or what exactly were you looking for
13:24:22 24 on the title then?
13:24:24 25 A. Make, model, and the VIN number

13:24:26 1 had to match up to the slip.
13:24:28 2 Q. Those are the only things that you
13:24:30 3 were looking for on the title, correct?
13:24:32 4 A. Correct.
13:24:32 5 Q. You mentioned that the vehicles
13:24:44 6 came in to be salvaged. What sources -- he had
13:24:51 7 tow trucks that would bring them, correct?
13:24:51 8 A. Correct.
13:24:53 9 Q. And would private citizens ever
13:24:55 10 drive vehicles in?
13:24:58 11 A. Pardon me?
13:24:58 12 Q. Would private citizens -- did
13:25:00 13 anyone ever drive in a vehicle to be salvaged?
13:25:03 14 A. Oh, yeah. Um-hum.
13:25:03 15 Q. Okay. And they just -- but you
13:25:04 16 wouldn't deal with that person --
13:25:05 17 A. No.
13:25:06 18 Q. -- Doyle would, correct?
13:25:07 19 A. Yeah.
13:25:08 20 Q. Okay. Who all worked at Doyle's
13:25:11 21 Auto Parts while you worked there in the two
13:25:13 22 month time? Can you tell me the number of
13:25:15 23 employees he had?
13:25:16 24 A. Number; around four or six.
13:25:20 25 Q. Four to six?

13:25:21 A. Um-hum.
13:25:22 Q. Is that including you?
13:25:25 A. No.
13:25:26 Q. So it would be five to seven then,
13:25:29 including you?
13:25:30 A. Yeah.
13:25:33 Q. And you described your job to me.
13:25:35 What were the other jobs?
13:25:38 A. The other jobs?
13:25:39 Q. At Doyle's Auto Parts. What did
13:25:42 those other four to six people do?
13:25:46 A. Two of them were allotted behind
13:25:46 the counter to help customers come in to
13:25:50 purchase parts, and the other four would, if
13:25:54 they were all together, were sent out to take
13:25:57 the parts off.
13:26:11 Q. Once you matched the slips with
13:26:14 the title, what did you do with them?
13:26:17 A. Put them in -- there was two bins
13:26:20 that I would put them in.
13:26:22 Q. Were there any names on the bins
13:26:24 or purpose for having two separate bins?
13:26:26 A. Well, like I mentioned a few
13:26:28 minutes ago, if it had a white title, it went
13:26:32 in the white pile. If it had a yellow title,

13:26:35 1 it went in the yellow -- yellow pile.
13:26:37 2 Q. Do you know what the difference,
13:26:39 3 other than the color, was between the white
13:26:41 4 title and the yellow title?
13:26:42 5 A. Yes, the white was one that had --
13:26:46 6 what would I call it, a lien or a bank -- you
13:26:51 7 know, like somebody got a loan out, they kept
13:26:54 8 the -- the original title.
13:26:56 9 So we'd have to send it to
13:26:58 10 whatever bank it was and then get, you know,
13:27:03 11 the yellow -- yellow thing.
13:27:04 12 It had to have a yellow title in
13:27:08 13 order to be any shape, way or form picked on,
13:27:13 14 I'll say.
13:27:14 15 Q. Other than putting it in the white
13:27:17 16 bin or the yellow bin, did you have anything
13:27:18 17 else other to do with the title or the slip?
13:27:22 18 A. No.
13:27:26 19 Q. Okay. Now, you mentioned in your
13:27:27 20 testimony previously that you'd get the cars
13:27:30 21 coming in, correct?
13:27:32 22 A. Correct.
13:27:33 23 Q. And then at some point in time,
13:27:35 24 they'd be on the lot for a certain period of
13:27:38 25 time and then they'd be salvaged by having them

13:27:41 1 emptied, burned and then they'd go to Franklin
13:27:45 2 Iron and Metal, correct?
13:27:45 3 A. Correct.
13:27:45 4 Q. Okay. How long would it be
13:27:47 5 between the time that a car came in to the time
13:27:51 6 that they would be salvaged in that fashion?
13:27:54 7 A. I think they were given 30 days or
13:27:57 8 90 days, one of the two. I can't remember.
13:27:59 9 Q. And as we sit here today, you have
13:28:05 10 no recollection whether it was 30 or 90 days,
13:28:07 11 correct?
13:28:07 12 A. No.
13:28:08 13 Q. Is that correct?
13:28:09 14 A. Correct.
13:28:10 15 Q. All right. And the vehicles that
13:28:37 16 would come in by tow truck or private citizen
13:28:41 17 to Doyle's salvage yard, sometimes the entire
13:28:46 18 vehicle would then be purchased and go out,
13:28:48 19 correct?
13:28:50 20 A. Not to my recollection.
13:28:52 21 Q. Okay. That could happen, you
13:28:54 22 just -- in the two months you were there, you
13:28:58 23 just don't recall it happening, correct?
13:29:00 24 A. It could happen.
13:29:05 25 Q. And you weren't involved in

13:29:17 1 interacting with people that brought the cars
13:29:19 2 in, correct?
13:29:20 3 MR. ROMINE: Asked and answered.
13:29:22 4 THE WITNESS: No.
13:29:24 5 BY MR. MUSTO:
13:29:24 6 Q. So you have no personal knowledge
13:29:26 7 where any particular vehicle came from that was
13:29:29 8 brought to Doyle's Auto Parts, correct?
13:29:32 9 A. Correct.
13:29:35 10 Q. And you can't say that -- in
13:29:39 11 the two months that you were there that any
13:29:41 12 vehicle was brought by the City of Dayton,
13:29:44 13 correct, because you have no personal knowledge
13:29:46 14 of it?
13:29:52 15 A. I think on the slip that I would
13:29:59 16 staple to the titles had the location it was
13:30:02 17 picked up at.
13:30:05 18 Q. And what would that say?
13:30:06 19 A. Well, it would say Wyoming Street
13:30:12 20 or Second and Perry.
13:30:18 21 Q. But that wasn't something that you
13:30:19 22 were specifically looking for when you looked
13:30:21 23 at the slips, correct?
13:30:22 24 A. No.
13:30:22 25 Q. The only thing that you were

13:30:24 1 looking for was to match the model and make of
13:30:26 2 the vehicle with the title, correct, and the
13:30:30 3 VIN number?
13:30:30 4 MR. ROMINE: Asked and answered.
13:30:33 5 THE WITNESS: And the VIN number.
13:30:37 6 BY MR. MUSTO:
13:30:42 7 Q. Okay. Do you know how many cars
13:30:44 8 were salvaged during the time period you were
13:30:48 9 at Doyle's Auto Parts?
13:30:50 10 And when I'm talking about
13:30:51 11 salvaged was, meaning that the fluids were
13:30:53 12 leaked out and that it was burned?
13:30:55 13 A. You want a guesstimate?
13:30:58 14 Q. Yes.
13:30:59 15 A. A couple hundred.
13:31:06 16 Q. Do you have any personal knowledge
13:31:09 17 concerning where those vehicles came from?
13:31:14 18 A. Personal knowledge?
13:31:15 19 Q. Yes.
13:31:16 20 A. I just mentioned that -- on that
13:31:18 21 slip would have, but no one would tell me, no.
13:31:22 22 Q. You have no personal knowledge of
13:31:24 23 where those vehicles came from, correct?
13:31:26 24 A. No. Correct.
13:31:26 25 Q. All right. How big -- how much

13:31:41 1 area did Doyle's Auto Parts take up?
13:31:46 2 A. In those years?
13:31:47 3 Q. Yes, the time that you were there,
13:31:49 4 because that's the only time you have any
13:31:51 5 knowledge about it, correct?
13:31:51 6 A. No.
13:31:53 7 Q. Okay.
13:31:54 8 A. No.
13:31:54 9 Q. Well, let's go back. The time
13:31:56 10 that you were there, working there, how large
13:31:58 11 was Doyle's Auto Parts?
13:32:00 12 A. I would say it engulfed a third of
13:32:06 13 the landfill area.
13:32:07 14 Q. I'm going to hand you back what's
13:32:15 15 been marked as Plaintiffs' Exhibit 4.
13:32:17 16 A. Excuse me. Could I go to the
13:32:19 17 bathroom?
13:32:21 18 Q. Oh, sure. Go ahead.
13:32:22 19 MR. MUSTO: We'll go off.
13:32:23 20 (Pause in proceedings.)
13:36:43 21 MR. MUSTO: Back on the record.
13:36:43 22 BY MR. MUSTO:
13:36:47 23 Q. Mr. Grillot, what is the basis of
13:36:49 24 your belief that the City of Dayton deposited
13:36:55 25 vehicles at the South Dayton Dump?

13:36:59 1 A. From the -- the slips.
13:37:02 2 Q. Anything else?
13:37:06 3 A. No. Well, may I say that it said
13:37:14 4 Dayton Police Department. I don't know if
13:37:14 5 that -- I guess that's the City of Dayton,
13:37:17 6 so --
13:37:18 7 Q. What said Dayton Police
13:37:19 8 Department?
13:37:19 9 A. The slips.
13:37:20 10 Q. Anything else?
13:37:34 11 A. No.
13:37:34 12 Q. As we sit here today -- and,
13:37:43 13 again, you said when you were looking at the
13:37:45 14 slips, you weren't paying attention. The only
13:37:47 15 things that you were paying attention to were
13:37:49 16 the make, model and VIN number of the slip,
13:37:51 17 correct?
13:37:52 18 A. Correct, um-hum.
13:37:53 19 Q. You weren't specifically looking
13:37:55 20 for where they came from, correct?
13:37:57 21 A. No, because all the slips would
13:37:59 22 come under the heading of the Dayton Police
13:38:02 23 Department.
13:38:02 24 Q. Every slip that came into you?
13:38:05 25 A. Um-hum.

13:38:06 1 Q. You testified yesterday that you
13:38:08 2 got vehicles from Kettering, Oakwood and other
13:38:13 3 municipalities, right?
13:38:13 4 A. Right, but they -- I don't -- I
13:38:19 5 don't remember how at this particular time. My
13:38:22 6 recollection is most all of them came from the
13:38:25 7 Dayton Police Department.
13:38:31 8 Q. What specifically would the slip
13:38:33 9 say?
13:38:34 10 A. Well, the heading with black
13:38:37 11 letters at the very top of it would say Dayton
13:38:40 12 Police Department, small letters. Then it
13:38:42 13 would have lines with make, model, serial
13:38:46 14 number, VIN number. Did I say color? Color.
13:38:53 15 Then it had like location, and
13:38:56 16 then it would give the location, and I think
13:39:02 17 it -- if it didn't have the police officer's
13:39:06 18 name, it would just have a signature on it.
13:39:13 19 Oh, there was a time, the time
13:39:15 20 that -- that it was either picked up or
13:39:18 21 delivered to Doyle's. I can't -- I don't know,
13:39:24 22 and the date, the date -- the date was up at
13:39:29 23 the upper right-hand corner.
13:39:30 24 Q. You said the only slips that you
13:39:41 25 ever dealt with said City of Dayton on them?

13:39:43 A. Yes, um-hum.
13:39:44 Q. And if there were slips from any
13:39:53 other municipalities or government agencies,
13:39:55 you just don't recall them or you never
13:39:58 received any?
13:39:58 A. Well, some of them that I got just
13:40:01 had the yellow or -- yellow duplicate, and I
13:40:08 don't remember how I made a distinction what to
13:40:11 do with it.
13:40:11 Q. At this time, was Doyle's the only
13:40:21 auto salvage yard in the Dayton area?
13:40:27 A. I don't know.
13:40:32 Q. There could have been others?
13:40:34 A. Could have been, but I think I
13:40:39 believe Doyle saying he had a contract with
13:40:43 Dayton.
13:40:44 Q. Did you ever see the contract?
13:40:45 A. No.
13:40:46 Q. Do you know, was Mr. -- was Doyle
13:40:49 paid anything by the City of Dayton for taking
13:40:51 these vehicles?
13:40:53 A. I don't know.
13:40:53 Q. And you said you never saw a
13:40:56 Dayton pickup truck or tow truck bring in any
13:40:59 of these vehicles, correct?

13:41:00 1 A. No.
13:41:00 2 Q. So the sole basis for your belief
13:41:03 3 is a slip that had Dayton Police Department on
13:41:06 4 the top, correct?
13:41:07 5 A. Correct, um-hum.
13:41:08 6 Q. You said there were approximately
13:41:15 7 300 vehicles that --
13:41:16 8 A. Two hundred.
13:41:17 9 Q. Two hundred vehicles that were
13:41:19 10 burned, had the contents drained from them and
13:41:23 11 salvaged in the two months that you were at --
13:41:25 12 A. No, I said approximately that many
13:41:28 13 came in, but most of them sat at their location
13:41:33 14 waiting to be cleared.
13:41:36 15 Q. Do you know if any of the 200 that
13:41:39 16 came in were salvaged during the time that you
13:41:42 17 worked there?
13:41:43 18 A. I -- I don't believe I was there
13:41:45 19 long enough, because I will say again, that you
13:41:48 20 had that time period, and most of them -- some
13:41:50 21 of them that I -- when I first started might
13:41:55 22 have -- that was in -- in the two stacks that
13:42:00 23 were already there before I started working
13:42:01 24 there might have, but I don't know.
13:42:03 25 Q. But you didn't have anything to do

13:42:05 1 with the -- when you say the stacks, what
13:42:06 2 stacks were already there before you started
13:42:08 3 working?
13:42:09 4 A. The bin that had the yellow titles
13:42:11 5 and the bin that had the white titles.
13:42:14 6 Q. And you didn't have anything to do
13:42:15 7 with those, correct?
13:42:16 8 A. No, uh-huh.
13:42:17 9 Q. Okay. So you don't even have any
13:42:20 10 knowledge, as we sit here today, if any of the
13:42:22 11 slips of the vehicles that came in that said
13:42:25 12 Dayton Police Department on top of it, if any
13:42:28 13 of those cars were ever drained, burned and
13:42:31 14 salvaged, because you weren't there more than
13:42:33 15 two months, correct?
13:42:34 16 A. Correct, um-hum.
13:42:35 17 Q. Why don't you go ahead -- you've
13:42:47 18 got in front of you what's been marked as
13:42:51 19 Defendants' Exhibit 4. I'm going to give you a
13:42:53 20 red pen, and could you use the red pen to
13:42:57 21 roughly outline the area that comprised Doyle's
13:43:01 22 Auto Parts, including where he kept the
13:43:03 23 salvaged -- or kept the vehicles that came in
13:43:06 24 at the time frame that you worked there, okay?
13:43:11 25 A. Sure. (Indicating.) This is --

13:43:20 1 it's not really -- this was more up here
13:43:23 2 (indicating), but -- this was tier one and this
13:43:39 3 would be the area (indicating).
13:43:41 4 His building, I think -- well,
13:43:46 5 maybe it was. Here's Doyle's Auto Parts right
13:43:49 6 here (indicating), so let me go back a little
13:43:52 7 further. About like that (indicating).
13:43:55 8 Because his building sat there.
13:43:57 9 The entrance was right -- right about there
13:44:00 10 (indicating), and then the cars -- the ones
13:44:03 11 that were not to be touched was put right along
13:44:08 12 this line right here (indicating), and the
13:44:12 13 other places where they were broken down for
13:44:13 14 parts and so on and so forth.
13:44:15 15 Q. Okay. Let the record reflect that
13:44:18 16 he's drawn in with a red pen -- how would you
13:44:22 17 describe that shape, Mr. Grillot? Oblong?
13:44:30 18 A. Yeah, that would be close enough.
13:44:31 19 Q. An oblong shape indicating the
13:44:33 20 area that composed Doyle's Auto Parts,
13:44:35 21 including the area where they stored the
13:44:37 22 vehicles, is that correct?
13:44:38 23 A. Correct.
13:44:38 24 Q. All right. And on this map, can
13:44:41 25 you tell me, was there a specific location

13:44:43 1 where they would drain the fluids from the
13:44:46 2 vehicles?
13:44:49 3 A. Right there (indicating).
13:44:49 4 Q. And let the record reflect that he
13:44:52 5 circled the D in Doyle Auto Parts as the area
13:44:56 6 where the fluids would be drained --
13:44:57 7 A. Yes.
13:44:58 8 Q. -- is that correct? Other than
13:45:20 9 the two month period in 1969 when you worked
13:45:25 10 for Doyle Auto Parts, you never worked again
13:45:26 11 for him or in the auto salvage yard there,
13:45:31 12 correct?
13:45:31 13 A. No.
13:45:31 14 Q. Is that correct?
13:45:32 15 A. Correct.
13:45:32 16 Q. All right.
13:45:33 17 A. Sorry.
13:45:34 18 Q. Did he ever get a car compactor?
13:45:41 19 A. No.
13:45:42 20 Q. Are you aware of any other site in
13:45:49 21 the Dayton area that had a car compactor at
13:45:53 22 anytime between the time that you worked for
13:45:55 23 Doyle and today?
13:45:57 24 A. Yes.
13:45:57 25 Q. In what other areas?

13:45:59 1 MR. ROMINE: Objection. It goes
13:46:01 2 beyond the direct. It goes beyond what Judge Rice
13:46:03 3 said is appropriate for this deposition.
13:46:04 4 BY MR. MUSTO:
13:46:04 5 Q. You can go ahead and answer.
13:46:06 6 MR. ROMINE: Repeats his previous
13:46:08 7 testimony.
13:46:08 8 THE WITNESS: It was located in West
13:46:11 9 Carrollton.
13:46:11 10 BY MR. MUSTO:
13:46:13 11 Q. Other than the salvage yard or car
13:46:16 12 compactor in West Carrollton, are you aware of
13:46:18 13 any other auto salvage yards in the Dayton
13:46:22 14 area?
13:46:22 15 MR. ROMINE: Same objection.
13:46:23 16 THE WITNESS: No.
13:46:25 17 BY MR. MUSTO:
13:46:25 18 Q. Okay. And what's the name of the
13:46:28 19 compactor or auto salvage yard in West
13:46:28 20 Carrollton?
13:46:31 21 A. I don't know.
13:46:31 22 MR. ROMINE: Same objection.
13:46:31 23 BY MR. MUSTO:
13:46:31 24 Q. You don't know. Do you know the
13:46:33 25 rough location?

13:46:34 1 MR. ROMINE: Same objection.
13:46:36 2 THE WITNESS: I would, but only on a
13:46:38 3 map.
13:46:42 4 BY MR. MUSTO:
13:46:42 5 Q. Can you tell me roughly how many
13:46:43 6 miles that would be from the South Dayton
13:46:46 7 Landfill?
13:46:46 8 MR. ROMINE: Same objection.
13:46:49 9 THE WITNESS: Ten, 12 miles.
13:46:50 10 BY MR. MUSTO:
13:46:53 11 Q. Can you tell me what direction
13:46:54 12 from the South Dayton Landfill?
13:46:55 13 MR. ROMINE: Same objection.
13:46:56 14 THE WITNESS: South.
13:46:58 15 BY MR. MUSTO:
13:47:03 16 Q. Are you aware of any contracts
13:47:06 17 that any of the tow companies that brought cars
13:47:09 18 to Doyle Auto Parts had with the City of
13:47:11 19 Dayton, if any?
13:47:12 20 A. No.
13:47:54 21 Q. Do you know how long Doyle's Auto
13:47:56 22 Parts, the auto salvage yard, operated at the
13:47:59 23 South Dayton Landfill?
13:48:00 24 MR. ROMINE: Same objection.
13:48:13 25 THE WITNESS: '60s, '70s and '80s.

13:48:17 1 BY MR. MUSTO:
13:48:19 2 Q. Do you know if the business
13:48:20 3 changed at all during that time period?
13:48:22 4 MR. ROMINE: Same objection.
13:48:26 5 THE WITNESS: I think I heard once.
13:48:29 6 BY MR. MUSTO:
13:48:29 7 Q. And what did you hear?
13:48:30 8 MR. ROMINE: Same objection.
13:48:31 9 THE WITNESS: Early in the '90s.
13:48:34 10 BY MR. MUSTO:
13:48:37 11 Q. And what did you hear?
13:48:39 12 MR. ROMINE: Same objection.
13:48:41 13 THE WITNESS: That Doyle had sold
13:48:44 14 it to buy a -- a bar that he had built in that
13:48:55 15 area.
13:49:43 16 BY MR. MUSTO:
13:49:43 17 Q. One other question. During the
13:49:46 18 time that you worked at Doyle's Auto Parts,
13:49:50 19 approximately how many cars were there?
13:50:01 20 A. Five hundred.
13:50:02 21 Q. That's the most at any one time
13:50:08 22 that you believe were there during the time
13:50:10 23 that you worked there, correct?
13:50:10 24 A. Um-hum.
13:50:11 25 Q. Is that yes?

13:50:12 A. Yes.

13:50:22 MR. MUSTO: All right. I don't have

13:50:23 any other questions.

13:50:25 THE WITNESS: Thank you.

13:50:25 CROSS-EXAMINATION

13:50:25 BY MR. EDDY:

13:50:33 Q. Are you okay to continue, Mr.

13:50:33 Grillot?

13:50:46 A. Yes, I'm fine. Thank you for

13:50:47 asking.

13:50:47 Q. Thank you. Mr. Grillot, I'm

13:50:52 Robert Eddy. I represent Sherwin-Williams

13:50:56 Company. Can you hear me all right?

13:50:57 A. Yes.

13:50:58 Q. And, again, if you could keep up

13:51:00 your voice for the folks at the other end of

13:51:03 the table, it would be appreciated.

13:51:06 A. Okay.

13:51:06 Q. With respect to Uncle Alcie -- is

13:51:06 it Alcie (sic) or Alcine?

13:51:06 A. Alcine.

13:51:30 Q. Alcine. Thank you. Did he sort

13:51:33 of run the show at the -- from -- on a daily

13:51:35 basis out at the dump?

13:51:37 A. Yes.

13:51:38 1 Q. All right. And when you were out
13:51:39 2 there working, whether as a young boy or
13:51:42 3 through your teens, did you take your orders
13:51:44 4 from him?
13:51:48 5 A. Sometimes.
13:51:50 6 Q. Was one of the work orders just
13:51:53 7 generally for this, in a sense, waste not, want
13:52:00 8 not, that is, things that could be used,
13:52:04 9 salvaged, sold, would be used, salvaged, sold
13:52:07 10 rather than planted in a dump?
13:52:09 11 A. Correct.
13:52:10 12 Q. All right. And that's where
13:52:16 13 Franklin Iron came into play, they would take
13:52:18 14 off metal from the site?
13:52:22 15 A. They wouldn't, we would.
13:52:24 16 Q. For them?
13:52:25 17 A. Yes.
13:52:26 18 Q. Okay. In other words, whatever
13:52:28 19 metal was salvaged, it was sold to Franklin?
13:52:31 20 MR. ROMINE: Objection. It goes
13:52:33 21 beyond the scope of the direct. It violates Judge
13:52:35 22 Rice's order not to retread former testimony.
13:52:37 23 BY MR. EDDY:
13:52:37 24 Q. You may answer.
13:52:39 25 A. Yes.

13:52:39 Q. You mentioned with respect to -- I
13:52:45 think you mentioned three paint companies
13:52:49 associated with the dump. And when I talk
13:52:52 about the dump, I'm talking about the South
13:52:54 Dayton Dump, okay?
13:52:54 A. Okay.
13:52:55 Q. I think you mentioned Durrel
13:52:58 Paint?
13:52:58 A. Yes.
13:52:58 Q. I think you mentioned Pittsburgh
13:52:58 Paint?
13:52:58 A. Yes.
13:53:01 Q. That's also PPG, is that right?
13:53:02 A. Correct.
13:53:03 Q. And you mentioned
13:53:04 Sherwin-Williams?
13:53:05 A. Yes.
13:53:06 Q. All right. You said that paint
13:53:13 was used to paint a building or more than one
13:53:16 building on the site?
13:53:17 A. Yes.
13:53:18 Q. Did your personally participate in
13:53:22 that painting activity?
13:53:25 A. Yes.
13:53:25 Q. On more than one occasion?

13:53:27 1 A. Yes.
13:53:28 2 Q. Over more than one year?
13:53:29 3 A. Yes.
13:53:29 4 Q. Can you give me an idea the number
13:53:32 5 of occasions that you personally participated
13:53:35 6 in painting buildings out on the site where you
13:53:39 7 used paint that had come into the site from
13:53:42 8 some source?
13:53:43 9 A. How many times?
13:53:44 10 Q. Yeah.
13:53:45 11 A. Is that including equipment?
13:53:49 12 Q. I'm sorry, does that include --
13:53:51 13 what kind of -- I'm talking about --
13:53:54 14 A. The bulldozer, the tractor I
13:53:55 15 mentioned yesterday.
13:53:56 16 Q. Are you saying painted the
13:53:58 17 bulldozer as well?
13:53:59 18 A. Um-hum.
13:53:59 19 Q. Okay. Is that a yes?
13:54:01 20 A. Yes.
13:54:01 21 Q. Again, the court reporter can't --
13:54:06 22 this came up a few times before. If you could
13:54:08 23 verbalize your answers --
13:54:10 24 A. Sure. Yes.
13:54:10 25 Q. -- that would be helpful.

13:54:12 1 A. Okay.
13:54:12 2 Q. Well, let -- let's just start with
13:54:14 3 the things that got painted with paint material
13:54:18 4 that came into the site that was used at the
13:54:20 5 site to paint buildings, dozers, whatever.
13:54:24 6 What are the types of things that
13:54:25 7 the paint was used on?
13:54:26 8 MR. ROMINE: Asked and answered. I
13:54:27 9 have the same objection as previously.
13:54:30 10 THE WITNESS: Anything that was metal
13:54:31 11 that we didn't want to rust, the gate, front gate.
13:54:35 12 We had poles, fences. We had a couple diesel
13:54:49 13 drums that -- that -- diesel was put in for the
13:54:55 14 dozer and -- and the tractor. I think that's it.
13:54:58 15 BY MR. EDDY:
13:55:02 16 Q. So you had some buildings?
13:55:03 17 A. Yeah.
13:55:05 18 Q. You had a dozer or more than one
13:55:08 19 dozer?
13:55:10 20 A. We had two, but one was only
13:55:17 21 runable (sic).
13:55:18 22 Q. Did you ever paint the one that
13:55:20 23 wasn't runable?
13:55:21 24 A. While it was -- when it was
13:55:23 25 running, yeah.

13:55:23 1 Q. Well, all right. So you had
13:55:26 2 buildings, you had two dozers, you had some
13:55:30 3 fencing, right?
13:55:31 4 A. Um-hum.
13:55:31 5 Q. Is that a yes?
13:55:32 6 A. Yeah. Yes. I'm sorry.
13:55:34 7 Q. That's all right. You had a
13:55:35 8 couple containers for -- I don't know whether
13:55:44 9 it was -- it wasn't gasoline. It was --
13:55:46 10 A. Diesel.
13:55:46 11 Q. -- diesel?
13:55:47 12 A. Yes.
13:55:48 13 Q. Posts?
13:55:51 14 A. Yes.
13:55:52 15 Q. Any -- and I'm -- just want to go
13:55:57 16 over this list now. Anything else that you
13:55:59 17 recall other than what you've just told me, the
13:56:02 18 buildings, the dozers, fencing, the diesel
13:56:04 19 containers, posts?
13:56:05 20 A. The front gate.
13:56:06 21 Q. Front gate.
13:56:11 22 A. I think that's it.
13:56:12 23 Q. Okay. Are there a number of
13:56:14 24 buildings on the site?
13:56:17 25 A. Yes.

13:56:17 1 Q. And are some of the buildings --
13:56:20 2 are there more than one building that has metal
13:56:23 3 associated with it?
13:56:23 4 A. Yes.
13:56:24 5 Q. How many buildings, in your memory
13:56:27 6 were there -- separate buildings that were
13:56:29 7 painted by you or other workers where you used
13:56:33 8 paint that came in from offsite?
13:56:38 9 A. From off -- offsite?
13:56:40 10 Q. Yes. In other words, paint
13:56:42 11 came into the dump, whether it be from Sher --
13:56:44 12 you said there were canisters that came in that
13:56:48 13 had liquid in them, paint in them, is that
13:56:51 14 correct?
13:56:51 15 A. Correct.
13:56:52 16 Q. Okay. And then paint was used to
13:56:55 17 paint the building, the dozers, the fencing, et
13:56:58 18 cetera, is that right?
13:56:59 19 A. Correct.
13:56:59 20 Q. Okay. So what I want to know is
13:57:03 21 how many different buildings on the site did
13:57:07 22 you or other folks that worked at the dump use
13:57:12 23 the paint that came into the site to paint?
13:57:17 24 How many buildings?
13:57:17 25 A. Ten.

13:57:29 1 Q. Was there a main building?
13:57:31 2 A. Yes.
13:57:32 3 Q. Okay. Is it possible for you on
13:57:44 4 Exhibit 4 -- you know, let's -- let's mark this
13:57:54 5 as 5, if we could.
13:57:54 6 (Thereupon, Defendants' Exhibit
13:57:54 7 Number 5, South Dayton Dump and Land Site map, was
13:58:24 8 marked for purposes of identification.)
13:58:24 9 BY MR. EDDY:
13:58:25 10 Q. I'm going to hand you what we have
13:58:27 11 marked as Defendants' Exhibit Number 5, and
13:58:30 12 this is simply a clean copy of one of the prior
13:58:34 13 deposition exhibits from today, but it's also a
13:58:37 14 copy of a Deposition Exhibit Number 2 from your
13:58:42 15 2012 deposition, okay? Just so we have that
13:58:45 16 clear on the record.
13:58:45 17 And what I'd like you to do, if
13:58:48 18 you can, using this red pen is -- is to circle
13:58:55 19 the ten buildings on the site that you just
13:58:59 20 told me about.
13:59:02 21 MR. ROMINE: Objection. It goes
13:59:03 22 beyond scope of the deposition. It goes beyond
13:59:05 23 the scope of direct. It also violates Judge
13:59:07 24 Rice's order that the scope of the deposition be
13:59:09 25 limited.

13:59:09 1 THE WITNESS: (Indicating.)
13:59:09 2 BY MR. EDDY:
13:59:25 3 Q. You know, I really wished I would
13:59:26 4 have asked you to highlight that on the end,
13:59:28 5 and that's what I'm going to ask you to do in
13:59:31 6 yellow. If you could highlight in, as best you
13:59:34 7 can, those ten buildings.
13:59:40 8 A. (Indicating.)
13:59:49 9 Q. Okay. Thank you.
13:59:49 10 A. Um-hum.
13:59:50 11 Q. Now, you also told me that you had
13:59:57 12 personally participated in the painting of
14:00:01 13 these buildings with this paint that would come
14:00:03 14 in from offsite over a number of years, is that
14:00:03 15 correct?
14:00:09 16 A. Correct.
14:00:09 17 Q. How often were these buildings
14:00:12 18 painted?
14:00:13 19 MR. ROMINE: Same objection.
14:00:17 20 THE WITNESS: I did it twice.
14:00:18 21 BY MR. EDDY:
14:00:19 22 Q. Okay. Does that mean that you
14:00:22 23 worked on two buildings or you worked on all
14:00:25 24 ten buildings two times?
14:00:30 25 A. I worked on all buildings

14:00:36 1 during -- two times.
14:00:42 2 Q. Okay. And did you ever observe
14:00:46 3 other workers at the dump painting those ten
14:00:51 4 buildings, maybe not all at once obviously, but
14:00:56 5 over a period of time where you weren't doing
14:00:58 6 the work, but you saw others doing that work,
14:01:00 7 that painting?
14:01:01 8 MR. ROMINE: Same objection.
14:01:02 9 THE WITNESS: Yes.
14:01:03 10 BY MR. EDDY:
14:01:03 11 Q. Okay. The fence that you told me
14:01:08 12 about, where was that fence located?
14:01:11 13 MR. ROMINE: Same objection.
14:01:13 14 BY MR. EDDY:
14:01:14 15 Q. Can you just tell me just
14:01:15 16 generally did it encircle the dump? I mean,
14:01:18 17 are we talking about 20 feet of fence? Are we
14:01:20 18 talking about 500 feet of fence? Can you give
14:01:22 19 me some idea?
14:01:24 20 MR. ROMINE: Same objection. Vague.
14:01:25 21 THE WITNESS: Well, over the years,
14:01:30 22 we had three locations -- different locations. As
14:01:35 23 the dump was progressing to be filled, we had
14:01:37 24 three separate entrances, two of which that I
14:01:41 25 painted during my time there. Do you want me to

14:01:47 1 locate them?
14:01:47 2 BY MR. EDDY:
14:01:47 3 Q. Well, are those the gates that
14:01:50 4 you're talking about --
14:01:50 5 A. Right.
14:01:51 6 Q. -- that you painted? I'm asking
14:01:52 7 about the fencing material --
14:01:54 8 A. Okay.
14:01:54 9 Q. -- the fencing. Are you saying --
14:01:56 10 when you told us that the fences were painted
14:01:58 11 with the paint that came onto the site, were
14:02:00 12 you referring to the gates or were you
14:02:02 13 referring to other fencing material around the
14:02:05 14 site?
14:02:06 15 MR. ROMINE: Same objection.
14:02:07 16 THE WITNESS: There's a location very
14:02:09 17 north of the dump that had -- General Motors had
14:02:20 18 their camp RVs and new -- brand new trucks at one
14:02:24 19 time, and it was a silver with a barbwire that was
14:02:29 20 approximately maybe five feet -- 500 feet long and
14:02:36 21 about eight feet tall.
14:02:38 22 BY MR. EDDY:
14:02:38 23 Q. And is this the standard fencing
14:02:40 24 that you'd see in the interlocking --
14:02:41 25 A. Right.

14:02:42 1 Q. -- wire fencing?
14:02:42 2 A. Correct.
14:02:43 3 MR. ROMINE: Same objection.
14:02:45 4 BY MR. EDDY:
14:02:45 5 Q. All right. You said that was
14:02:47 6 about 500 feet by what?
14:02:48 7 MR. ROMINE: Same objection.
14:02:50 8 THE WITNESS: By eight.
14:02:51 9 BY MR. EDDY:
14:02:51 10 Q. By eight. The posts -- were there
14:02:53 11 a lot of posts or just a couple of posts?
14:02:55 12 MR. ROMINE: Same objection.
14:02:56 13 THE WITNESS: Lots.
14:02:57 14 BY MR. EDDY:
14:02:57 15 Q. Lots?
14:02:58 16 A. Lots of posts.
14:02:58 17 Q. Where would these posts be and
14:03:01 18 what function did they serve?
14:03:01 19 MR. ROMINE: Same objection.
14:03:03 20 Objection to form.
14:03:04 21 THE WITNESS: Well, the 500 feet of
14:03:07 22 fence would consist of maybe 40 poles. The gates,
14:03:14 23 as they moved to the set -- to the location I'm
14:03:19 24 speaking of, we had put up a barrier fence, and
14:03:23 25 that was probably a hundred feet long.

14:03:26 1 Then we had poles that had signs on
14:03:28 2 them, stop, do not enter, drive in at your own
14:03:33 3 risk, stuff like that.
14:03:33 4 BY MR. EDDY:
14:03:39 5 Q. And were the posts -- so you had
14:03:40 6 some posts that were associated with the
14:03:43 7 fencing you've told me about?
14:03:44 8 A. Um-hum.
14:03:44 9 Q. Is that yes?
14:03:45 10 A. Yes. I'm sorry.
14:03:45 11 Q. That's all right. And you had
14:03:48 12 some gates. Was there three gates for the
14:03:51 13 three entrances?
14:03:52 14 MR. ROMINE: Same objection. Asked
14:03:53 15 and answered.
14:03:53 16 THE WITNESS: Yes.
14:03:54 17 BY MR. EDDY:
14:03:56 18 Q. Can you describe for me the size
14:03:57 19 of the gates?
14:03:57 20 MR. ROMINE: Same objection. Asked
14:04:00 21 and answered.
14:04:00 22 THE WITNESS: They're approximately
14:04:03 23 20 feet long, four inches in diameter, and then
14:04:13 24 it -- there was a pole that stuck out and then it
14:04:15 25 was on a pedestal, and the pedestal was maybe four

14:04:19 1 feet tall.
14:04:22 2 BY MR. EDDY:
14:04:23 3 Q. How high?
14:04:23 4 MR. ROMINE: Same objection.
14:04:26 5 THE WITNESS: Four feet tall.
14:04:27 6 BY MR. EDDY:
14:04:28 7 Q. Oh, I'm sorry.
14:04:30 8 A. That's okay.
14:04:30 9 Q. The diesel containers, how big
14:04:33 10 were they?
14:04:34 11 MR. ROMINE: Same objection.
14:04:36 12 THE WITNESS: They were a size of a
14:04:39 13 Volkswagen. Eight feet round, eight feet long,
14:04:47 14 and then they set on top of metal things that the
14:04:53 15 drum set on.
14:04:55 16 BY MR. EDDY:
14:05:04 17 Q. Okay. Now, were the buildings --
14:05:05 18 the ten buildings that were painted using paint
14:05:10 19 that came into the dump from offsite, from
14:05:13 20 whatever location, were they painted on any
14:05:21 21 regular basis, that is --
14:05:22 22 MR. ROMINE: Same objection.
14:05:22 23 BY MR. EDDY:
14:05:23 24 Q. -- annually or were they painted
14:05:27 25 whenever there was enough paint or remnants of

14:05:30 1 paint that came in from offsite?
14:05:32 2 MR. ROMINE: Same objection.
14:05:34 3 THE WITNESS: The second would be --
14:05:36 4 BY MR. EDDY:
14:05:37 5 Q. Okay. And you indicated, I think,
14:05:45 6 in your 2012 deposition that, you know, at one
14:05:52 7 point you had pink buildings one year, olive
14:05:55 8 colored the next. Do you remember that
14:05:56 9 testimony?
14:05:56 10 A. Yes.
14:05:56 11 Q. The paint that was used onsite, to
14:06:10 12 paint these things that you've just told us
14:06:12 13 about, what was done to, I guess, aggregate the
14:06:21 14 remnants of paint that would be in any
14:06:24 15 canisters together to get enough paint to paint
14:06:26 16 a building --
14:06:26 17 MR. ROMINE: Same objection.
14:06:27 18 BY MR. EDDY:
14:06:28 19 Q. -- can you explain that to me?
14:06:29 20 MR. ROMINE: Same objection.
14:06:32 21 THE WITNESS: Are you talking about
14:06:33 22 what size containers, is that what --
14:06:36 23 BY MR. EDDY:
14:06:36 24 Q. Well, we can start with that.
14:06:38 25 A. Okay.

14:06:38 1 Q. You told us yesterday that the
14:06:43 2 paint companies -- there were some drums that
14:06:45 3 came in.
14:06:46 4 A. Yes.
14:06:46 5 Q. Okay. And you said with respect
14:06:51 6 to Pittsburgh Paint, and I think separately as
14:06:54 7 to Sherwin-Williams, that most of them were
14:06:57 8 empty. Do you recall that testimony?
14:06:59 9 MR. ROMINE: Same objection.
14:07:00 10 THE WITNESS: Yes.
14:07:01 11 BY MR. EDDY:
14:07:02 12 Q. And I think with respect to the --
14:07:06 13 that testimony, you said occasionally there
14:07:08 14 would be some remnant in the bottom of the --
14:07:11 15 the drum, and I think you put your fingers
14:07:13 16 about like this (indicating), a couple
14:07:15 17 inches --
14:07:15 18 A. Right.
14:07:16 19 Q. -- deep, if you will. Do you
14:07:19 20 recall doing that with your fingers?
14:07:20 21 A. Yes.
14:07:20 22 Q. Okay. So what you're trying to
14:07:22 23 say is that, although most of the drums were
14:07:24 24 empty when they came to the site, some of the
14:07:27 25 drums had some remnants of some material in the

14:07:31 1 bottom of them, and you were saying a couple
14:07:34 2 inches deep at the bottom of the drum, correct?
14:07:37 3 A. Correct.
14:07:37 4 Q. Is that what you recall?
14:07:39 5 A. Correct.
14:07:39 6 Q. All right. And you said with
14:07:41 7 respect to the remnants of the drums, whatever
14:07:45 8 the liquid was that was in the drums, that it
14:07:48 9 would be dumped, you said, behind an office.
14:07:51 10 A. Um-hum.
14:07:51 11 Q. Do you recall that testimony?
14:07:52 12 A. Yes. Yes.
14:07:54 13 Q. Okay. Did you actually do that
14:07:56 14 yourself?
14:07:56 15 A. Yes.
14:07:58 16 Q. Okay. Did you do it on more than
14:08:00 17 one occasion?
14:08:01 18 A. Yes.
14:08:01 19 Q. Did you see any others do it or
14:08:04 20 did you just -- was that part of your job that
14:08:07 21 you did?
14:08:07 22 A. Bud Young, he -- I saw him do it a
14:08:13 23 few times.
14:08:13 24 Q. Okay. Do you have any idea -- can
14:08:16 25 you estimate for me the number of times when

14:08:19 1 you might have dumped out this -- this couple
14:08:22 2 inch remnant at the bottom of a drum on the
14:08:26 3 ground behind the office?
14:08:28 4 A. I could give you a guesstimate.
14:08:31 5 That's --
14:08:31 6 Q. What would your guesstimate be? A
14:08:34 7 dozen?
14:08:34 8 A. Twenty maybe.
14:08:34 9 Q. Okay. Less than 20 you think?
14:08:37 10 A. Yeah.
14:08:37 11 Q. All right. And can you -- on this
14:08:41 12 exhibit that we've marked here, what office
14:08:45 13 building were you referring to was the place
14:08:47 14 that -- where the drums weren't completely
14:08:51 15 empty but had some remnant of liquid in them
14:08:54 16 you would dump them behind the office?
14:08:59 17 A. (Indicating.)
14:09:00 18 Q. Okay. Now, on Exhibit 5 you've
14:09:03 19 just marked a black circle with an X through
14:09:06 20 it, is that correct?
14:09:06 21 A. Correct.
14:09:07 22 Q. All right. Very good. And is
14:09:10 23 this the office building that you're talking
14:09:13 24 about now that I'm pointing to --
14:09:15 25 A. No.

14:09:16 Q. -- or is it one of the other
14:09:17 buildings?
14:09:17 A. At this particular time, there was
14:09:18 a trailer sitting right here (indicating). It
14:09:21 was behind the office. It was a regular house
14:09:23 trailer.
14:09:23 Q. Oh, okay. Can I -- let's just put
14:09:27 in the word trailer there.
14:09:28 A. Um-hum.
14:09:29 Q. Can I do that?
14:09:30 A. Yeah.
14:09:30 Q. With a little arrow to it so we
14:09:34 know what we're talking about (indicating).
14:09:36 Okay. Thank you.
14:09:44 Now, those barrels with that
14:09:51 remnant material, do you know of your own
14:09:55 personal knowledge what that material was,
14:09:58 whether it was paint or -- or what it was?
14:10:02 MR. ROMINE: Asked and answered.
14:10:03 BY MR. EDDY:
14:10:03 Q. Do you know?
14:10:04 A. Yes.
14:10:04 Q. What was it?
14:10:08 A. Paint thinner. Denatured alcohol.
14:10:29 I'm not sure, but sometimes I think there was

14:10:32 1 what was called creosote.
14:10:36 2 Q. Creosote?
14:10:38 3 A. Um-hum.
14:10:38 4 Q. Is that a yes?
14:10:40 5 A. Yes.
14:10:40 6 Q. Now, are these barrels -- the
14:10:50 7 barrels that we're talking about here, these
14:10:53 8 drums, are these 55-gallon drums?
14:10:54 9 A. Correct.
14:10:55 10 Q. And are these drums that came from
14:10:58 11 some source of paint from outside the dump to
14:11:02 12 the dump, some painting operation?
14:11:04 13 A. Yes.
14:11:05 14 Q. Okay. Was there any -- when you
14:11:14 15 say paint thinner, denatured alcohol, is that
14:11:18 16 something you smelled?
14:11:18 17 A. Oh, yeah.
14:11:19 18 Q. Okay. Did it have -- was there
14:11:20 19 any markings on the drums?
14:11:23 20 A. I think there was a red sign that
14:11:27 21 said toxic.
14:11:29 22 Q. Do you recall whether it said
14:11:31 23 anything about what it was, that is, the names,
14:11:35 24 paint thinner?
14:11:37 25 A. I believe it was on a slip that

14:11:39 1 was kind of Scotch taped to the side of the
14:11:39 2 barrel.
14:11:47 3 Q. All right. Now, the paint that
14:11:50 4 would be used, however, to -- let me just touch
14:11:56 5 upon this then.
14:11:57 6 In the 55-gallon drums, whatever
14:12:00 7 one or two inches of remnant might be present
14:12:04 8 at the bottom of these barrels, it wasn't
14:12:06 9 paint, it was some form of either paint
14:12:11 10 thinner, denatured alcohol or creosote you
14:12:11 11 said?
14:12:14 12 A. Right.
14:12:14 13 MR. ROMINE: Asked and answered.
14:12:14 14 BY MR. EDDY:
14:12:14 15 Q. The paint that was used to paint
14:12:17 16 the buildings on the site, what did those come
14:12:21 17 in on -- or in? One gallon canisters.
14:12:27 18 A. Five -- mostly fives, one gallon
14:12:29 19 and quarts.
14:12:33 20 Q. Fives, ones and quarts?
14:12:35 21 A. (Witness nodding head up and
14:12:36 22 down.)
14:12:36 23 Q. Correct?
14:12:36 24 A. Yes, correct.
14:12:38 25 Q. And the five gallon canisters,

14:12:43 1 were those metal?
14:12:44 2 A. Yes.
14:12:45 3 Q. And was one of your jobs to open
14:12:51 4 them up and see what colors were in there?
14:12:53 5 A. Correct.
14:12:54 6 Q. And were -- were most of those
14:12:58 7 canisters by and large empty?
14:13:02 8 A. No, most -- most of them was
14:13:04 9 either half full or three quarters of the way
14:13:04 10 full.
14:13:09 11 Q. Okay. Did you have any
14:13:11 12 understanding of -- well, were these -- strike
14:13:20 13 that. Was part of your job to aggregate the
14:13:30 14 paint together so that the buildings could be
14:13:32 15 painted?
14:13:32 16 A. Yes.
14:13:32 17 Q. Were you the only one that had --
14:13:34 18 A. Yes. Pardon me?
14:13:35 19 Q. Were you the only one that had
14:13:37 20 that job?
14:13:37 21 A. No.
14:13:38 22 Q. Okay. Were there others at the
14:13:42 23 same time that you had that job that were doing
14:13:44 24 that as well?
14:13:45 25 A. Yes.

14:13:45 1 Q. All right. And would you try to
14:13:49 2 aggregate the same types of paints together,
14:13:52 3 that is, oil based paints with oil based
14:13:54 4 paints, latex with latex?
14:13:56 5 A. Correct.
14:13:57 6 Q. Okay. And -- and would you
14:14:00 7 generally mix different colors of these paints
14:14:03 8 together, and, therefore, some days -- some --
14:14:06 9 some years you ended up with a pink building or
14:14:08 10 a tan building because the colors you mixed
14:14:10 11 together turned out to be pink or turned out to
14:14:13 12 be tan or whatever color you happened to paint
14:14:16 13 them as?
14:14:16 14 A. Right.
14:14:17 15 Q. Okay. Gotcha. Was that -- the
14:14:25 16 aggregation of the paint and the use of the
14:14:26 17 paint onsite to paint these ten buildings, was
14:14:29 18 that part of Alcie's (sic) rule of, you know,
14:14:32 19 we want to use whatever we can and sell
14:14:36 20 whatever we can on the site before it goes into
14:14:40 21 the dump?
14:14:41 22 MR. ROMINE: Objection.
14:14:41 23 THE WITNESS: Right.
14:14:41 24 BY MR. EDDY:
14:14:42 25 Q. Or rather than going into the

14:14:43 1 dump, correct?
14:14:43 2 A. Correct.
14:14:45 3 MR. ROMINE: Objection. It violates
14:14:46 4 Judge Rice's order.
14:14:53 5 Q. All right. And when you would
14:14:58 6 aggregate these paints from five gallon
14:15:00 7 containers, one gallon containers and quarts,
14:15:04 8 what would you aggregate them in?
14:15:08 9 A. Usually it was a five gallon --
14:15:16 10 if -- the five gallon from the quarts and
14:15:19 11 gallons, and then we would -- if we got that
14:15:22 12 much, then we'd pour it into a 55-gallon
14:15:24 13 drum.
14:15:25 14 Q. Okay. So you would aggregate
14:15:26 15 quarts into gallons, gallons into five --
14:15:30 16 fives, and anything more than that, you'd end
14:15:33 17 up putting into an empty --
14:15:35 18 A. Drum.
14:15:35 19 Q. -- 55-gallon drum?
14:15:37 20 A. Right.
14:15:37 21 Q. And then putting a lid on it until
14:15:40 22 you would use it to paint these ten buildings,
14:15:42 23 right --
14:15:43 24 A. Right.
14:15:45 25 Q. -- correct?

14:15:45 1 A. Um-hum.
14:15:45 2 Q. Is that a yes?
14:15:46 3 A. Yes.
14:15:46 4 Q. Did you ever get to decide what
14:15:54 5 colors this was going to be painted, these
14:15:56 6 buildings?
14:15:56 7 MR. ROMINE: Same objection.
14:15:56 8 THE WITNESS: No.
14:15:56 9 BY MR. EDDY:
14:15:57 10 Q. Did somebody decide that?
14:15:58 11 MR. ROMINE: Same objection.
14:15:59 12 THE WITNESS: Yes.
14:15:59 13 BY MR. EDDY:
14:16:00 14 Q. Who decided that?
14:16:00 15 MR. ROMINE: Same objection.
14:16:02 16 THE WITNESS: Horace Boesch and Cyril
14:16:02 17 Grillot.
14:16:08 18 BY MR. EDDY:
14:16:08 19 Q. Okay. I'm going to show you some
14:16:12 20 exhibits that were marked at your prior
14:16:16 21 deposition, and I'll read out the numbers.
14:16:22 22 I'm not sure I'm going to mark
14:16:24 23 them separately, but this was marked at your
14:16:28 24 prior 2012 deposition as Exhibit 5, and was
14:16:31 25 that one of the buildings that would be

14:16:33 1 painted?
14:16:33 2 MR. ROMINE: Same objection.
14:16:34 3 THE WITNESS: Yes.
14:16:34 4 BY MR. EDDY:
14:16:35 5 Q. Is that a yes?
14:16:36 6 A. Yes.
14:16:37 7 Q. Okay. And can you tell me on
14:16:44 8 Exhibit 4 here where that building is?
14:16:46 9 MR. ROMINE: Same objection.
14:16:48 10 THE WITNESS: That one right there
14:16:48 11 (indicating).
14:16:48 12 BY MR. EDDY:
14:16:50 13 Q. All right. Can you put a number
14:16:50 14 one there on Defendants' Exhibit 4, a number
14:16:53 15 one and circle it?
14:16:56 16 A. (Indicating.)
14:16:57 17 Q. And is this the building you're
14:16:58 18 talking about right next to it?
14:16:59 19 A. Um-hum.
14:17:00 20 Q. And then you put a little arrow to
14:17:02 21 the building. Thank you. So that was one of
14:17:04 22 the buildings that I'm showing you a picture of
14:17:06 23 now from your 2012 deposition, Exhibit 5, that
14:17:09 24 was one of the buildings that was painted with
14:17:12 25 the paint that would come in from the site,

14:17:13 1 correct?
14:17:14 2 A. Correct. There's one of the gates
14:17:15 3 (indicating).
14:17:15 4 Q. And it shows one of the gates. It
14:17:17 5 appears to be a white gate.
14:17:19 6 A. Yes. This is the fence
14:17:20 7 (indicating).
14:17:20 8 Q. And it shows some fencing in front
14:17:24 9 of the building that's shown in the photograph,
14:17:25 10 correct?
14:17:25 11 A. Correct.
14:17:26 12 Q. All right. Showing you the 2012
14:17:32 13 Deposition Exhibit 6, either one of these
14:17:36 14 buildings, did you do any painting or did any
14:17:40 15 of the other employees of the dump do any
14:17:41 16 painting on either one of these buildings?
14:17:44 17 MR. ROMINE: Same objection.
14:17:45 18 THE WITNESS: This one, this one,
14:17:46 19 this one (indicating).
14:17:47 20 BY MR. EDDY:
14:17:47 21 Q. Now, I only see two buildings
14:17:49 22 here, but you pointed to something --
14:17:49 23 A. There's one right behind here
14:17:49 24 (indicating).
14:17:52 25 Q. Okay. Right in the center of the

14:17:52 1 photograph there's a tree, and right next to
14:17:53 2 the tree it looks like a white little spot, but
14:17:56 3 that's a building behind that tree?
14:17:58 4 MR. ROMINE: Same objection.
14:17:59 5 THE WITNESS: Yes. That was Doyle's
14:18:02 6 Auto Parts' building.
14:18:02 7 BY MR. EDDY:
14:18:02 8 Q. All right. And so even Doyle's
14:18:05 9 Auto Parts' building got painted?
14:18:06 10 MR. ROMINE: Same objection.
14:18:06 11 THE WITNESS: Right.
14:18:08 12 BY MR. EDDY:
14:18:08 13 Q. All right. Is Doyle's one of the
14:18:10 14 ten that you pointed out to me on this prior
14:18:13 15 exhibit here?
14:18:13 16 MR. ROMINE: Same objection.
14:18:13 17 THE WITNESS: Correct.
14:18:13 18 BY MR. EDDY:
14:18:15 19 Q. All right. Okay. Gotcha. The
14:18:18 20 building on the photograph that shows this
14:18:22 21 Exhibit 6 from the 2012 deposition on the right
14:18:24 22 has four or five bay doors. Do you see that?
14:18:28 23 MR. ROMINE: Same objection.
14:18:28 24 THE WITNESS: Yes.
14:18:28 25 BY MR. EDDY:

14:18:30 1 Q. What is the name of that building?
14:18:31 2 MR. ROMINE: Same objection.
14:18:32 3 THE WITNESS: We called it the GM
14:18:33 4 building.
14:18:33 5 BY MR. EDDY:
14:18:33 6 Q. Okay. And what building is it
14:18:37 7 on -- now, I'm going to ask you to mark this on
14:18:41 8 Exhibit 4 that we've marked today, which is a
14:18:44 9 larger version of the -- the plot.
14:18:47 10 A. (Indicating.)
14:18:55 11 Q. Okay. So you've marked it. Could
14:19:00 12 you circle the two there for me? And you've
14:19:00 13 put an arrow into the building that is to the
14:19:03 14 right on Deposition Exhibit 6 from your 2012
14:19:06 15 deposition with the four bay doors, is that
14:19:06 16 correct?
14:19:13 17 A. This isn't actually laid out.
14:19:19 18 Q. What -- I don't want you to mark
14:19:20 19 anything more on -- on Exhibit 4.
14:19:23 20 A. Okay. That's a close -- yeah.
14:19:26 21 This --
14:19:26 22 Q. Let me -- let me just go this way
14:19:31 23 here. This -- this building on the left of
14:19:36 24 Deposition Exhibit 6 that was also painted, can
14:19:39 25 you show me where that exists on Exhibit 4?

14:19:42 1 MR. ROMINE: Same objection.
14:19:44 2 THE WITNESS: (Indicating.)
14:19:48 3 BY MR. EDDY:
14:19:48 4 Q. Okay. So you've marked that as
14:19:50 5 number three with an arrow pointing to that
14:19:52 6 building as well, correct?
14:19:53 7 A. Correct.
14:19:55 8 MR. MUSTO: Which exhibit number is
14:19:57 9 he marking on?
14:19:58 10 MR. EDDY: Exhibit 4 marked today.
14:20:01 11 MR. MUSTO: 4. Okay.
14:20:01 12 BY MR. EDDY:
14:20:02 13 Q. Deposition Exhibit 7, is that --
14:20:04 14 from your 2012 deposition, is that a better
14:20:09 15 look at the building that you've just
14:20:11 16 identified as number three on Exhibit 4 that
14:20:14 17 appears also on the left?
14:20:16 18 A. No.
14:20:16 19 MR. ROMINE: Same objection.
14:20:17 20 BY MR. EDDY:
14:20:17 21 Q. Is that a different building?
14:20:18 22 A. Yes.
14:20:18 23 Q. So Exhibit 7 -- let me -- follow
14:20:21 24 with me here, if you would. Exhibit 7 from
14:20:24 25 your 2012 deposition shows another building on

the site, right?

MR. ROMINE: Same objection.

THE WITNESS: Correct.

(Thereupon, the court reporter interrupted the deposition.)

14:20:39 MR. COUGHLIN: Bob, I have an idea.

14:20:39 MR. EDDY: What?

14:20:42 MR. COUGHLIN: Along the lines you

14:20:43 offered.

14:20:43 BY MR. EDDY:

14:20:44 Q. Yeah. Thank you for reminding me

14:20:48 and the witness. If you could just -- I'll ask

14:20:51 you a question, counsel here is going to have

14:20:54 some objections. Let him state his objection

14:20:56 for the record, and then you can answer my

14:20:58 question. If -- if you talk right at the end

14:21:00 of my question, you're going to be talking over

14:21:03 Dave, okay?

14:21:04 A. Okay. All right. Sure.

14:21:04 Q. Let's try to avoid that. So now

14:21:07 I'm showing you Exhibit 7 from your 2012

14:21:09 deposition, and this shows another building on

14:21:12 the site, correct?

14:21:12 A. Correct.

14:21:15 MR. ROMINE: Same objection.

14:21:15 1 BY MR. EDDY:
14:21:15 2 Q. And what is the name of this
14:21:16 3 building?
14:21:17 4 MR. ROMINE: Same objection.
14:21:18 5 THE WITNESS: That was called tool
14:21:24 6 and die. It was a tool and die shop, but I -- I
14:21:27 7 should know the name. Something tool and die.
14:21:30 8 BY MR. EDDY:
14:21:30 9 Q. Okay. Was that one of the ten
14:21:32 10 buildings that you've previously marked in
14:21:34 11 yellow on one of the exhibits here that I've
14:21:34 12 shown you --
14:21:37 13 A. Yes.
14:21:37 14 MR. ROMINE: Same objection.
14:21:37 15 BY MR. EDDY:
14:21:37 16 Q. -- or is that a different
14:21:37 17 building?
14:21:39 18 A. Yes.
14:21:39 19 Q. It's a different building?
14:21:43 20 A. I'm confused.
14:21:44 21 Q. All right. Let's try to clear up
14:21:47 22 your confusion. On Exhibit 5 that I showed you
14:21:49 23 here today, I had -- I had you circle in red
14:21:53 24 and then color in in yellow highlight marker --
14:21:57 25 A. Right.

14:21:58 1 Q. -- the ten buildings that were
14:21:58 2 painted over a period of years at the site --
14:22:01 3 A. Okay.
14:22:01 4 Q. -- correct?
14:22:02 5 A. Correct.
14:22:03 6 Q. Okay. This building then I'm
14:22:05 7 showing you here, the photograph that appears
14:22:10 8 as Deposition Exhibit 7 from your 2012
14:22:12 9 deposition, is this building one of the ten
14:22:16 10 buildings you showed me on Exhibit 5?
14:22:17 11 MR. ROMINE: Same objection.
14:22:19 12 THE WITNESS: Yes.
14:22:20 13 BY MR. EDDY:
14:22:21 14 Q. Okay. That's fine. Now, this
14:22:24 15 building that's shown in Exhibit 7 from your
14:22:28 16 2012 deposition, can you mark that with a
14:22:33 17 number four on Defendants' Exhibit 4 that we've
14:22:37 18 marked today?
14:22:37 19 A. (Indicating.)
14:22:43 20 Q. All right. Good. Was this one of
14:22:46 21 the buildings that you would have been involved
14:22:47 22 in painting over a period of years while you
14:22:50 23 were at the dump?
14:22:50 24 MR. ROMINE: Same objection. It's
14:22:52 25 been asked and answered.

14:22:52 1 THE WITNESS: Yes.
14:22:53 2 BY MR. EDDY:
14:22:57 3 Q. Showing you what was marked as
14:22:59 4 Deposition Exhibit 8 at your 2012 deposition,
14:23:03 5 this shows a -- it's a photograph of a building
14:23:08 6 that, I think, is just of a different angle.
14:23:10 7 It's the same building but just
14:23:12 8 from a different angle as the building shown in
14:23:14 9 Exhibit 7 from your 2012 deposition, is that
14:23:17 10 correct?
14:23:17 11 MR. ROMINE: Same objection.
14:23:18 12 THE WITNESS: No.
14:23:19 13 BY MR. EDDY:
14:23:19 14 Q. It's a different building. Okay.
14:23:24 15 A. If you -- if you -- do you want me
14:23:25 16 to show you?
14:23:26 17 Q. Well, what do you want -- what is
14:23:27 18 it that you want to show me, sir?
14:23:29 19 A. Remember you saw that little white
14:23:31 20 speck?
14:23:31 21 Q. Yes.
14:23:32 22 A. That is part of this little corner
14:23:34 23 here (indicating).
14:23:34 24 Q. Okay. So back when you were
14:23:36 25 telling me about the -- the building in the

14:23:41 1 middle of Deposition Exhibit 6 from your 2012
14:23:43 2 deposition, that little white speck that you
14:23:46 3 said was a building behind the tree, that
14:23:48 4 building now appears in Deposition Exhibit 8
14:23:51 5 from your 2012 deposition, you have a much
14:23:53 6 better view of it, is that correct?
14:23:55 7 A. Correct.
14:23:55 8 Q. All right. And I don't recall
14:24:00 9 whether I asked you to mark that building on
14:24:05 10 Exhibit 4, but can you show me where that
14:24:09 11 building is on Exhibit 4 and I'll --
14:24:12 12 A. (Indicating.)
14:24:13 13 Q. Okay. Now, hold on. Let's get
14:24:15 14 it -- you've got 4, so mark that as number
14:24:18 15 five.
14:24:18 16 A. (Indicating.)
14:24:21 17 Q. And you've now marked the number
14:24:23 18 five in a black circle with an arrow that's
14:24:27 19 showing the building that is depicted on
14:24:30 20 Deposition Exhibit Number 8 from your 2012
14:24:33 21 deposition, is that correct?
14:24:33 22 A. Yes.
14:24:33 23 Q. All right. Good. Looking now at
14:24:41 24 the building that's depicted in Deposition
14:24:46 25 Exhibit 9 from your 2012 deposition, do you

14:24:48 1 recognize that as one of the buildings that was
14:24:49 2 painted by you and others, I assume, over a
14:24:55 3 period of years at the dump?
14:24:56 4 MR. ROMINE: Same objection.
14:24:57 5 THE WITNESS: Yes.
14:24:58 6 BY MR. EDDY:
14:24:58 7 Q. And is that building -- it appears
14:25:05 8 red in this photograph, correct?
14:25:07 9 A. Yes.
14:25:08 10 Q. Is that building -- was that a
14:25:10 11 yes?
14:25:10 12 A. Yes.
14:25:11 13 Q. Okay. Was that building one of
14:25:12 14 the ten buildings that you pointed out to me
14:25:14 15 on -- and marked in yellow and red on Exhibit
14:25:18 16 5?
14:25:18 17 MR. ROMINE: Same objection.
14:25:19 18 THE WITNESS: Correct.
14:25:19 19 BY MR. EDDY:
14:25:20 20 Q. Great. And can you show me on
14:25:23 21 Exhibit 4 where that building is and put in a
14:25:26 22 number six in a circle with an arrow to the
14:25:30 23 building?
14:25:30 24 A. (Indicating.)
14:25:36 25 Q. The photograph that was marked as

14:25:41 1 Deposition Exhibit 10 at your 2012 deposition
14:25:42 2 is just another photograph from another --
14:25:46 3 another angle of that red building that is
14:25:48 4 shown on Exhibit 9 and that you have marked
14:25:52 5 with number six on Exhibit 4 today, is that
14:25:54 6 correct?
14:25:54 7 MR. ROMINE: Same objection.
14:25:55 8 THE WITNESS: Correct.
14:25:56 9 BY MR. EDDY:
14:25:56 10 Q. The deposition Exhibit 11 from
14:25:58 11 your 2012 deposition is again a photograph of
14:26:02 12 the same red building that is depicted in the
14:26:07 13 prior two photographs --
14:26:07 14 MR. ROMINE: Same objection.
14:26:08 15 BY MR. EDDY:
14:26:08 16 Q. -- correct?
14:26:09 17 A. Correct.
14:26:10 18 Q. All right. Now, I take it that
14:26:21 19 with all this building painting that was going
14:26:23 20 on with the paint that came in from the site,
14:26:26 21 that more than one person would be engaged in
14:26:29 22 painting those buildings at any one time?
14:26:31 23 A. Oh, yeah.
14:26:31 24 MR. ROMINE: Same objection.
14:26:33 25 BY MR. EDDY:

14:26:33 1 Q. Okay. You told us yesterday that
14:26:40 2 there was at least one occasion where you ran
14:26:44 3 out of paint that you and others had aggregated
14:26:49 4 together to paint these buildings and that you
14:26:53 5 had to go back to one -- to the
14:26:54 6 Sherwin-Williams store to get more paint to
14:26:58 7 match that color. Do you recall that
14:27:00 8 testimony?
14:27:00 9 A. Yes, I do.
14:27:02 10 Q. Okay. Did that happen more than
14:27:03 11 once?
14:27:05 12 A. Yes.
14:27:05 13 Q. About how many times, to your
14:27:07 14 knowledge, did that happen?
14:27:09 15 A. Well, I would say three or four
14:27:15 16 times.
14:27:15 17 Q. Okay. Over how many years?
14:27:17 18 A. Two years.
14:27:21 19 Q. Do you recall what -- what years
14:27:24 20 and what decade that you were speaking of?
14:27:29 21 A. '72 and '73.
14:27:32 22 Q. Okay. And you mentioned a store
14:27:35 23 on Patterson Road. Was that the store that you
14:27:40 24 went to, the Sherwin-Williams store on
14:27:41 25 Patterson Road?

14:27:41 1 A. Correct.
14:27:42 2 Q. Okay. You mentioned yesterday a
14:27:45 3 conversation with the store manager. Is that
14:27:48 4 the store manager that on those occasions
14:27:51 5 you've just told me about that you would go
14:27:53 6 back and try to match paint to finish the
14:27:57 7 buildings because you had run out of paint that
14:28:00 8 had been aggregated over a period of time from
14:28:03 9 paint that had come into the site, is that
14:28:05 10 correct?
14:28:05 11 A. Correct.
14:28:05 12 Q. All right. And the only reason
14:28:07 13 for going to the Sherwin-Williams store to get
14:28:10 14 more paint to match the paint that you had
14:28:14 15 aggregated together is because you would run
14:28:15 16 out of that paint?
14:28:24 17 A. Something to be added, but I'll
14:28:26 18 say yes at this time.
14:28:27 19 Q. Okay. Did you try to use the oil
14:28:38 20 based paints that you had aggregated together
14:28:43 21 for the buildings --
14:28:43 22 MR. ROMINE: Same objection.
14:28:43 23 BY MR. EDDY:
14:28:45 24 Q. -- rather than latex?
14:28:46 25 MR. ROMINE: Same objection.

14:28:48 THE WITNESS: Yes.
14:28:50 BY MR. EDDY:
14:28:50 Q. What did you use the latex on?
14:28:52 MR. ROMINE: Same objection.
14:28:54 THE WITNESS: Maybe I'm confused.
14:29:01 Maybe -- could I tell you how it worked and me
14:29:03 simplify it or do you want me to --
14:29:04 BY MR. EDDY:
14:29:04 Q. No, I think it's probably best if
14:29:07 you respond to my questions.
14:29:08 A. Okay.
14:29:08 Q. You said there was oil based
14:29:14 paints in these ones, fives and quarts that
14:29:18 came in, some of which were half empty, a
14:29:23 quarter empty, three quarter empty.
14:29:25 In other words, they were not
14:29:28 complete canisters of paint, there was some
14:29:31 paint missing from all of these?
14:29:32 MR. ROMINE: Asked and answered.
14:29:33 BY MR. EDDY:
14:29:33 Q. Is that correct?
14:29:33 A. Correct.
14:29:34 Q. And by and large, were they, more
14:29:39 often than not, halfway empty or more than
14:29:42 halfway empty?

14:29:44 1 MR. ROMINE: Asked and answered.
14:29:45 2 THE WITNESS: Correct.
14:29:45 3 BY MR. EDDY:
14:29:45 4 Q. All right. And you tried to keep
14:29:49 5 the -- when you aggregated the paints together,
14:29:52 6 the quarts into the gallons, the gallons into
14:29:54 7 the fives, and then when you ran out of room in
14:29:57 8 the fives, you'd start putting them in fresh
14:30:00 9 55-gallon drums.
14:30:01 10 You would do that to, what, store
14:30:03 11 the drums on site until you needed to use them
14:30:05 12 to paint the buildings and the posts and the
14:30:07 13 fences and all that stuff?
14:30:08 14 MR. ROMINE: Same objection --
14:30:09 15 THE WITNESS: Correct.
14:30:10 16 MR. ROMINE: -- as before. Wait for
14:30:11 17 me to finish.
14:30:14 18 THE WITNESS: I'm sorry.
14:30:14 19 MR. ROMINE: Thank you.
14:30:16 20 BY MR. EDDY:
14:30:16 21 Q. That's fine. You mentioned one
14:30:45 22 gallon lids yesterday?
14:30:46 23 A. Um-hum.
14:30:47 24 Q. Is that a yes?
14:30:48 25 A. Yes. Yes.

14:30:50 1 Q. And when you would paint these
14:30:56 2 buildings, the dozer, the fencing, the diesel
14:31:02 3 containers, the posts, the gates, those things,
14:31:05 4 were you pulling paint out of a 55-gallon drum
14:31:08 5 that you had aggregated together?
14:31:10 6 MR. ROMINE: Same objection as
14:31:12 7 before. Asked and answered.
14:31:13 8 THE WITNESS: Yes.
14:31:14 9 BY MR. EDDY:
14:31:14 10 Q. Would you dip in a one gallon can
14:31:18 11 and take it off to whatever area that you were
14:31:20 12 painting? How did that work?
14:31:21 13 MR. ROMINE: Same objection as
14:31:23 14 before.
14:31:25 15 THE WITNESS: I had cleaned up a -- a
14:31:26 16 pump that was used in diesel paints that had a
14:31:30 17 crank that had a nozzle.
14:31:31 18 BY MR. EDDY:
14:31:31 19 Q. Okay. So you would pump it from
14:31:34 20 the 55-gallon drum into a smaller container and
14:31:38 21 then paint from the smaller container?
14:31:40 22 A. Right.
14:31:40 23 MR. ROMINE: Same objection.
14:31:41 24 THE WITNESS: Right.
14:31:42 25 BY MR. EDDY:

14:31:42 Q. Okay. All right. And then if you
14:31:48 were using a quart, generally I -- is it fair
14:31:52 to say that when you were done with the
14:31:54 painting job on one of these buildings, if you
14:31:56 were drawing it out of a 55-gallon drum, you
14:31:59 would use the paint in the quart or the five
14:32:02 gallon that you had drawn it from, those would
14:32:09 be empty at the time that you're done with your
14:32:10 painting job, correct?
14:32:11 MR. ROMINE: Same objection.
14:32:13 THE WITNESS: Yes.
14:32:13 BY MR. EDDY:
14:32:14 Q. All right. And what would you do
14:32:15 with those canisters, the ones or the fives
14:32:20 that you would paint from, after the paint job
14:32:23 was done and the can was empty? What would you
14:32:27 do with them?
14:32:30 A. Take them down to pier three.
14:32:33 Q. Tier?
14:32:34 A. Tier three, yeah. Tier, yeah.
14:32:36 Q. Okay. And do what?
14:32:38 A. Throw them in the -- the dump
14:32:40 pile.
14:32:41 Q. Okay. And was tier two where
14:32:46 they -- was that ever burned off?

14:32:48 1 A. Tier two, yes.
14:32:49 2 Q. Tier two was?
14:32:50 3 A. Yes.
14:32:50 4 Q. But you took them to tier three,
14:32:53 5 did you say?
14:32:54 6 A. Right.
14:32:54 7 Q. Okay. Did you allow the canister
14:32:56 8 to dry before you would then throw them away?
14:33:02 9 A. Yes.
14:33:03 10 Q. All right. Were any of the ones
14:33:07 11 or fives that you allowed to dry, were they
14:33:10 12 ever put in tier two and then burned off so
14:33:13 13 that the metal canister could be salvaged and
14:33:17 14 taken away by Franklin?
14:33:23 15 A. Sometimes.
14:33:24 16 Q. Did you see other employees of the
14:33:28 17 dump who would use those ones and fives that
14:33:32 18 they used to paint these buildings, when
14:33:35 19 emptied, put them in the tier for burning?
14:33:38 20 A. Bud Young.
14:33:39 21 Q. Anybody else?
14:33:41 22 A. No.
14:33:42 23 Q. Okay. You referenced the lids
14:33:50 24 from canisters being put in the burning area or
14:33:53 25 tier yesterday. Do you recall that testimony?

14:33:56 1 A. Yes.
14:33:57 2 Q. Okay. These would be metal lids?
14:34:00 3 A. Yes.
14:34:01 4 Q. And then after the burn was
14:34:03 5 completed, you mentioned also a magnet that
14:34:08 6 would be used, and, what, dragged over the area
14:34:12 7 to then pick up what metal is left from the
14:34:15 8 burn?
14:34:15 9 A. Correct.
14:34:15 10 Q. And that would include these
14:34:17 11 canister lids?
14:34:18 12 A. Correct.
14:34:18 13 Q. Okay. Did whoever was doing that
14:34:21 14 operation try to get all the salvageable metal
14:34:25 15 that was in the burn area after a burn in order
14:34:27 16 to lift it out of that area and put it in an
14:34:29 17 area for Franklin to pick up?
14:34:31 18 A. Correct.
14:34:32 19 Q. All right. Did that operator of
14:34:35 20 the magnet ever go around other tiers where
14:34:39 21 there would be metal that would be pulled out
14:34:42 22 for Franklin to salvage out of the dump?
14:34:44 23 A. Correct.
14:34:45 24 Q. All right. So that -- would that
14:34:48 25 come out of tier three where you said you put

14:34:52 1 some of the ones and fives that you were
14:34:53 2 finished with after painting the buildings?
14:34:54 3 A. No.
14:34:55 4 Q. Okay.
14:34:56 5 A. Tier three was the bury pile.
14:34:59 6 Q. Okay. All right. Did you do any
14:35:30 7 painting of the buildings in the 1960s as
14:35:34 8 opposed to --
14:35:34 9 MR. ROMINE: Objection. Same
14:35:35 10 objection as before.
14:35:36 11 BY MR. EDDY:
14:35:36 12 Q. -- as opposed to the early 1970s
14:35:39 13 that you told me about?
14:35:42 14 A. The '60s was more of the tractor,
14:35:47 15 dozer, the posts and fence. I think the first
14:35:50 16 time I painted the buildings was '72, I think.
14:35:53 17 Q. Okay. Were the other folks, other
14:35:57 18 employees at the dump, were they painting the
14:36:00 19 buildings back in the '60s?
14:36:02 20 MR. ROMINE: Same objection.
14:36:03 21 THE WITNESS: No.
14:36:03 22 BY MR. EDDY:
14:36:04 23 Q. No. With respect to the material
14:36:58 24 that came -- you believe came from a
14:37:02 25 Sherwin-Williams location to the dump, you

14:37:05 1 referred to there being -- their coming there
14:37:08 2 in white vans.
14:37:09 3 A. Correct.
14:37:10 4 Q. Do you recall that testimony?
14:37:11 5 A. Correct.
14:37:11 6 Q. Were these panel vans?
14:37:13 7 A. Correct.
14:37:14 8 Q. Did they open by the side, like a
14:37:18 9 slider door from the back?
14:37:21 10 A. Both.
14:37:47 11 Q. To your knowledge, did most of the
14:37:51 12 material that came in for Sherwin-Williams to
14:38:00 13 the site that you've told us about, come in
14:38:03 14 from Patterson Road?
14:38:07 15 A. I don't know that.
14:38:09 16 Q. Okay. There's no way for you to
14:38:11 17 estimate it?
14:38:13 18 A. No.
14:38:13 19 Q. All right. I take it, as you sit
14:38:21 20 here today, you're unable to tell us the volume
14:38:24 21 of liquid paints that came in these ones, fives
14:38:27 22 and quarts from any painting company that ended
14:38:32 23 up being used on buildings, fences, posts, that
14:38:36 24 sort of thing?
14:38:36 25 You're not able to estimate the

14:38:38 1 volume of that paint that was used at the site,
14:38:41 2 are you?
14:38:41 3 A. No.
14:38:41 4 Q. In terms of gallons or weight or
14:38:44 5 anything like that, is that true?
14:38:46 6 A. True.
14:38:46 7 Q. You did some work rehabbing HUD
14:38:49 8 homes, is that correct?
14:38:50 9 MR. ROMINE: Same objection as
14:38:51 10 before. Asked and answered.
14:38:52 11 THE WITNESS: Correct.
14:38:52 12 BY MR. EDDY:
14:38:53 13 Q. All right. When did you start
14:38:54 14 that?
14:38:54 15 MR. ROMINE: Same objection as
14:38:55 16 before.
14:38:59 17 THE WITNESS: 1969.
14:39:02 18 BY MR. EDDY:
14:39:02 19 Q. And when did you end doing that?
14:39:03 20 MR. ROMINE: Same objection as
14:39:05 21 before.
14:39:06 22 THE WITNESS: '73.
14:39:11 23 BY MR. EDDY:
14:39:11 24 Q. Okay. Was any of the paint that
14:39:15 25 was ever brought into the dump from any of the

14:39:19 1 sources of paint that came into the dump ever
14:39:21 2 used in the HUD rehabbing that you did?
14:39:27 3 A. Sometimes.
14:39:28 4 Q. Okay. You -- you would use -- you
14:39:30 5 would have used some of the paint that came in?
14:39:32 6 A. Correct.
14:39:33 7 Q. You -- you, yourself?
14:39:34 8 A. Correct.
14:39:35 9 Q. Correct?
14:39:35 10 A. Um-hum.
14:39:36 11 Q. And who did you do that rehabbing
14:39:40 12 with again?
14:39:41 13 MR. ROMINE: Same objection as
14:39:42 14 before.
14:39:43 15 THE WITNESS: Be my father, Cyril
14:39:46 16 Grillot.
14:39:46 17 BY MR. EDDY:
14:39:46 18 Q. Okay. Anybody else? Any of the
14:39:50 19 uncles?
14:39:50 20 A. No.
14:39:50 21 Q. Okay. It was just -- the HUD
14:39:53 22 rehabbing operation was something you and your
14:39:56 23 dad did?
14:39:57 24 A. Correct.
14:39:57 25 MR. ROMINE: Same objection as

14:39:57 1 before. Asked and answered.
14:39:59 2 THE WITNESS: Oh, sorry.
14:40:00 3 BY MR. EDDY:
14:40:01 4 Q. And in terms of the use of paint
14:40:04 5 that came into the dump from a source of paint
14:40:08 6 offsite, would the same operation apply that
14:40:12 7 you would -- that the paint that's used in the
14:40:14 8 HUD rehabbing would have been aggregated from
14:40:18 9 quarts, gallons and fives into their larger
14:40:22 10 containers, and then from the larger
14:40:25 11 containers, you would use or take paint from
14:40:27 12 that to go offsite and use in the HUD
14:40:30 13 rehabbing?
14:40:31 14 A. No.
14:40:32 15 Q. How did it work?
14:40:38 16 A. If white paint came or like a
14:40:41 17 cream color, then I would save it for my
14:40:44 18 personal or Dad's use, and then Alcine, he
14:40:51 19 would use some of it for his own buildings.
14:40:56 20 Q. Offsite?
14:40:58 21 A. Offsite.
14:40:59 22 Q. Okay. What colors did he use?
14:41:01 23 A. Some whites, and the oil bases
14:41:11 24 were used for the metal building. He had a
14:41:13 25 metal building, so we used oil for the metal

14:41:18 1 buildings, and he had one, I think.
14:41:19 2 Q. Okay. Where was that located? Do
14:41:21 3 you have an address?
14:41:24 4 A. Right across from Fickert's. I
14:41:34 5 think that's Dryden Road, Springboro Pike, one
14:41:36 6 of the two.
14:41:37 7 Q. So you and your dad used some of
14:41:42 8 the paint that came into the dump for your HUD
14:41:45 9 home rehabbing, is that correct?
14:41:47 10 MR. ROMINE: Same objection as
14:41:48 11 before --
14:41:48 12 THE WITNESS: Correct.
14:41:49 13 MR. ROMINE: -- and asked and
14:41:49 14 answered.
14:41:50 15 BY MR. EDDY:
14:41:50 16 Q. Alcie -- Uncle Alcie used some of
14:41:52 17 the paint that came into the dump from offsite
14:41:55 18 to paint a metal building offsite that he
14:41:57 19 owned, is that correct?
14:41:58 20 MR. ROMINE: Asked and answered, and
14:41:59 21 same objection as before.
14:42:00 22 THE WITNESS: Correct.
14:42:01 23 BY MR. EDDY:
14:42:02 24 Q. Anybody else associated with the
14:42:05 25 dump that ended up using paint that came into

14:42:08 1 the dump for disposal in one fashion or another
14:42:11 2 in these quarts, in these ones and in these
14:42:14 3 fives that was used at other locations?
14:42:18 4 A. Yes.
14:42:19 5 Q. Who?
14:42:20 6 A. Kenneth Grillot.
14:42:20 7 Q. Okay.
14:42:22 8 A. Uncle Kenny.
14:42:22 9 Q. And did he have more than one
14:42:24 10 building offsite or just one?
14:42:29 11 A. A couple.
14:42:29 12 Q. Okay. Where were they located?
14:42:31 13 A. In Beavercreek.
14:42:32 14 Q. Do you have an address for either
14:42:34 15 one of them?
14:42:35 16 A. No. No. No.
14:42:38 17 Q. No. What kind of buildings were
14:42:41 18 they?
14:42:43 19 A. A couple barns and a house.
14:42:48 20 Q. Did you ever provide any of this
14:42:51 21 paint to -- that came into the dump from
14:42:53 22 offsite to friends and acquaintances and -- who
14:42:56 23 would might have a need for paint?
14:42:58 24 A. If I did, I don't recall.
14:43:01 25 Q. Okay. Do you know whether any of

14:43:02 1 the other employees did or whether Uncle Alcie
14:43:05 2 did or whether your dad did?
14:43:09 3 A. Doyle Roberson, I think, got some
14:43:17 4 paint.
14:43:17 5 Q. Can you tell us how many HUD
14:43:25 6 buildings you and your dad rehabbed over a
14:43:28 7 period of years?
14:43:29 8 MR. ROMINE: Same objection as
14:43:32 9 before.
14:43:32 10 THE WITNESS: They were houses and we
14:43:34 11 purchased six altogether.
14:43:35 12 BY MR. EDDY:
14:43:35 13 Q. Okay. Would you use the paint
14:43:36 14 that came into the dump from sources outside
14:43:42 15 the dump to paint both the interior and
14:43:45 16 exterior of the HUD homes?
14:43:47 17 A. Yes.
14:43:48 18 Q. And do you know whether the
14:43:57 19 building -- I think it was just one building
14:43:59 20 that -- that Uncle Alcine had?
14:44:01 21 A. Two.
14:44:02 22 Q. Two. Did he --
14:44:02 23 A. Two -- two and a house.
14:44:05 24 Q. Two and a house. Okay. And the
14:44:10 25 two buildings and the house that Uncle Alcine

14:44:13 1 had that he used the paint that had come into
14:44:15 2 the dump to paint those buildings, did he paint
14:44:18 3 both the interior and exterior of those
14:44:22 4 buildings and the house, to your knowledge?
14:44:23 5 A. I don't know.
14:44:24 6 Q. Okay. Do you know that he used
14:44:26 7 them on the exterior of the two buildings and
14:44:29 8 the house?
14:44:30 9 A. Correct.
14:44:30 10 Q. You're just not sure about the
14:44:30 11 interior?
14:44:30 12 A. Correct.
14:44:34 13 Q. Fair enough. And then the -- you
14:44:37 14 say it was two buildings that Kenneth had?
14:44:42 15 A. It's two barns and a house.
14:44:44 16 Q. And if I asked you this a moment
14:44:46 17 ago, I apologize, did he use it for both the
14:44:48 18 exterior of the barns and the house as well as
14:44:51 19 the interior?
14:44:52 20 A. I don't know that.
14:44:53 21 Q. Do you know that he used them on
14:44:55 22 the outside but not the inside?
14:44:58 23 A. Correct.
14:44:58 24 Q. All right. And then do you know
14:45:04 25 what became of those canisters of paint that

14:45:07 1 were used on all those other offsite buildings,
14:45:12 2 homes, barns, after the painting was done
14:45:17 3 offsite, how those canisters were disposed
14:45:19 4 of?
14:45:19 5 A. I don't know.
14:45:33 6 Q. Are you able to tell me the number
14:45:40 7 of one gallon -- empty one gallon canisters of
14:45:46 8 paint from any source, whether it be Durrel,
14:45:51 9 PPG or Sherwin-Williams, that were actually
14:45:54 10 physically disposed of on the site?
14:45:57 11 MR. ROMINE: Same objection as
14:45:59 12 before.
14:45:59 13 THE WITNESS: No.
14:46:01 14 BY MR. EDDY:
14:46:01 15 Q. And would your answer be same for
14:46:03 16 the -- the five gallon canisters as well?
14:46:06 17 MR. ROMINE: Same objection as
14:46:07 18 before.
14:46:08 19 THE WITNESS: Correct.
14:46:22 20 BY MR. EDDY:
14:46:23 21 Q. When you said yesterday that you
14:46:27 22 had some recollection of the Sherwin-Williams
14:46:31 23 van dropping off materials to be disposed of at
14:46:37 24 the site from Patterson Road, you said, I
14:46:41 25 think, it was two times a week. Do you recall

14:46:43 1 that testimony?
14:46:44 2 A. Correct.
14:46:44 3 Q. And you've been asked a lot of
14:46:47 4 questions by a lot of lawyers here about how
14:46:51 5 often various entities were -- had drop offs,
14:46:56 6 if you will, and is that from your memory from
14:47:05 7 when you were a teenager as opposed to when you
14:47:08 8 were eight to ten years old or a teenager?
14:47:14 9 I guess what I'm trying to get at
14:47:16 10 is, how far back does this memory of yours go?
14:47:21 11 Are you really able to tell us
14:47:22 12 here 50 years since you were ten -- eight, ten
14:47:30 13 years old, how many times these folks were
14:47:32 14 coming and making drop offs?
14:47:35 15 MR. ROMINE: Objection. Asked and
14:47:35 16 answered.
14:47:40 17 THE WITNESS: I don't know how to
14:47:41 18 define an answer.
14:47:44 19 BY MR. EDDY:
14:47:44 20 Q. Is that because your memory is
14:47:50 21 hazy at times?
14:47:53 22 A. No. No, not at all.
14:48:04 23 Q. I want to go over some general
14:48:07 24 questions here. At the time of your 2012
14:48:12 25 deposition, you -- you told the lawyers there

14:48:13 1 that you were on Traz -- Trazodone as well as
14:48:19 2 Celexa, and an unnamed blood pressure
14:48:23 3 medication. Do you recall that testimony?
14:48:26 4 A. Yes, I do.
14:48:27 5 Q. Okay. The Trazodone, do you
14:48:32 6 understand that to be a medication prescribed
14:48:34 7 for psychiatric problems, such as depression?
14:48:39 8 A. It started out that way.
14:48:41 9 Q. Okay. It's got an off label use
14:48:43 10 for people with sleep problems.
14:48:45 11 A. Correct.
14:48:45 12 Q. And that's why you were using it?
14:48:47 13 A. Correct.
14:48:48 14 Q. Can you tell me the number of
14:48:49 15 years you have been on Trazodone?
14:48:53 16 A. I started in '03.
14:48:55 17 Q. Okay. And you take it every day
14:48:57 18 then?
14:48:57 19 A. Every night.
14:48:58 20 Q. Every night. The hundred
14:49:01 21 milligrams?
14:49:01 22 A. Correct.
14:49:02 23 Q. Have you been told by your
14:49:11 24 physician that that medication is associated
14:49:15 25 with memory impairment?

14:49:18 1 A. No.
14:49:18 2 Q. The Celexa that you were on, how
14:49:24 3 long were you on that at the time of your 2012
14:49:29 4 deposition?
14:49:29 5 A. I started that November 18th,
14:49:36 6 2008.
14:49:36 7 Q. And that is not one of the
14:49:40 8 medications that you said you're on as of
14:49:40 9 today?
14:49:42 10 A. Correct.
14:49:42 11 Q. So when did you stop taking Celexa
14:49:45 12 between your 2012 deposition and today?
14:49:49 13 A. I think a year ago.
14:49:53 14 Q. Okay. Was that per doctor's
14:49:56 15 orders or did you take yourself off of it?
14:50:00 16 A. Actually from the pharmacist. No,
14:50:02 17 a doctor did tell me, yes. Yes.
14:50:04 18 Q. Were you -- and now Celexa, as I
14:50:09 19 understand it, is also prescribed for
14:50:12 20 psychiatric conditions, including depression?
14:50:15 21 A. Correct.
14:50:15 22 Q. Is that why you were prescribed
14:50:18 23 Celexa?
14:50:19 24 A. Yes, at the time.
14:50:21 25 Q. Who was your doctor at the time?

14:50:23 1 A. It was a hospital doctor in the
14:50:32 2 ward that's in --
14:50:33 3 Q. Where -- what ward and what city
14:50:35 4 and what hospital?
14:50:37 5 A. It was Goldsboro Medical Center or
14:50:44 6 Medical Hospital. I was on the -- their
14:50:47 7 alcohol and drug rehab psychiatric ward.
14:50:50 8 Q. How long were you hospitalized for
14:50:53 9 that?
14:50:54 10 A. Roughly ten days.
14:50:57 11 Q. And that was in 2008?
14:50:58 12 A. Yes.
14:50:59 13 Q. In North Carolina?
14:51:00 14 A. Yes.
14:51:00 15 Q. Have you been hospitalized since
14:51:03 16 then?
14:51:04 17 A. Yes.
14:51:05 18 Q. How many occasions?
14:51:07 19 A. Probably six times.
14:51:12 20 Q. For what conditions?
14:51:17 21 A. Mostly because I was having
14:51:19 22 problems with what I'm experiencing right now.
14:51:22 23 Q. Pancreatitis?
14:51:23 24 A. Correct.
14:51:24 25 Q. Were all of those six occasions

14:51:27 1 for pancreatitis or were any of them for any
14:51:30 2 other medical condition?
14:51:32 3 A. A couple injuries, and then one
14:51:37 4 they were just probing.
14:51:38 5 Q. Probing for what?
14:51:40 6 A. To see why I was having so much
14:51:43 7 discomfort.
14:51:46 8 Q. Were any of them related to any
14:51:47 9 psychiatric conditions?
14:51:48 10 A. No.
14:51:48 11 Q. But when you were hospitalized in
14:51:54 12 2008, was that for a bipolar condition?
14:51:56 13 A. That was a -- what I was diagnosed
14:51:58 14 at that -- at that time.
14:51:59 15 Q. Have you ever been diagnosed as
14:52:00 16 being depressed?
14:52:05 17 A. No, not really.
14:52:08 18 Q. The blood pressure medication that
14:52:10 19 you were on at the time of your deposition in
14:52:13 20 2012, do you recall what it was?
14:52:15 21 A. No.
14:52:15 22 Q. Does the name Inderal ring a bell?
14:52:19 23 A. No.
14:52:19 24 Q. When did you stop taking the blood
14:52:27 25 pressure medication?

14:52:27 1 A. It was around 2012, the end -- the
14:52:32 2 end of the year, something like that.
14:52:33 3 Q. You mentioned yesterday that you
14:52:36 4 had some bad memories about the University of
14:52:40 5 Dayton, some hostility or anger associated with
14:52:43 6 the University of --
14:52:43 7 A. Bad feelings.
14:52:44 8 Q. Okay. What does that arise out
14:52:46 9 of, just generally?
14:52:50 10 A. The tradition and action that was
14:52:54 11 taken and what happened with my father's
14:52:59 12 estate.
14:52:59 13 Q. What did the University of Dayton
14:53:01 14 have to do with what happened to your father's
14:53:01 15 estate?
14:53:07 16 A. I expected some help after all
14:53:11 17 his -- his generosity.
14:53:18 18 Q. Your father had -- had given a lot
14:53:20 19 to the university over the years, he
14:53:22 20 experienced some bad times associated with the
14:53:25 21 dump and didn't get some help that he was
14:53:27 22 hoping to get from the university, and that's
14:53:28 23 the source of that pain and anger for you?
14:53:32 24 A. That, and the fact that when
14:53:37 25 Horace's wife donated the John Bonevitz Center,

14:53:42 1 whatever it's called, did -- the stocks and
14:53:44 2 bonds that came from my father's estate was --
14:53:46 3 for that building was put under the Boesch
14:53:50 4 name.
14:53:50 5 Q. That was put what?
14:53:52 6 A. Put under the Boesch name.
14:53:53 7 Q. Instead of?
14:53:55 8 A. Grillot/Boesch.
14:53:56 9 Q. All right. Okay. Thank you. I
14:54:01 10 don't -- I wanted to find out what that was
14:54:03 11 about. I didn't mean to drag you through what
14:54:06 12 were hard emotional times for you.
14:54:08 13 A. That's okay. Can I take a break?
14:54:09 14 Q. Sure.
14:54:10 15 (Pause in proceedings.)
15:02:41 16 MR. EDDY: Can we go back on the
15:02:42 17 record?
15:02:43 18 THE COURT REPORTER: Yes.
15:02:43 19 BY MR. EDDY:
15:02:44 20 Q. Mr. Grillot, are you ready to
15:02:45 21 continue your deposition now?
15:02:48 22 A. Yes, I am.
15:02:49 23 Q. Are you feeling all right?
15:02:50 24 A. Yeah.
15:02:50 25 Q. Okay. Good. I have to ask you

15:02:53 1 this: While we were on a break, did you have
15:02:56 2 any conversations outside this room with Mr.
15:02:56 3 Romine here --
15:02:56 4 A. No.
15:03:01 5 Q. -- or with any other lawyer
15:03:04 6 representative of the plaintiffs in this case?
15:03:07 7 A. Yes.
15:03:07 8 Q. Who did you talk to?
15:03:09 9 A. Jeff Ireland.
15:03:12 10 Q. And he's an attorney here?
15:03:14 11 A. Yeah.
15:03:15 12 Q. Okay. And can you recount me what
15:03:19 13 that conversation was?
15:03:19 14 A. He said he had to leave, that his
15:03:26 15 co-attorney was going to be here, nice to see
15:03:28 16 you again and good luck.
15:03:30 17 Q. Was there any questions or banter
15:03:36 18 about -- in terms of the testimony that you've
15:03:37 19 given here today?
15:03:39 20 A. No.
15:03:39 21 MR. ROMINE: Let me just interject,
15:03:41 22 because Mr. Grillot may not know that Jeff Ireland
15:03:43 23 does not represent the plaintiffs.
15:03:45 24 MR. EDDY: He's not what?
15:03:46 25 MR. ROMINE: He doesn't represent the

15:03:48 1 plaintiffs.
15:03:48 2 MR. EDDY: Oh, oh.
15:03:48 3 MR. ROMINE: Mr. Ireland and I are
15:03:51 4 not representing the same people, the same
15:03:52 5 companies.
15:03:54 6 BY MR. EDDY:
15:03:54 7 Q. Okay.
15:03:54 8 A. Okay.
15:03:54 9 Q. My question was, had you talked to
15:03:57 10 any of the lawyers for the plaintiffs in this
15:03:58 11 lawsuit?
15:03:59 12 A. No.
15:04:00 13 Q. All right. You were asked some
15:04:14 14 questions earlier today about some meals you
15:04:20 15 had and who paid for the meals and your travels
15:04:24 16 for these depositions that you've had
15:04:26 17 yesterday, today, as well as questions about
15:04:29 18 those issues going back to the 2012 deposition.
15:04:33 19 Have you directly or indirectly
15:04:38 20 received any checks, bank checks, from anybody
15:04:46 21 representing the plaintiffs, including their
15:04:48 22 investigator, who you've talked to?
15:04:50 23 A. Yes.
15:04:51 24 Q. Okay. How many checks have you
15:04:53 25 received?

15:04:55 1 A. Two.
15:04:56 2 Q. And when did you receive them?
15:04:59 3 A. The spring of -- it must have been
15:05:04 4 March or April of 2012. And then I can't
15:05:13 5 remember when I went back home, but it was, I
15:05:16 6 think, within that year.
15:05:17 7 Q. Okay. Do you recall how much each
15:05:20 8 check was for?
15:05:23 9 A. Both of them, I believe, were the
15:05:26 10 same, and I think they were like five hundred
15:05:28 11 and forty some dollars.
15:05:30 12 Q. Okay. And they were cashed, I
15:05:32 13 assume? They were cashed, you cashed them or
15:05:35 14 deposited them?
15:05:35 15 A. Yes.
15:05:36 16 Q. Okay. And has anyone received any
15:05:42 17 checks from any representative of the
15:05:45 18 plaintiffs on your behalf?
15:05:46 19 A. No.
15:05:46 20 Q. Has your girlfriend, who you've
15:05:50 21 stayed with up here, has she received any kind
15:05:53 22 of monetary payments from anybody representing
15:05:55 23 the plaintiffs in this case?
15:05:57 24 A. No.
15:05:58 25 Q. Have you received any cash from

15:06:10 1 any representative of the plaintiffs? Not a
15:06:12 2 check, but cash.
15:06:13 3 A. No.
15:06:18 4 MR. EDDY: Is everybody with us?
15:06:24 5 MS. WRIGHT: Yes.
15:06:24 6 MR. SHARETT: Yes, I'm here. Anthony
15:06:25 7 Sharett, I'm here.
15:06:28 8 MR. EDDY: Very good. Thank you.
15:06:30 9 BY MR. EDDY:
15:06:30 10 Q. Yesterday you were asked some
15:07:02 11 questions about your not having received a
15:07:06 12 subpoena to require your appearance at the 2012
15:07:10 13 deposition or today. Do you recall that --
15:07:12 14 A. Yes.
15:07:13 15 Q. -- those questions and your
15:07:16 16 answers from yesterday?
15:07:17 17 A. Yes.
15:07:18 18 Q. All right. And you were asked in
15:07:21 19 general terms, you know, since you didn't get a
15:07:24 20 subpoena requiring your appearance, you know,
15:07:27 21 why you volunteered to come in without a
15:07:30 22 subpoena that would require your appearance.
15:07:33 23 And you said, and I'm paraphrasing
15:07:37 24 here, but you referenced not being a Christian,
15:07:39 25 but that you quoted a -- a Bible passage

15:07:41 1 about -- I just wrote this down -- the ruin of
15:07:44 2 the earth?
15:07:44 3 A. Right.
15:07:45 4 Q. And you indicated that -- that you
15:07:49 5 felt some guilt in terms of your family name
15:07:52 6 being associated with the South Dayton Dump.
15:07:56 7 Do you recall that testimony?
15:07:57 8 A. Correct.
15:07:58 9 Q. All right. And you also mentioned
15:08:03 10 Agenda 21 and something about clearing --
15:08:07 11 clearing your conscience?
15:08:13 12 A. Yes.
15:08:15 13 Q. Do you have feelings of guilt with
15:08:19 14 respect to the South Dayton Dump?
15:08:21 15 MR. ROMINE: Asked and answered.
15:08:26 16 THE WITNESS: Yes.
15:08:27 17 BY MR. EDDY:
15:08:27 18 Q. Okay. When did you first start
15:08:29 19 having those feelings?
15:08:36 20 A. I guess very young.
15:08:39 21 Q. Well, you were there as early as
15:08:42 22 eight years of age, and then on and off until
15:08:47 23 your late 20s, 27, something like that, is that
15:08:50 24 right?
15:08:50 25 A. Correct.

15:08:51 1 Q. How early were those feelings of
15:08:51 2 guilt?
15:08:55 3 A. Like I said, early on.
15:08:57 4 Q. Even before the age of ten?
15:09:00 5 A. Yeah.
15:09:00 6 Q. Okay. And were those generated by
15:09:04 7 you, internally to you, or were these generated
15:09:07 8 by comments from other people about the dump
15:09:12 9 and your being associated with it through your
15:09:14 10 family?
15:09:14 11 MR. ROMINE: I'm going to object to
15:09:17 12 the line of questioning on relevance.
15:09:21 13 THE WITNESS: I'm -- could you
15:09:26 14 restate it maybe one more time?
15:09:26 15 BY MR. EDDY:
15:09:28 16 Q. Are these feelings of guilt that
15:09:29 17 you have told us that started fairly young in
15:09:33 18 your life about being associated with the dump,
15:09:36 19 were they generated out of your own internal
15:09:40 20 moral sense, if you will?
15:09:42 21 Or were they feelings of guilt
15:09:43 22 that were sort of put upon you because of
15:09:47 23 comments of third parties about the dump and
15:09:49 24 you being associated with it?
15:09:50 25 MR. ROMINE: Same objection.

15:09:50 1 BY MR. EDDY:
15:09:51 2 Q. In other words, if there was
15:09:52 3 something bad your family being associated with
15:09:54 4 the dump that people told you about, and,
15:09:56 5 therefore, you had some feelings of guilt
15:09:59 6 associated with what you were told.
15:10:00 7 MR. ROMINE: Same objection.
15:10:02 8 THE WITNESS: The first would have
15:10:03 9 came out of -- when I was youngest out of -- I
15:10:09 10 thought it was sad that -- that -- so much waste.
15:10:20 11 Then later in years, it was because
15:10:23 12 of your second comment, that as I learned
15:10:28 13 different things that I found through studying
15:10:31 14 that the -- things weren't -- and then guilt.
15:10:35 15 BY MR. EDDY:
15:10:35 16 Q. I'm sorry, that things weren't
15:10:37 17 what?
15:10:38 18 A. That things weren't handled the
15:10:44 19 way I thought it should be done, and -- and
15:10:49 20 then the guilt was when I was like pouring out
15:10:52 21 stuff out of those cani -- like 55-gallon
15:10:56 22 drums, I thought what I am doing, you know.
15:11:04 23 Q. What is Agenda 21?
15:11:07 24 MR. ROMINE: Objection. Relevance.
15:11:09 25 THE WITNESS: You don't have all day,

15:11:10 1 but do you want me to generalize it?
15:11:13 2 BY MR. EDDY:
15:11:13 3 Q. Briefly.
15:11:13 4 A. Huh?
15:11:14 5 Q. Briefly can you tell me what
15:11:16 6 Agenda 21 is? You -- you mentioned it
15:11:17 7 yesterday, and I'd like to know what it is.
15:11:18 8 A. Agenda 21 is -- basically was
15:11:24 9 brought up in Rio de Janeiro, I think it is,
15:11:29 10 and Clinton signed a -- or signed in to Agenda
15:11:35 11 21 to better the earth.
15:11:39 12 Q. Are you a member of any
15:11:50 13 organization or associated with any
15:11:52 14 organization in the State of Ohio, Michigan or
15:11:59 15 North Carolina, Agenda 21 Ohio, Agenda 21 North
15:12:00 16 Carolina? Are you involved in any
15:12:02 17 organizations associated with Agenda 21?
15:12:05 18 A. No.
15:12:05 19 Q. This is just something you've read
15:12:07 20 about on your own?
15:12:09 21 A. Correct.
15:12:09 22 Q. And Agenda 21 is about sustainable
15:12:12 23 development in part?
15:12:13 24 A. Correct.
15:12:21 25 Q. And what does -- you believe that

15:12:27 your testimony in this case is part of a
15:12:32 clearing of your conscience with respect to
15:12:36 what went on at the dump and the principles
15:12:39 associated with Agenda 21?
15:12:41 A. Correct.
15:12:57 Q. The reading that you've done about
15:12:59 Agenda 21, is this all on-line or have you
15:13:02 purchased any written materials and books and
15:13:05 pamphlets, whatever that you've read about?
15:13:07 MR. ROMINE: Objection as to
15:13:08 relevance.
15:13:11 THE WITNESS: It started by
15:13:16 literature that I had read and then a couple
15:13:22 meetings I went to, and then on-line, and then
15:13:29 talking to various individuals around.
15:13:34 And at one point, I was convinced of
15:13:37 one aspect of it when I was working down in
15:13:39 Florida last year and talked to the next door
15:13:42 neighbor.
15:13:43 BY MR. EDDY:
15:13:43 Q. Do you have any of these books or
15:13:45 pamphlets that you've read at home?
15:13:47 A. Yes.
15:13:47 Q. Okay. Can you give me the titles
15:13:50 of them if I wanted to read them and understand

15:13:54 1 better your involvement with that?
15:13:57 2 A. Well, one would be the Watchtower
15:14:04 3 magazine out of Brooklyn, New York. The New
15:14:08 4 American. The John Birch Society. I think
15:14:21 5 that's it.
15:14:22 6 Q. What is the New American, is that
15:14:23 7 a publication, a periodical?
15:14:25 8 A. Correct.
15:14:27 9 Q. Okay. And the meetings -- what
15:14:29 10 were these meetings that you went to that
15:14:32 11 related to Agenda 21?
15:14:36 12 A. It actually wasn't about Agenda
15:14:38 13 21, but it was in the same aspect of it.
15:14:41 14 Q. Which is what?
15:14:42 15 A. It was John Birch's Society.
15:14:45 16 Q. Okay. Where -- is that here in
15:14:46 17 Ohio or down in North Carolina?
15:14:48 18 A. Here in Ohio.
15:14:50 19 Q. And when was the last time you
15:14:51 20 went to such a meeting?
15:14:54 21 A. It was in -- I think I went twice,
15:14:59 22 and it was in spring of '95, I believe.
15:15:49 23 Q. I think I'm done here. Were you a
15:16:14 24 party to the 2006 administrative order on
15:16:20 25 consent relating to the dump and the US EPA?

15:16:23 1 A. Pardon me?
15:16:24 2 Q. Were you a -- a party to the 2006
15:16:34 3 ASAOC, the administrative order on consent with
15:16:35 4 the US EPA relating to the South Dayton Dump?
15:16:39 5 A. No, I was not.
15:16:44 6 Q. Okay. You indicated that you
15:16:45 7 entered into a settlement agreement with the US
15:16:50 8 EPA?
15:16:50 9 A. Correct.
15:16:51 10 Q. What year?
15:16:56 11 A. '99, I believe.
15:16:57 12 Q. And you indicated that this had
15:17:01 13 impacted your inheritance from your father?
15:17:03 14 A. Correct.
15:17:04 15 Q. And there was -- I think you
15:17:06 16 mentioned something on the order of two hundred
15:17:09 17 thousand dollars that would have come to you as
15:17:11 18 one of the heirs actually went to the United
15:17:14 19 States government, and then after the
15:17:17 20 settlement, you got back from the government
15:17:20 21 about a hundred and forty thousand dollars, is
15:17:22 22 that correct?
15:17:22 23 A. It wasn't quite that way, but it
15:17:26 24 was close.
15:17:26 25 Q. Well, what is the way that it

15:17:28 1 worked, can you tell me that?
15:17:29 2 MR. ROMINE: Objection. It goes
15:17:31 3 beyond the scope of the direct and it rehashes
15:17:34 4 testimony from 2012 unnecessarily in violation of
15:17:36 5 Judge Rice's order.
15:17:38 6 THE WITNESS: Between our EPA -- I
15:17:41 7 call them EPA retainers, but they were EPA
15:17:44 8 attorneys that went on their own and that started
15:17:47 9 a firm here in Dayton that represented the
15:17:52 10 Boesch/Grillot estate, and they made a deal with
15:17:55 11 the EPA that our part of involvement --
15:18:02 12 involvement on the dump would be divided between
15:18:11 13 the parties of the -- Boesch, Alcine Grillot and
15:18:18 14 Leone and the heirs of the children.
15:18:18 15 BY MR. EDDY:
15:18:28 16 Q. All right. As a result of this
15:18:28 17 agreement, was your personal inheritance from
15:18:30 18 your father's estate affected?
15:18:33 19 A. Yes, it was.
15:18:36 20 Q. Okay. Was there an amount of
15:18:37 21 money that you would have gotten from the
15:18:39 22 estate that you didn't get because of the
15:18:43 23 involvement of the US EPA and the South Dayton
15:18:47 24 Dump and how it impacted your father's estate?
15:18:49 25 MR. ROMINE: Same objection.

15:18:50 1 THE WITNESS: Yes.
15:18:51 2 BY MR. EDDY:
15:18:52 3 Q. Okay. How much didn't you get
15:18:53 4 that you otherwise would have gotten?
15:18:55 5 MR. ROMINE: Same objection.
15:18:57 6 THE WITNESS: Around seventy thousand
15:18:57 7 dollars.
15:19:02 8 BY MR. EDDY:
15:19:02 9 Q. Okay. All right. I'm not sure I
15:19:04 10 said that right. If I -- am I correct then
15:19:08 11 that you have a -- what you believe to be a
15:19:14 12 personal loss to you of about seventy thousand
15:19:19 13 dollars that you did not get from your father's
15:19:22 14 estate as an inheritance because of the
15:19:24 15 settlement with the US EPA, is that correct?
15:19:26 16 MR. ROMINE: Same objection.
15:19:27 17 THE WITNESS: No.
15:19:27 18 BY MR. EDDY:
15:19:28 19 Q. All right. Could you explain to
15:19:29 20 me what you didn't get?
15:19:32 21 A. On paper or off paper?
15:19:34 22 Q. Well, let's start with on paper.
15:19:36 23 MR. ROMINE: Same objection.
15:19:38 24 THE WITNESS: Right around
15:19:44 25 five million dollars.

15:19:45 1 BY MR. EDDY:
15:19:45 2 Q. Okay. And that would have been
15:19:47 3 money in your pocket?
15:19:49 4 A. It would be split between --
15:19:52 5 Q. All the heirs?
15:19:52 6 MR. ROMINE: Objection.
15:19:53 7 THE WITNESS: -- the remaining wife
15:19:54 8 and the siblings.
15:19:54 9 BY MR. EDDY:
15:19:55 10 Q. Okay. And your -- what share of
15:19:58 11 that would you individually have gotten --
15:20:00 12 MR. ROMINE: Same objection.
15:20:01 13 BY MR. EDDY:
15:20:02 14 Q. -- do you believe?
15:20:04 15 A. A little more than a million.
15:20:07 16 Q. And you believe that to be a
15:20:11 17 million dollar loss to you that you've
15:20:13 18 sustained because of the involvement with the
15:20:15 19 US EPA?
15:20:15 20 MR. ROMINE: Same objection.
15:20:17 21 THE WITNESS: Correct.
15:20:17 22 BY MR. EDDY:
15:20:17 23 Q. All right.
15:20:18 24 A. On paper.
15:20:19 25 Q. On paper. And now off paper, what

15:20:22 1 are you referring to?
15:20:24 2 A. Some of Dad's closest friends told
15:20:31 3 us the last time they heard that --
15:20:34 4 Q. They sold the last time? I'm
15:20:35 5 not --
15:20:35 6 A. The last time I talked to some of
15:20:38 7 Dad's old acquaintances, really close, and they
15:20:41 8 had told my son that Dad had either told them
15:20:49 9 or showed them or whatever, that his net worth
15:20:52 10 was worth twelve million dollars.
15:21:11 11 Q. Have you been told in any way,
15:21:14 12 shape or form by anybody that if the plaintiffs
15:21:22 13 receive any kind of recovery in this lawsuit,
15:21:25 14 that you will get any part of it?
15:21:26 15 A. Oh, no.
15:21:27 16 Q. Either you or any of your family
15:21:29 17 members?
15:21:31 18 A. From what's going on now?
15:21:32 19 Q. Yes.
15:21:33 20 A. No. No.
15:21:36 21 MR. EDDY: I don't have anything
15:21:36 22 further. Thank you very much.
15:21:38 23 THE WITNESS: Thank you.
15:21:55 24 CROSS-EXAMINATION
15:21:55 25 BY MR. STINSON:

15:22:11 1 Q. Good afternoon, Mr. Grillot. My
15:22:12 2 name is Peter Stinson, and I represent PPG
15:22:16 3 Industries. I want to make sure before I start
15:22:18 4 that you're feeling okay to testify now?
15:22:20 5 A. Yes, sir.
15:22:21 6 Q. Okay. I want to ask you about one
15:22:24 7 of the companies you identified yesterday that
15:22:26 8 you associated with the South Dayton Dump
15:22:31 9 Landfill, a company you called Pittsburgh
15:22:33 10 Paint. Do you remember your testimony on that?
15:22:35 11 A. Yes, I do.
15:22:36 12 MR. WICK: Peter, could you speak up,
15:22:36 13 please?
15:22:38 14 MR. STINSON: Sure.
15:22:38 15 BY MR. STINSON:
15:22:39 16 Q. As I understand your career,
15:22:43 17 history at various times you've done painting,
15:22:47 18 correct?
15:22:47 19 A. Correct.
15:22:48 20 Q. And you painted for the -- in part
15:22:51 21 for the -- the A.E. Fickert Company?
15:22:51 22 A. Correct.
15:22:54 23 Q. And then you painted at other
15:22:56 24 locations as well?
15:22:58 25 A. Yes.

15:22:59 1 Q. Okay. And are you familiar with
15:23:02 2 any kind of painting operation, and I mean by
15:23:06 3 that, any manufacturing operation that
15:23:07 4 Pittsburgh Paint has in the Dayton area?
15:23:12 5 A. To my knowledge, I don't think so.
15:23:13 6 Q. Are you aware of any -- any retail
15:23:17 7 stores that were owned by Pittsburgh Paint
15:23:21 8 during the time that you were associated with
15:23:24 9 the dump?
15:23:28 10 A. All I remember is one, and I'm
15:23:30 11 strongly leaning towards Durrel, had a line, I
15:23:34 12 think, of Pittsburgh.
15:23:39 13 Q. All right. And you said Durrel.
15:23:41 14 What do you mean by that, sir?
15:23:42 15 A. Durrel was another local
15:23:46 16 manufacturing of making paint and distributing
15:23:49 17 in the Dayton area.
15:23:50 18 Q. All right. So Durrel manufactures
15:23:55 19 paint or did manufacture paint in the Dayton
15:23:56 20 area during the time that the site operated,
15:23:58 21 that's your understanding?
15:23:58 22 A. Correct.
15:23:59 23 Q. And it's also your understanding
15:24:02 24 that during that time, Durrel made a brand of
15:24:04 25 paint for Pittsburgh Paint at that location?

15:24:07 1 A. No.
15:24:08 2 Q. All right. Explain to me then the
15:24:11 3 connection between Durrel and Pittsburgh Paint
15:24:15 4 as it relates to the paint in the Dayton area.
15:24:23 5 A. That Durrel carried Pittsburgh
15:24:26 6 Paint with the name on it as a -- like a side
15:24:31 7 line in their stores.
15:24:33 8 Q. So the -- the Durrel, in its
15:24:37 9 store, sold Pittsburgh Paint that was labeled
15:24:37 10 Pittsburgh Paint?
15:24:37 11 A. Right.
15:24:41 12 Q. Did -- was that paint that was
15:24:44 13 labeled Pittsburgh Paint also labeled Durrel
15:24:46 14 paint?
15:24:46 15 A. No. No. No.
15:24:48 16 Q. So Durrel simply sold some of the
15:24:51 17 Pittsburgh brand out of its stores, that's your
15:24:52 18 understanding?
15:24:53 19 A. Yes, sir.
15:24:53 20 Q. And otherwise, you're aware of no
15:24:56 21 retail outlets -- stores in the Dayton area
15:25:02 22 that were owned by Pittsburgh Paint during the
15:25:04 23 time that the landfill operated?
15:25:07 24 A. I believe there was one on Salem
15:25:12 25 Avenue.

15:25:12 1 Q. Any others?
15:25:14 2 A. Not to my knowledge.
15:25:17 3 Q. Where is Salem Avenue?
15:25:19 4 A. Northwest of Dayton.
15:25:23 5 Q. Can you be more specific than
15:25:26 6 that?
15:25:26 7 A. It runs from downtown out to
15:25:38 8 Englewood area. It's pretty much in line with
15:25:46 9 Main Street, which would be Route 48, and Salem
15:25:49 10 is Route 49.
15:25:54 11 And I think it was -- the
15:25:57 12 cross-section would have been around
15:26:00 13 Siebenthaler area on the right side.
15:26:04 14 Q. Cross-section of Sieben --
15:26:08 15 A. Thaler.
15:26:08 16 Q. -- thaler and --
15:26:10 17 A. And Salem.
15:26:10 18 Q. -- Salem?
15:26:10 19 A. Salem Avenue.
15:26:12 20 Q. And your understanding was there
15:26:13 21 was a Pittsburgh retail outlet at that
15:26:16 22 location?
15:26:16 23 A. Correct.
15:26:17 24 Q. And during what years did that
15:26:19 25 operate?

15:26:23 1 A. '70s, I believe.
15:26:25 2 Q. Can you be more specific than
15:26:28 3 that, sir?
15:26:28 4 A. '72 to '75.
15:26:34 5 Q. So it operated at that location
15:26:36 6 for a total of three years?
15:26:40 7 A. I don't -- I just remember because
15:26:41 8 I did a lot of work out that side of town, and
15:26:44 9 I just remember seeing them open. I think I
15:26:48 10 might have bought some stuff out of there,
15:26:51 11 supplies and stuff, so --
15:26:52 12 Q. And that's when you were working
15:26:54 13 as a painter?
15:26:54 14 A. Right.
15:26:55 15 Q. And you think that was in the '72
15:26:56 16 through '75 time frame?
15:26:58 17 A. Right.
15:26:58 18 Q. Okay. Other than this Salem
15:27:00 19 Avenue location, is there any other location in
15:27:03 20 the Dayton area that -- where a paint store was
15:27:07 21 owned by Pittsburgh Paint, to your knowledge?
15:27:09 22 A. Not to my knowledge.
15:27:11 23 Q. And you're not aware of any
15:27:13 24 manufacturing operations in the Dayton area
15:27:16 25 either, are you?

15:27:17 A. No, sir.
15:27:18 Q. All right. Now, do you remember
15:27:21 your testimony yesterday with respect to
15:27:21 Pittsburgh Paint?
15:27:29 A. I've talked so much, sir, I
15:27:31 don't -- I mean, I'm sorry.
15:27:32 Q. I appreciate that. Okay. Well,
15:27:35 let me -- let me ask you, you testified -- let
15:27:38 me see if this jogs your memory. You testified
15:27:40 you associated certain waste materials that
15:27:43 were brought to the dump to Pittsburgh Paint.
15:27:49 Do you remember that --
15:27:49 A. Yes.
15:27:50 Q. -- testimony, sir? Do you know
15:27:51 where that -- those materials, that is, the
15:27:53 Pittsburgh Paint materials you testified to
15:27:55 yesterday, where they came from?
15:27:59 A. No, sir.
15:28:00 Q. All right. Is it your
15:28:01 understanding that the materials you testified
15:28:05 to yesterday, the -- the paint materials, the
15:28:08 drywall, the plaster paris, that that came from
15:28:11 a construction project at some offsite
15:28:15 location?
15:28:17 A. I don't remember saying that.

15:28:18 1 Q. Well, where -- let me ask you
15:28:21 2 then. You -- you associated Pittsburgh Paint
15:28:27 3 with a number of materials at the landfill
15:28:31 4 yesterday, and I understand you recall that
15:28:33 5 testimony, correct?
15:28:34 6 A. Right now vaguely, yes.
15:28:36 7 Q. Okay. Well, where did those
15:28:39 8 materials come from?
15:28:46 9 A. Like I said right now, I can't
15:28:48 10 remember.
15:28:48 11 Q. All right. Do you know whether
15:28:49 12 they came from this retail outlet on Salem
15:28:49 13 Avenue?
15:28:55 14 A. I wouldn't have that knowledge.
15:28:57 15 Q. Now, did the Salem Avenue store,
15:29:01 16 do you recall, did it sell anything other than
15:29:04 17 just paint?
15:29:07 18 A. Did they sell anything but --
15:29:08 19 other than paint?
15:29:09 20 Q. Paint, it was just a paint store?
15:29:09 21 A. Um-hum.
15:29:11 22 Q. Did they sell plaster paris, do
15:29:13 23 you recall?
15:29:13 24 A. Yes.
15:29:15 25 Q. Do you recall whether they sold

15:29:18 1 drywall?
15:29:18 2 A. Yes. And something is starting to
15:29:21 3 come back now, so I -- yes.
15:29:23 4 Q. So this drywall was sold out of --
15:29:27 5 A. Drywall powder. Not drywall --
15:29:27 6 Q. It was a powder. Okay.
15:29:28 7 A. -- drywall powder.
15:29:29 8 Q. Okay. Was sold out of this
15:29:31 9 Pittsburgh Paint retail outlet on Salem Avenue?
15:29:34 10 A. Yes.
15:29:34 11 Q. And what other material was sold
15:29:38 12 out of that outlet?
15:29:39 13 A. Ladders, paint brushes, anything
15:29:44 14 that would be used to either prep or do
15:29:48 15 painting. Spray equipment.
15:29:52 16 Q. How about skids?
15:29:59 17 MR. ROMINE: Objection. Vague.
15:29:59 18 BY MR. STINSON:
15:30:04 19 Q. We've been talking about them for
15:30:05 20 two days, skids. How about skids, did they
15:30:08 21 sell skids out of that location?
15:30:10 22 A. Well, I'm still not completely
15:30:13 23 remembering what was talked about yesterday and
15:30:17 24 what -- what -- go on. I'm sorry. Go on.
15:30:26 25 Q. Okay. I just wanted to ask you

15:30:29 1 whether skids were sold out of the Salem Avenue
15:30:32 2 outlet that you've been talking about.
15:30:34 3 A. Well, skids wouldn't be sold, no.
15:30:35 4 Q. Did you know any of the people who
15:30:47 5 worked at this Salem Avenue location?
15:30:50 6 A. No.
15:30:50 7 Q. Do you know whether they were
15:30:53 8 PPG -- whether they were Pittsburgh Paint
15:30:57 9 employees?
15:30:57 10 A. I wouldn't have that knowledge.
15:31:04 11 Q. And -- and your first time there
15:31:05 12 was in the -- this '72, '75 time frame when you
15:31:09 13 working not at the landfill, but working doing
15:31:13 14 painting?
15:31:13 15 A. Yes.
15:31:13 16 Q. All right. Yesterday you
15:31:22 17 described a drywall product that you said that
15:31:31 18 was more like a powder, as I recall, is that
15:31:34 19 right?
15:31:34 20 A. Correct.
15:31:34 21 Q. And you're talking now about that
15:31:36 22 material that was sold out of the Salem Avenue
15:31:39 23 location?
15:31:46 24 A. I believe so.
15:31:47 25 Q. And can you describe that for me?

15:31:52 A. The material?
15:31:53 Q. Yeah.
15:32:01 A. With most stores, I wouldn't know.
15:32:04 They carry various products from different
15:32:07 companies, or, you know, it might be made by
15:32:10 somebody else, but it was a bag of powder,
15:32:12 probably 18 inches by 12 by about three inches
15:32:20 thick, and one would say plaster of paris and
15:32:24 the other would say Vastrine (phonetic)
15:32:29 compound, I think is what it was.
15:32:30 Q. Is this -- either one of those
15:32:38 separate from the plaster paris material that
15:32:40 you described yesterday?
15:32:41 A. Correct.
15:32:42 Q. And describe what the plaster
15:32:45 paris material is.
15:32:46 A. It was in a little bit bigger bag,
15:32:48 probably 24 by 18 maybe 15 inches and three
15:32:52 inches.
15:32:52 Q. And who made -- do you know what
15:32:55 manufactured that?
15:32:55 A. I don't know, no.
15:32:56 Q. How about the drywall?
15:32:58 A. I don't know.
15:33:00 Q. How about the powder material that

15:33:02 1 you just referenced?
15:33:03 2 A. I don't know.
15:33:04 3 Q. Have you ever -- ever talked to
15:33:10 4 anybody who was employed or affiliated with
15:33:13 5 Pittsburgh Paint about the South Dayton
15:33:16 6 Landfill?
15:33:16 7 A. No, sir.
15:33:17 8 Q. Now, you testified -- or as I
15:33:28 9 understand from your testimony, sir, that there
15:33:31 10 was a fair amount of construction demolition
15:33:35 11 debris that at various times was brought into
15:33:39 12 the dump, is that correct?
15:33:40 13 A. Correct.
15:33:40 14 Q. And you described that material
15:33:42 15 as -- as drywall?
15:33:44 16 A. Yes.
15:33:44 17 Q. All right. As skids?
15:33:48 18 A. Yes.
15:33:50 19 Q. As paint materials?
15:33:54 20 A. I'm -- I'm getting a little
15:33:56 21 confused right now only because my mind's
15:34:01 22 trying to focus on where we put -- on the
15:34:06 23 second pier where we put household things and
15:34:09 24 then -- but any powder form or anything like
15:34:13 25 that would go down in the pit to soak up the

15:34:15 1 materials and stuff like that, but --
15:34:16 2 Q. All right. I appreciate it. I
15:34:19 3 was just trying to see if I could summarize.
15:34:21 4 The material that would come into the site from
15:34:23 5 whatever source when you characterize it as
15:34:26 6 construction materials, okay?
15:34:26 7 A. Um-hum.
15:34:29 8 Q. And we're talking there about
15:34:30 9 things like drywall, skids, paint materials,
15:34:34 10 that kind of thing?
15:34:35 11 A. Yes. Yes.
15:34:36 12 Q. And are you -- do you -- is it
15:34:37 13 fair to say that there was a fair amount of
15:34:39 14 that material that was brought in during the
15:34:42 15 operation of the landfill?
15:34:53 16 A. I wanted to go to how it became
15:35:00 17 known to me and remembered about Pittsburgh
15:35:03 18 Paint, and I haven't really had thought
15:35:07 19 about -- much more about Pittsburgh Paint, so I
15:35:13 20 really haven't focused on it, you know, as much
15:35:17 21 as other -- everything's -- there's so many
15:35:19 22 companies and companies that were associated
15:35:24 23 with somebody, but something that juggled my --
15:35:27 24 my brain, it's oh, I forgot about them.
15:35:30 25 Q. And I appreciate that, sir, but my

15:35:33 1 question simply was -- I'm just trying to
15:35:35 2 understand generically the kind of construction
15:35:38 3 material that came in apart from Pittsburgh
15:35:41 4 Paint.
15:35:41 5 A. Okay.
15:35:46 6 Q. So you had multiple -- multiple
15:35:47 7 sources were bringing construction debris to
15:35:51 8 the landfill, correct?
15:35:51 9 A. Correct, um-hum.
15:35:52 10 Q. And those were the general kinds
15:35:55 11 of materials we're talking about, drywall,
15:35:57 12 paint materials?
15:35:57 13 A. Okay. Yes.
15:35:58 14 Q. All right.
15:35:58 15 A. Now I see where you're going.
15:36:00 16 Okay. Yeah. Sorry.
15:36:02 17 Q. Now, yesterday when you talked
15:36:05 18 about the PPG material -- or the Pittsburgh
15:36:09 19 Paint material that you associated with
15:36:10 20 Pittsburgh Paint, was that part of one of these
15:36:15 21 construction debris projects that would come
15:36:18 22 into the site?
15:36:19 23 A. Possibly.
15:36:21 24 Q. Do you have any other idea what it
15:36:23 25 could have been, other than the construction

15:36:25 1 project?
15:36:31 2 A. Not at this time.
15:36:39 3 Q. I understand from reading your
15:36:42 4 testimony in April, 2012, that from time to
15:36:46 5 time you would go around and look at the
15:36:52 6 various customers of the landfill.
15:36:56 7 You would go to their location and
15:37:00 8 look because you wanted -- out of curiosity,
15:37:00 9 you wanted to see what kind of -- what kind of
15:37:03 10 a production system they had.
15:37:04 11 A. Right, um-hum.
15:37:05 12 Q. Do you recall that?
15:37:06 13 A. Yes.
15:37:06 14 Q. All right. And there were --
15:37:08 15 among people -- Pittsburgh Paint was not one of
15:37:10 16 those facilities, was it?
15:37:11 17 A. No, sir.
15:37:11 18 Q. Okay. So you didn't go out to
15:37:13 19 this Salem Avenue location at any point, except
15:37:18 20 to buy paint in the '70s?
15:37:21 21 A. No.
15:37:45 22 Q. Did you ever talk to any of the
15:37:49 23 drivers of the material that you associate with
15:37:53 24 the PPG material that you testified to
15:37:56 25 yesterday?

15:37:56 1 A. I could have.
15:37:58 2 Q. Do you know who those drivers were
15:38:01 3 employed by?
15:38:03 4 A. Some from A.E. Fickert, and I
15:38:22 5 don't remember right now, but --
15:38:23 6 Q. Okay. And some of the drivers
15:38:25 7 from A.E. Fickert would bring in the -- the
15:38:29 8 material that you described yesterday that you
15:38:31 9 associated with P -- with Pittsburgh Paint?
15:39:01 10 A. Correct.
15:39:13 11 MR. STINSON: Thank you, sir.
15:39:14 12 THE WITNESS: You're welcome.
15:39:14 13 CROSS-EXAMINATION
15:39:14 14 BY MS. RHINEHART:
15:39:35 15 Q. Hi, Mr. Grillot. My name is Erin
15:39:37 16 Rhinehart. I represent Cox Media Group, Ohio.
15:39:40 17 How you feeling?
15:39:40 18 A. Okay.
15:39:41 19 Q. Okay. Are you still able to give
15:39:43 20 truthful and accurate testimony?
15:39:44 21 A. Yes, ma'am.
15:39:45 22 Q. Okay. You testified yesterday
15:39:47 23 that the Dayton Daily News and the Journal
15:39:50 24 Herald were customers of the dump, is that
15:39:51 25 correct?

15:39:51 1 A. Correct.
15:39:52 2 Q. And do you recall having a
15:39:54 3 conversation regarding certain customers being
15:39:58 4 regular industrial customers and then there
15:40:01 5 were residential customers and then there was a
15:40:03 6 third category?
15:40:05 7 A. No.
15:40:06 8 Q. Okay. Did the Dayton Daily News
15:40:08 9 have a charge with the dump?
15:40:15 10 A. I believe so.
15:40:15 11 Q. And what makes you believe that?
15:40:19 12 A. Because they were pretty regular.
15:40:20 13 Q. And what about the Journal Herald,
15:40:22 14 did they have a charge?
15:40:25 15 A. I think I made a statement
15:40:28 16 yesterday that I thought they were both the
15:40:30 17 same, you know, company.
15:40:35 18 Q. Okay. And did the dump consider
15:40:36 19 the Dayton Daily News and the Journal Herald
15:40:39 20 one entity or one customer?
15:40:41 21 A. Yes.
15:40:41 22 Q. Okay. If you can take a look
15:40:45 23 at -- this was originally marked as Exhibit 3
15:40:47 24 to your 2012 deposition, and I believe it's
15:40:49 25 been marked as exhibit -- Defendants' Exhibit 2

15:40:51 1 today, and these are copies of the dump
15:40:51 2 tickets?
15:40:55 3 A. Correct.
15:40:56 4 Q. And do you have a specific
15:40:57 5 recollection of seeing a dump ticket with the
15:41:01 6 Dayton Daily News written on it?
15:41:03 7 A. I don't remember at this time.
15:41:06 8 Q. Okay. What about a dump ticket
15:41:07 9 with the Journal Herald written on it?
15:41:09 10 A. Not at this time.
15:41:10 11 Q. What would have been written on a
15:41:12 12 dump ticket for that customer?
15:41:12 13 MR. ROMINE: Objection.
15:41:12 14 Hypothetical.
15:41:12 15 THE WITNESS: I don't know at this
15:41:12 16 time.
15:41:26 17 BY MS. RHINEHART:
15:41:26 18 Q. I believe yesterday you testified
15:41:29 19 that under certain circumstances when Kenny was
15:41:31 20 unavailable, you would have written out the
15:41:34 21 dump tickets, is that correct?
15:41:34 22 A. Correct, um-hum.
15:41:35 23 Q. When the Dayton Daily News or
15:41:37 24 Journal Herald came to deliver something to the
15:41:40 25 dump, if you were there to take that ticket or

15:41:43 1 write that ticket out, what would you have
15:41:45 2 written on the ticket to denote that that was
15:41:48 3 the Dayton Daily News or the Journal Herald?
15:41:49 4 A. Because it would -- personally I
15:41:54 5 don't remember making a ticket out for either
15:41:58 6 entity of both the papers, so I just remember,
15:42:07 7 I think, trucks, I think. White panel trucks,
15:42:10 8 I think, is what.
15:42:14 9 Q. So you have no specific
15:42:15 10 recollection of writing out a dump ticket for
15:42:18 11 either the Dayton Daily News or Journal Herald,
15:42:20 12 is that correct?
15:42:20 13 A. No.
15:42:20 14 Q. Okay. And then let me -- I just
15:42:24 15 want to make sure I understand your testimony
15:42:26 16 from yesterday as to the waste that the Dayton
15:42:29 17 Daily News and Journal Herald would have
15:42:30 18 brought to the dump.
15:42:32 19 It consisted of old newspapers,
15:42:33 20 wood pallets and steel tubes that the
15:42:36 21 newspapers would have been in, is that correct?
15:42:39 22 A. No, they were like newspaper --
15:42:45 23 where you put the newspaper in, you put money
15:42:48 24 in to get the newspaper, they're like a metal
15:42:51 25 stand.

15:42:51 1 Q. Okay. Would they have been empty
15:42:53 2 when they came to the dump?
15:42:54 3 A. Yes.
15:42:55 4 Q. Okay. So aside from the old
15:42:57 5 newspapers, wood pallets and the steel tubes,
15:43:01 6 as you referred to them, there was no other
15:43:03 7 waste that the Dayton Daily News or Journal
15:43:06 8 Herald dumped at the site, correct?
15:43:07 9 A. Correct.
15:43:07 10 Q. Where would the steel tubes have
15:43:14 11 been dumped at the site?
15:43:16 12 MR. ROMINE: Objection. He didn't
15:43:17 13 say tubes, he said boxes.
15:43:19 14 THE WITNESS: It wasn't the tube.
15:43:20 15 Are you referring to the --
15:43:20 16 BY MS. RHINEHART:
15:43:23 17 Q. The steel boxes?
15:43:23 18 A. The steel boxes.
15:43:25 19 Q. Sorry if I misinterpreted that.
15:43:26 20 A. That's okay.
15:43:27 21 Q. So you were referring to steel
15:43:28 22 boxes then that the papers were in?
15:43:28 23 A. Right. Yes.
15:43:30 24 Q. Where would those -- the empty
15:43:32 25 steel boxes, would that have been dumped at the

15:43:32 1 site?
15:43:33 2 A. It would depend whether they'd
15:43:35 3 have a concrete slab they sat on or if they
15:43:37 4 just came without the slab.
15:43:39 5 Q. Okay. And if they came with the
15:43:42 6 slab, where would they have been dumped?
15:43:44 7 A. Down on -- on -- in the pit.
15:43:47 8 Q. Okay. And what about without?
15:43:49 9 A. It would go to the metal pile
15:43:52 10 where we kept steel for recycling.
15:43:56 11 Q. And would you have been able to
15:43:58 12 reuse that metal?
15:43:59 13 A. Yes.
15:43:59 14 Q. Okay. And do you have a specific
15:44:01 15 recollection of reusing the metal that would
15:44:05 16 have been disposed of from the newspapers?
15:44:07 17 A. I don't understand being more
15:44:15 18 specific. They were sent to salvage yard, so
15:44:19 19 we didn't use some of the material off of them,
15:44:23 20 but they were salvaged.
15:44:24 21 Q. I understand. Okay. Thank you.
15:44:27 22 And where would the paper products -- the
15:44:29 23 new -- old newspapers, shredded papers, where
15:44:31 24 would that have been dumped at the site?
15:44:36 25 A. Through different years until

15:44:41 1 Larry Brandon purchased those trash trucks,
15:44:46 2 they were buried, and then the others were --
15:44:52 3 when Larry Brandon started the recycling of
15:44:54 4 newspapers, they'd go to his Dayton Fiber, they
15:44:59 5 were recycled.
15:45:00 6 Q. And what about the wood pallets,
15:45:02 7 would those have been burned in the
15:45:04 8 incinerator?
15:45:04 9 A. Correct.
15:45:05 10 Q. Now, you had just mentioned Larry
15:45:09 11 Brandon, and I believe yesterday you stated
15:45:10 12 that he started in the late '60s Dayton Fiber,
15:45:15 13 is that correct?
15:45:16 14 A. No, I think he started either
15:45:19 15 from -- if I'm not mistaken, the latter part of
15:45:25 16 the '60s and '70s.
15:45:26 17 Q. Okay. And once --
15:45:27 18 A. About -- I think it was '70 -- I
15:45:33 19 don't remember.
15:45:33 20 Q. Okay. Once Larry Brandon started
15:45:37 21 Dayton Fiber and the paper products would be
15:45:41 22 disposed of at Dayton Fiber, did the newspapers
15:45:42 23 continue to dump any waste at the South Dayton
15:45:46 24 Dump?
15:45:46 25 A. Could you rephrase that again,

15:45:47 1 please?
15:45:48 2 Q. Sure. Once Larry Brandon started
15:45:50 3 the Dayton Fiber business and the newspapers
15:45:53 4 would take their paper waste over to Mr.
15:45:57 5 Brandon's facility to be used for insulation --
15:45:58 6 is that correct?
15:45:58 7 A. Correct.
15:45:58 8 Q. Okay. Once that started taking
15:46:00 9 place, did the newspapers still continue to
15:46:03 10 dump waste at the site, at your South Dayton
15:46:12 11 Dump?
15:46:12 12 A. Yes.
15:46:13 13 Q. Okay. And for how long after
15:46:15 14 would they have continued to dump waste?
15:46:18 15 A. I'm not sure, because I think it
15:46:25 16 had ceased at one time, but I don't remember
15:46:27 17 what year, so I just would assume maybe Larry
15:46:31 18 got a contract with them and they were taken
15:46:35 19 directly over to Dayton Fiber. I'm not sure.
15:46:37 20 Q. So at one point, you do have a
15:46:39 21 specific recollection that the newspapers
15:46:39 22 stopped disposing waste altogether at the South
15:46:43 23 Dayton Dump?
15:46:43 24 A. Yes.
15:46:43 25 Q. And would that have been in the

15:46:45 1 early '70s?
15:46:45 2 A. Yes.
15:46:45 3 Q. Okay. So before 1975?
15:46:48 4 A. Oh, yeah.
15:46:48 5 Q. Okay. Would it have been before
15:46:51 6 1970?
15:46:52 7 A. Possible.
15:46:53 8 Q. So maybe sometime between 1970,
15:46:56 9 1971?
15:46:58 10 A. Well, like I said, the -- the
15:47:01 11 latter part of '60s. What I'm saying, '68,
15:47:05 12 maybe '69, '70, '71, '72, somewhere in that
15:47:07 13 area.
15:47:07 14 Q. Okay. So at least not beyond
15:47:09 15 1972 -- let me rephrase that. As of 1972, at
15:47:15 16 the latest, the newspaper was no longer dumping
15:47:18 17 any waste at the South Dayton Dump, correct?
15:47:21 18 A. Correct.
15:47:21 19 Q. How did the Dayton Daily News
15:47:31 20 and Journal Herald transport its waste to the
15:47:34 21 dump?
15:47:36 22 A. I think it came in white like
15:47:41 23 moving -- moving trucks. They were off the
15:47:43 24 ground maybe three feet and had a rollup back
15:47:49 25 door.

15:47:54 1 Q. Anything else you recall about
15:47:56 2 them?
15:47:57 3 A. I think they said -- I'm not sure
15:48:05 4 about the lettering, but there was lettering on
15:48:07 5 the door.
15:48:07 6 Q. Any pictures?
15:48:07 7 A. Whether it was Journal Herald,
15:48:11 8 Dayton Daily News, I'm not sure, but it
15:48:15 9 definitely indicated, and I -- as to their
15:48:16 10 frequency, I would know that was from Dayton --
15:48:20 11 or from Dayton Daily News place.
15:48:23 12 Q. Now, putting aside what you saw at
15:48:26 13 the dump, just being from the Dayton area,
15:48:29 14 would you see Dayton Dailey News, Journal
15:48:32 15 Herald trucks around the Dayton area?
15:48:35 16 A. Only when I delivered papers that
15:48:38 17 they would come to a woman's garage where we'd
15:48:41 18 get them and deliver them. That was the only
15:48:44 19 time.
15:48:44 20 Q. Okay. You delivered Dayton Daily
15:48:46 21 newspapers?
15:48:46 22 A. And Journal Herald, yes.
15:48:47 23 Q. And approximately when was this?
15:48:50 24 A. Right around, I think, '62, '63
15:49:05 25 maybe.

15:49:05 1 Q. And for how long did you deliver
15:49:07 2 newspapers for the Dayton Daily News and
15:49:09 3 Journal Herald?
15:49:16 4 A. I think it was mostly in the
15:49:17 5 wintertime when I needed some extra cash, but I
15:49:22 6 didn't do it in the spring or summer because
15:49:25 7 I'd be out at the dump.
15:49:26 8 Q. For how many years, how many
15:49:26 9 winters?
15:49:30 10 A. About -- about two years.
15:49:30 11 Q. Okay. And the trucks that would
15:49:31 12 deliver the newspapers to you for you to then
15:49:34 13 go and deliver to the customers, were those the
15:49:35 14 same trucks that you recall seeing come to the
15:49:37 15 dump to deliver waste?
15:49:39 16 A. Yes.
15:49:39 17 Q. When the trucks -- going back to
15:49:44 18 the trucks that came to the dump, did you see
15:49:48 19 inside those trucks?
15:49:52 20 A. I've seen inside their trucks, but
15:49:54 21 I don't remember looking at them at the
15:49:59 22 landfill.
15:49:59 23 Q. Okay. So you have no specific
15:50:01 24 recollection of looking inside a Dayton Dailey
15:50:03 25 News or Journal Herald truck when it was

15:50:05 1 delivering waste to the site, correct?
15:50:06 2 A. Correct. Correct.
15:50:07 3 Q. Did you ever talk to one of the
15:50:09 4 drivers of the Dayton Daily News or Journal
15:50:12 5 Herald trucks --
15:50:12 6 A. No.
15:50:13 7 Q. -- when they came to the site?
15:50:15 8 A. No.
15:50:15 9 Q. Did you ever help unload a Dayton
15:50:23 10 Daily News or Journal Herald truck when it came
15:50:25 11 to the site to deliver waste?
15:50:32 12 A. No.
15:50:32 13 MS. RHINEHART: Thank you for your
15:50:33 14 time. I have nothing further.
15:50:35 15 THE WITNESS: You're welcome.
15:50:35 16 CROSS-EXAMINATION
15:50:51 17 BY MR. RUDLOFF:
15:50:51 18 Q. Sir, are you doing okay?
15:50:53 19 A. Yes.
15:50:53 20 Q. I'm Drew Rudloff. I represent the
15:51:05 21 Dayton Board of Education. I might refer to
15:51:07 22 the board or to the district during the course
15:51:09 23 of the deposition. I'll try to stick with one
15:51:11 24 or the other, but if I slip into one or the
15:51:14 25 other, I'm -- I'm mentioning and referring to

15:51:16 1 the same organization and entity, okay?
15:51:18 2 A. Yes.
15:51:18 3 Q. Okay. You indicated that you're
15:51:19 4 doing okay. You're still able to understand my
15:51:24 5 questions and provide testimony here today?
15:51:25 6 A. Yes, I am.
15:51:26 7 Q. Okay. Throughout the course of
15:51:32 8 the questioning, both in 2012 during your
15:51:34 9 deposition then, yesterday and today, you've
15:51:37 10 understood that you're under oath, correct?
15:51:39 11 A. I what?
15:51:39 12 Q. That you're under oath.
15:51:40 13 A. Yes, um-hum.
15:51:43 14 Q. Okay. And that oath is just as
15:51:44 15 binding as if you're testifying before a judge
15:51:46 16 and jury, correct?
15:51:47 17 A. Correct.
15:51:47 18 Q. Okay. Can you provide me with
15:51:48 19 your current mailing address?
15:51:51 20 A. Probably 7561 Walmac right now.
15:51:57 21 Q. Okay. And, I apologize, remind
15:51:59 22 again what address that is?
15:52:01 23 A. Donna Moeller's.
15:52:02 24 Q. Okay. Understood. If that
15:52:08 25 address -- if that mailing address changes at

15:52:11 1 any point in the future, can you let me know
15:52:13 2 that? I can provide you with my contact
15:52:16 3 information, okay?
15:52:17 4 A. Sure.
15:52:17 5 Q. Okay. You've never attended
15:52:20 6 school at any school in the Dayton Public
15:52:24 7 School System, correct?
15:52:27 8 A. I did.
15:52:28 9 Q. Okay. And where did you -- where
15:52:28 10 did you attend?
15:52:31 11 A. Dayton night school, I think 1970.
15:52:38 12 Q. Okay. Did any member of your
15:52:45 13 family attend school in the Dayton Public
15:52:47 14 School System?
15:52:47 15 A. My father and my mother.
15:52:47 16 Q. Okay.
15:52:50 17 A. And then my brother.
15:52:51 18 Q. Okay. Which brother?
15:52:52 19 A. John.
15:52:54 20 Q. All of them graduate from the
15:52:56 21 Dayton Public School System?
15:52:59 22 A. I think just John.
15:53:03 23 Q. Okay. I -- you had indicated
15:53:05 24 yesterday and today that there were some ill
15:53:08 25 feelings towards the University of Dayton.

15:53:09 1 No ill feelings in any regard with
15:53:12 2 respect to the Dayton Public School System,
15:53:14 3 correct?
15:53:14 4 A. No.
15:53:15 5 Q. Okay. Yesterday you had indicated
15:53:19 6 the Dayton Public Schools had delivered --
15:53:22 7 excuse me -- strike that.
15:53:24 8 You had indicated that Dayton
15:53:26 9 Public Schools had certain materials
15:53:27 10 transported to the site, correct?
15:53:29 11 A. Correct.
15:53:30 12 Q. Okay. And that included
15:53:33 13 furniture, which I believe there were some
15:53:35 14 doors that you described yesterday?
15:53:37 15 A. Yes.
15:53:38 16 Q. You had also indicated in your
15:53:41 17 2012 deposition wooden cabinets as well as
15:53:43 18 desks, correct?
15:53:45 19 A. Correct.
15:53:45 20 Q. Okay. Any other materials that
15:53:48 21 you would lump in that furniture category that
15:53:51 22 you believe Dayton Public Schools transported
15:53:53 23 to the site?
15:53:54 24 A. No.
15:53:54 25 Q. You had also talked about books,

15:53:56 1 wood pallets, wood benches and paper debris.
15:54:02 2 Aside from those things, are there any other
15:54:04 3 materials that you claim Dayton Public Schools
15:54:06 4 had transported to the site at any time?
15:54:08 5 A. No.
15:54:09 6 Q. Okay. With respect to the paper
15:54:11 7 debris, can you tell me just briefly what you
15:54:14 8 meant by that?
15:54:17 9 A. Like before I mentioned it was
15:54:19 10 trash you'd get out of a office or, you know, a
15:54:23 11 bathroom. It was in a few bags.
15:54:26 12 Q. Okay. Can you describe for me in
15:54:30 13 any greater detail what you meant by paper
15:54:32 14 debris when you said that yesterday?
15:54:34 15 A. Toilet paper, you know, the end of
15:54:38 16 a toilet -- the cardboard part of a toilet
15:54:40 17 paper --
15:54:41 18 Q. The interior roll?
15:54:43 19 A. Lots of brown hand towel things
15:54:49 20 that you -- that's all I can remember at this
15:55:00 21 moment.
15:55:00 22 Q. And so you've told me the sum
15:55:01 23 total of all the materials that you believe
15:55:05 24 Dayton Public Schools transported to the site,
15:55:06 25 correct?

15:55:06 1 A. Correct.
15:55:06 2 Q. Okay. Is there any way that you
15:55:09 3 can quantify how -- how many of each of those
15:55:16 4 things were transported to the site?
15:55:18 5 A. No.
15:55:18 6 Q. Okay. Am I understanding based on
15:55:25 7 your testimony yesterday, that you can't tell
15:55:27 8 me how those materials were transported to the
15:55:31 9 site, correct?
15:55:31 10 A. Correct.
15:55:32 11 Q. What's the basis for your belief
15:55:39 12 that those materials are attributable to Dayton
15:55:39 13 Public Schools?
15:55:47 14 A. Well, like I stated yesterday,
15:55:51 15 like the school desks that we had taken home,
15:55:58 16 my cousins and myself, would have Dayton School
15:56:03 17 Board or something on a label on one of the
15:56:07 18 legs or on the wooden desk itself.
15:56:10 19 Q. Okay. How many desks were taken
15:56:14 20 home?
15:56:14 21 A. Maybe half a dozen, dozen.
15:56:20 22 Q. You sound unsure about that.
15:56:24 23 A. Yes.
15:56:24 24 Q. Okay. You're unsure as to how
15:56:26 25 many desks were taken from the property,

15:56:28 1 correct?
15:56:28 2 A. Am I unsure?
15:56:31 3 Q. Yes.
15:56:31 4 A. Yes.
15:56:32 5 Q. Okay. Were any of the other
15:56:35 6 materials that you -- that you've listed for me
15:56:39 7 that we spoke about a moment ago taken from the
15:56:42 8 site?
15:56:55 9 A. No.
15:56:58 10 Q. Okay. Did any of the other
15:57:00 11 materials that we've talked about bear a
15:57:03 12 similar stamp to what you just described or
15:57:07 13 have any other indication whatsoever that they
15:57:09 14 were from Dayton Public Schools?
15:57:10 15 A. I think inside some of the books
15:57:16 16 might have had a stamp in ink with some dates
15:57:19 17 on it.
15:57:20 18 Q. They may have had a stamp or they
15:57:26 19 had a stamp? It seemed like you were, again,
15:57:28 20 unsure about that.
15:57:30 21 A. I'm pretty sure, so, yes. I'm
15:57:34 22 thinking. Yes would be my comment. Sorry guys
15:57:37 23 down there.
15:57:37 24 Q. Okay. And again, you can't
15:57:39 25 quantify the number of books for me that were

15:57:41 1 on site?
15:57:41 2 A. No.
15:57:41 3 Q. Okay. Any of the other materials
15:57:53 4 that you've listed for me that bore a similar
15:57:55 5 stamp or had any other indication whatsoever
15:57:58 6 that those materials were attributable to
15:58:01 7 Dayton Public Schools?
15:58:02 8 A. No.
15:58:02 9 Q. You had also indicated that no
15:58:09 10 other school district had contributed to waste
15:58:12 11 at the site. What's the basis for that
15:58:16 12 statement?
15:58:19 13 A. Because I can't remember seeing
15:58:24 14 any type of label, stamp or anything that would
15:58:27 15 indicate otherwise.
15:58:29 16 Q. Okay. But it's possible that
15:58:30 17 other districts could have contributed, you
15:58:33 18 just can't remember?
15:58:34 19 A. Yes.
15:58:35 20 Q. Did you ever see any receipts,
15:58:50 21 documents, anything at all, other than what we
15:58:55 22 already discussed -- well, strike that. I'm
15:58:55 23 sorry.
15:58:59 24 Have you ever seen any receipts or
15:59:02 25 other documents indicating whatsoever -- in any

15:59:05 1 way whatsoever that Dayton Public Schools had
15:59:09 2 transported waste to the site?
15:59:10 3 A. No.
15:59:10 4 Q. And the sole basis for your belief
15:59:16 5 that Dayton Public Schools transported waste to
15:59:20 6 this site were the stamps that you had
15:59:23 7 indicated on the desks and the stamps included
15:59:23 8 in the books, correct?
15:59:29 9 A. Correct.
15:59:29 10 Q. Did you personally observe the
15:59:44 11 delivery of any of those materials that we had
15:59:47 12 listed earlier?
15:59:49 13 A. No.
15:59:52 14 Q. You had indicated yesterday that
15:59:56 15 the majority of the materials that you
16:00:00 16 attributed to Dayton Public Schools were
16:00:00 17 incinerated?
16:00:04 18 A. I don't remember that statement.
16:00:06 19 Q. Okay. But was that, in fact,
16:00:09 20 true?
16:00:11 21 A. If I made the statement, yes.
16:00:14 22 Q. Okay. Well --
16:00:16 23 A. But I think I referred to the
16:00:18 24 doors where I had to take the hinges off, but
16:00:21 25 the desks of -- being of steel nature, would

16:00:25 1 not have been a burnable product.
16:00:31 2 Q. Okay. Were there any desks that
16:00:33 3 remained at the site?
16:00:37 4 A. No.
16:00:40 5 Q. So all of the desks that were
16:00:42 6 taken to the site were removed by either you or
16:00:44 7 your relatives?
16:00:46 8 A. Or Franklin Iron and Metal.
16:00:54 9 Q. Okay. Do you know if any of the
16:00:55 10 books remained at the site?
16:01:00 11 A. Yes.
16:01:01 12 Q. Okay. How do you know that?
16:01:06 13 A. Because if they were left at the
16:01:10 14 dump, any type of that -- books and stuff was
16:01:13 15 taken to the third pier where it would be
16:01:15 16 buried.
16:01:46 17 Q. You never observed any of the
16:01:47 18 deliveries of materials that you attributed to
16:01:50 19 Dayton Public Schools?
16:01:52 20 A. No.
16:01:52 21 MR. ROMINE: Asked and answered.
16:01:52 22 BY MR. RUDLOFF:
16:02:00 23 Q. You had indicated yesterday the
16:02:02 24 timing and sequence of when deliveries of
16:02:04 25 materials that you attribute to Dayton Public

16:02:06 1 Schools occurred, and you had said that those
16:02:08 2 had occurred early on, which I took to mean in
16:02:13 3 the 1960s, am I correct in that -- in that
16:02:17 4 understanding?
16:02:18 5 A. Yes.
16:02:19 6 Q. Okay. That's -- can you give me a
16:02:23 7 time frame as to when you first observed
16:02:25 8 materials on site that you attributed to Dayton
16:02:29 9 Public Schools?
16:02:29 10 A. '61 maybe.
16:02:35 11 Q. Okay. Can you give me a date when
16:02:37 12 you last observed materials on site that you
16:02:40 13 attributed to Dayton Public Schools?
16:02:45 14 A. The same year.
16:02:46 15 Q. Also '61?
16:02:48 16 A. Yeah.
16:02:48 17 Q. Okay. You said that there were --
16:02:57 18 I -- I believe deliveries twice in the summer
16:02:59 19 yesterday when we -- when we spoke.
16:03:03 20 Is that your recollection that the
16:03:06 21 delivery of materials at Dayton Public -- or,
16:03:09 22 excuse me -- that the delivery of materials to
16:03:11 23 the site occurred in the summer months of 1961?
16:03:19 24 A. I don't remember, but I -- I
16:03:24 25 thought I said -- right now as I'm sitting

16:03:26 1 here, I thought I said I didn't experience
16:03:28 2 deliveries, but I'm not -- you know --
16:03:31 3 Q. That's what you told me, but you
16:03:32 4 said yesterday that delivery occurred in the
16:03:34 5 summer months, and that's why I'm -- I want to
16:03:37 6 make certain I understand.
16:03:38 7 A. Okay.
16:03:38 8 Q. You don't know when materials,
16:03:40 9 that you attributed to Dayton Public Schools,
16:03:43 10 were delivered at this site, correct?
16:03:45 11 A. No. Correct.
16:03:45 12 Q. Dayton Public Schools didn't have
16:03:52 13 any kind of charge account with the dump?
16:03:54 14 A. Not to my knowledge.
16:03:56 15 Q. Okay. Are you aware of any
16:03:59 16 arrangements between Alcine or Kenneth or
16:04:04 17 anyone else associated with the dump and anyone
16:04:06 18 at Dayton Public Schools regarding delivery of
16:04:09 19 materials to the site?
16:04:10 20 A. No.
16:04:10 21 Q. Okay. Have you ever spoken with
16:04:23 22 anyone at Dayton Public Schools -- excuse me.
16:04:28 23 Have you ever spoken with any
16:04:30 24 representative of Dayton Public Schools
16:04:31 25 regarding the transfer of materials to the

16:04:34 1 site?
16:04:34 2 A. No.
16:04:34 3 Q. Okay. No delivery driver, no
16:04:36 4 anything of that nature?
16:04:37 5 A. No.
16:04:40 6 Q. It's my impression that you didn't
16:04:48 7 believe Dayton Public Schools was a great
16:04:50 8 contributor to this site, correct?
16:04:51 9 A. Correct.
16:04:52 10 Q. Okay. And I'm correct in that
16:04:55 11 impression?
16:04:55 12 A. Correct.
16:04:56 13 Q. Okay. Regarding your -- your
16:05:17 14 felony offense involving marijuana, how much
16:05:20 15 marijuana was involved in that?
16:05:32 16 A. Probably -- I don't know grams
16:05:35 17 or -- I wasn't interested, because I didn't
16:05:39 18 like marijuana, it was probably about -- about
16:05:42 19 the size of a cigarette pack, something like
16:05:44 20 that.
16:05:45 21 Q. Okay. You can't tell me weight
16:05:46 22 or -- as we're sitting here today, correct?
16:05:52 23 A. Correct.
16:05:52 24 Q. You understand that the plaintiffs
16:05:54 25 have filed a lawsuit against the defendants

16:05:58 1 represented in this room and on the telephone,
16:05:58 2 correct?
16:05:58 3 A. Correct.
16:06:01 4 Q. You understand a lawsuit's been
16:06:03 5 filed, and I guess my question is, do you care
16:06:04 6 who wins the lawsuit?
16:06:05 7 A. Correct. Pardon me?
16:06:05 8 Q. Do you care who wins the lawsuit?
16:06:11 9 A. No.
16:06:36 10 MR. RUDLOFF: I think those are all
16:06:37 11 the questions I have for you. Thank you, sir.
16:06:37 12 THE WITNESS: Thank you.
16:06:37 13 (Thereupon, the court reporter
16:06:39 14 interrupted the proceedings.)
16:06:46 15 (Pause in proceedings.)
16:06:46 16 CONTINUED CROSS-EXAMINATION
16:06:46 17 BY MR. HAUGHEY:
16:16:01 18 Q. Okay. Mr. Grillot, my name is
16:16:04 19 Steve Haughey. Yesterday we talked for a
16:16:09 20 while, but I was not able to complete my
16:16:11 21 questions because of the timing and other folks
16:16:15 22 who could not be here today wanting to go
16:16:18 23 forward and be done yesterday, so I agreed to
16:16:20 24 finish my questions this afternoon, but do you
16:16:24 25 remember talking with me yesterday?

16:16:25 1 A. Yes.
16:16:26 2 Q. Yeah. And, in fact, we talked
16:16:27 3 about growing up in -- in Dayton?
16:16:29 4 A. Yes.
16:16:29 5 Q. Yeah, that was fun. Thank you.
16:16:32 6 Can you -- I want you to help me fill in some
16:16:36 7 dates, to the best of your knowledge, about
16:16:38 8 some of the other landfills in the Dayton area.
16:16:42 9 Now, the only ground rule that I
16:16:45 10 have for this is that when I say landfill, I
16:16:49 11 don't just mean a -- you know, a really
16:16:51 12 significant, all new, fancy landfill. I mean
16:16:54 13 any dumpsite, anyplace where dump -- where
16:16:57 14 waste could be dumped, okay?
16:16:58 15 A. (Witness nodding head up and
16:16:58 16 down.)
16:16:59 17 Q. So just keep that in mind. In the
16:17:02 18 1960s and in the -- and into the 1970s, what
16:17:08 19 other landfills or dumpsites were available in
16:17:11 20 the general Dayton area that could be used,
16:17:14 21 other than this site?
16:17:16 22 MR. ROMINE: I object on the grounds
16:17:17 23 of relevance and that it violates Judge Rice's
16:17:18 24 order limiting the scope of this deposition
16:17:20 25 testimony.

16:17:23 1 THE WITNESS: How many?
16:17:23 2 BY MR. HAUGHEY:
16:17:24 3 Q. No, give me the names of all the
16:17:26 4 other dumpsites around the area that were open.
16:17:28 5 Let's start with the '60s where someone could
16:17:33 6 take waste other than coming here.
16:17:35 7 MR. ROMINE: Same objection.
16:17:36 8 THE WITNESS: Is it -- other than
16:17:36 9 what we talked about on these here?
16:17:36 10 BY MR. HAUGHEY:
16:17:38 11 Q. Any of them, yeah. I mean, we can
16:17:40 12 start with those. Was -- Powell Road was open,
16:17:43 13 wasn't it, during the '60s?
16:17:45 14 MR. ROMINE: Same -- same objection.
16:17:45 15 THE WITNESS: No.
16:17:46 16 BY MR. HAUGHEY:
16:17:47 17 Q. Powell Road -- Powell Road
18 Landfill was not open --
19 A. There -- there --
20 (Thereupon, the court reporter
21 interrupted the proceedings.)
22 BY MR. HAUGHEY:
16:17:53 23 Q. Yeah, that's okay. Powell Road
16:17:56 24 Landfill was open at some point in the 1960s,
16:17:59 25 was it not?

16:17:59 1 MR. ROMINE: Same objection.
16:17:59 2 THE WITNESS: Correct.
16:17:59 3 BY MR. HAUGHEY:
16:18:00 4 Q. Right, it was. Okay. So that's a
16:18:01 5 yes. Okay. Do you remember the name --
16:18:06 6 talking with me about the one called
16:18:09 7 Valleycrest?
16:18:11 8 MR. ROMINE: Same objection.
16:18:12 9 THE WITNESS: Yes.
16:18:12 10 BY MR. HAUGHEY:
16:18:13 11 Q. Do you remember talking --
16:18:13 12 A. Yes.
16:18:14 13 Q. Okay. Do you know if it was open
16:18:15 14 in the '60s?
16:18:17 15 MR. ROMINE: Same objection.
16:18:19 16 THE WITNESS: It was not.
16:18:21 17 BY MR. HAUGHEY:
16:18:21 18 Q. It was not. Okay. Do you know
16:18:22 19 when it opened?
16:18:24 20 MR. ROMINE: Same objection.
16:18:26 21 THE WITNESS: In the '70s.
16:18:27 22 BY MR. HAUGHEY:
16:18:27 23 Q. Okay. So that one would be the
16:18:29 24 '70s. How do you know it was open in the '70s
16:18:33 25 and not in the '60s?

16:18:33 1 MR. ROMINE: Same objection.
16:18:35 2 THE WITNESS: Of my interest, because
16:18:37 3 they were incinerators, like the two that were
16:18:40 4 built at our landfill, that one and then the one
16:18:46 5 on Pinn -- Pinnacle Road, which would have been
16:19:01 6 South Sanitary Landfill.
16:19:01 7 BY MR. HAUGHEY:
16:19:01 8 Q. Okay. What is it about the
16:19:03 9 construction of the incinerator at the South
16:19:10 10 Dayton Dump site that makes you remember when
16:19:12 11 the Valleycrest site opened?
16:19:14 12 A. Because I would drive by there and
16:19:17 13 I worked around that area. That was a way to
16:19:20 14 go home, so I was watching it being built.
16:19:23 15 Q. Okay. So your reason for your
16:19:27 16 recollection is that you remember seeing the
16:19:29 17 Valleycrest Landfill being constructed in the
16:19:32 18 '70s?
16:19:32 19 A. Yes, sir.
16:19:33 20 Q. Okay. Thank you. All right. So
16:19:35 21 at least in the '70s, it was an option for
16:19:38 22 somebody, correct?
16:19:39 23 A. Right.
16:19:39 24 Q. Okay. All right. Now, you
16:19:43 25 mentioned the South Sanitary Landfill on

16:19:43 1 Pinnacle Road?
16:19:44 2 MR. ROMINE: Same objection.
16:19:45 3 THE WITNESS: Yeah.
16:19:46 4 MR. HAUGHEY: David, I'm going to
16:19:47 5 talk for maybe ten, 15 minutes all about these
16:19:52 6 landfills to fill in the dates. I can tell you
16:19:55 7 when I'm going to stop and move on to another
16:19:57 8 topic if you just want to take a continuing
16:19:58 9 objection, and then we'll -- and that way you
16:20:00 10 don't have to keep repeating yourself.
16:20:00 11 MR. ROMINE: That's fine.
16:20:02 12 MR. HAUGHEY: Okay. Let's do that.
16:20:03 13 BY MR. HAUGHEY:
16:20:03 14 Q. All right. Pinnacle Road
16:20:06 15 Landfill, was it open in the '60s?
16:20:09 16 A. No, I thought I elaborated. The
16:20:12 17 north? I'm --
16:20:12 18 Q. No, the south. The South Sanitary
16:20:14 19 Landfill, the one on Pinnacle Road.
16:20:15 20 A. Well, we'll have to go back to
16:20:17 21 Valleycrest because I did not see that one
16:20:20 22 built. I'm -- I was con -- confusing the two
16:20:24 23 were together, and we were talking about the
16:20:26 24 south one, which would be on Pinnacle Road, so
16:20:30 25 I'm sorry about that.

16:20:30 1 Q. Right. Right. That's okay.
16:20:31 2 Yeah, the Valleycrest Landfill was called the
16:20:33 3 North Sanitary Landfill, correct?
16:20:34 4 A. Correct.
16:20:35 5 Q. Right. Okay. So does that change
16:20:38 6 your recollection of when the Valleycrest
16:20:42 7 Landfill was constructed?
16:20:43 8 A. No.
16:20:44 9 Q. Okay. So you're saying you drove
16:20:46 10 by it and the North Sanitary Landfill called
16:20:50 11 Valleycrest in the '70s and watched it being
16:20:54 12 built, correct?
16:20:57 13 A. I'm confused.
16:20:58 14 Q. Okay. You know what? I'll tell
16:21:01 15 you, why don't we agree on another ground rule.
16:21:03 16 If you don't remember, don't make it up, okay?
16:21:06 17 A. No --
16:21:06 18 Q. Just say I don't remember.
16:21:07 19 A. No, I'm confused with -- I was
16:21:11 20 told they were both built at the same time. It
16:21:14 21 was like a sister city, and the one that I saw
16:21:18 22 being built was the one that I drove by every
16:21:21 23 day because I was on my way home, and that
16:21:22 24 would have been the one on Pinnacle Road.
16:21:25 25 Q. The South Sanitary Landfill?

16:21:26 A. Correct.
16:21:27 Q. Okay. And so then your
16:21:29 understanding is both the North and the South
16:21:33 Sanitary Landfills, one on Valleycrest, one on
16:21:35 Pinnacle Road, were constructed sometime in the
16:21:37 '70s, correct?
16:21:37 A. Correct.
16:21:38 Q. Okay. All right. All right. How
16:21:42 about the Vance Road Landfill, was it open at
16:21:49 all during the 1960s?
16:21:50 A. Yes.
16:21:50 Q. Okay. Was it open into the '70s?
16:21:54 A. Yes.
16:21:55 Q. Was it open into the '80s?
16:21:58 A. I don't know.
16:21:59 Q. Okay. How about Cardington Road,
16:22:10 sometimes called Dorothy Lane Dump?
16:22:15 A. Yes, that was -- do you want the
16:22:19 date time or do you want to know --
16:22:21 Q. Was the Cardington Road Landfill
16:22:24 also known as the South Dayton -- or, I'm
16:22:26 sorry -- also known as Dorothy Lane Dump open
16:22:29 in the '60s?
16:22:35 A. Yes.
16:22:36 Q. Was it also open in the '70s?

16:22:38 1 A. Yes.
16:22:38 2 Q. Okay. Was it open in the '80s?
16:22:41 3 A. No.
16:22:41 4 Q. Okay. Okay. How about the -- the
16:22:48 5 one on the sheet called Espe, Espe Dump? Do
16:22:54 6 you have any knowledge of --
16:22:54 7 A. No.
16:22:56 8 Q. Okay. You have no knowledge of
16:22:57 9 when that would have ever been open?
16:22:59 10 A. No, I didn't know it existed.
16:23:01 11 Q. Okay. All right. Okay. Was the
16:23:05 12 Powell Road Landfill continued to be open in
16:23:07 13 the '70s?
16:23:09 14 A. Yes.
16:23:09 15 Q. Okay. How about the '80s?
16:23:12 16 A. I don't know.
16:23:16 17 Q. Okay. All right. Now, remember
16:23:20 18 the South and North Dayton Incinerators?
16:23:23 19 A. Um-hum.
16:23:24 20 Q. Okay. Let's start with the South
16:23:28 21 Dayton Incinerator. What's your earliest
16:23:29 22 recollection of when it was open to take trash?
16:23:35 23 A. The early '60s I think I spoke of.
16:23:38 24 I mean, '70s.
16:23:39 25 Q. I'm talking about the South Dayton

16:23:42 1 Incinerator, the one that was located right
16:23:44 2 next to I-75 --
16:23:45 3 A. That's the one I'm speaking --
16:23:45 4 Q. -- that burned -- yeah.
16:23:48 5 A. That's the one --
16:23:48 6 Q. Yeah.
16:23:50 7 A. The south one on Pinnacle.
16:23:51 8 Q. Yeah. Okay.
16:23:51 9 A. I think it opened up '74, '75.
16:23:58 10 Q. Okay. How about the North Dayton
16:23:58 11 Incinerator?
16:24:04 12 A. I can only assume it was finished
16:24:06 13 the same time that Pinnacle was.
16:24:09 14 Q. Okay. What about Blaylock, didn't
16:24:14 15 Blaylock have a dump? Didn't I remember you
16:24:16 16 saying that earlier today?
16:24:17 17 A. That didn't come to my mind till
16:24:19 18 today, and I do remember it quite well now.
16:24:21 19 Q. Was it open in the '60s?
16:24:23 20 A. Yes.
16:24:23 21 Q. Where was it located?
16:24:25 22 A. I mentioned -- I think the name of
16:24:30 23 that road at that time was -- it turned -- it
16:24:40 24 turned into -- my mind just went blank.
16:24:43 25 Q. That's okay. But you remember it

16:24:44 1 was open in the '60s?
16:24:45 2 A. Yes.
16:24:45 3 Q. Was it on -- generally on the
16:24:48 4 north side of Dayton? South side?
16:24:48 5 A. South side.
16:24:48 6 Q. East? So on the South. So it was
16:24:48 7 another option on the south --
16:24:48 8 A. South -- South Dixie.
16:24:53 9 Q. It was on South Dixie?
16:24:55 10 A. Yeah.
16:24:55 11 Q. Okay. So it was a south side
16:24:56 12 landfill?
16:24:56 13 A. Yeah.
16:24:57 14 Q. Okay. Was it open into the '70s?
16:25:08 15 A. I don't believe so.
16:25:10 16 Q. Okay. Were there any other dumps
16:25:19 17 beyond those I've mentioned that you remember
16:25:22 18 that were also open in the '60s anywhere around
16:25:28 19 Dayton?
16:25:33 20 A. There was dumping going on where
16:25:39 21 UD Arena sat.
16:25:40 22 Q. Okay. Who owned that site at that
16:25:44 23 time before UD built the arena?
16:25:46 24 A. Well, it kind of changed hands.
16:25:52 25 Dad -- Dad and Horace Boesch owned it before

16:25:56 1 donating it to UD.
16:25:59 2 Q. Did your dad and Horace own it at
16:26:06 3 the time that certain waste was being put into
16:26:08 4 it before it was donated to the University of
16:26:08 5 Dayton?
16:26:11 6 A. It was a very -- the Miami
16:26:17 7 Conservative owned it, and then when the deal
16:26:19 8 was made for the property to be turned over to
16:26:22 9 UD, they kind of traded.
16:26:26 10 Dad and Horace received land along
16:26:29 11 the river to get topsoil off of it from the
16:26:34 12 Miami Conservative thing, and then in turn, UD
16:26:41 13 land for the arena was donated -- how did that
16:26:46 14 go?
16:26:47 15 Dad had a -- no, Miami
16:26:52 16 Conservative, Dad had purchased along the river
16:26:54 17 years ago, and then he switched it with -- so
16:26:57 18 it could be part of the river, Miami
16:27:00 19 Conservative, traded it for where the arena is,
16:27:04 20 and so Horace -- Horace Boesch, Jr., wrote up
16:27:09 21 the contract for that, if that makes any sense.
16:27:12 22 Q. Okay. When you say Miami --
16:27:15 23 MR. EDDY: If I could interrupt for a
16:27:17 24 second, Mr. Grillot. Were you saying conservative
16:27:18 25 or conservation?

16:27:19 1 MR. HAUGHEY: I'm correcting that.
16:27:20 2 I'll get that.
16:27:20 3 MR. EDDY: All right.
16:27:20 4 MR. HAUGHEY: Thank you.
16:27:22 5 BY MR. HAUGHEY:
16:27:22 6 Q. You're referring to the Miami
16:27:26 7 Conservancy District, aren't you?
16:27:26 8 A. Yes. Yes.
16:27:26 9 Q. Yeah. Okay. All right.
16:27:28 10 MR. EDDY: Thank you.
16:27:28 11 BY MR. HAUGHEY:
16:27:28 12 Q. Thank you. What I'm trying to
16:27:29 13 understand is did your dad and Horace own the
16:27:35 14 land that at one time became UD Arena and did
16:27:39 15 they own it at a time when they also used it
16:27:43 16 for waste disposal?
16:27:43 17 A. No.
16:27:46 18 Q. Okay. Did they buy it after waste
16:27:50 19 disposal had already stopped?
16:27:52 20 A. The site had not been finished as
16:27:54 21 a landfill, so where the parking lot was, it
16:27:58 22 was still a big crater. So there was two
16:28:03 23 different properties at that location, but it
16:28:05 24 had ceased when it was purchased or traded.
16:28:09 25 Q. Okay. So if I remember your --

16:28:12 your previous testimony correctly, what you're
16:28:14 saying is that that was another alternative
16:28:16 dumpsite for a period of time before it was
16:28:19 closed and then sold to or given to Dayton?
16:28:21 A. Correct.
16:28:21 Q. Okay. Did it have a name when it
16:28:26 was a dumpsite?
16:28:27 A. Not to my knowledge, no.
16:28:28 Q. Okay. All right. Did you mention
16:28:31 something yesterday about Shadytown?
16:28:35 A. That was way in -- like in the
16:28:39 '20s, '30s. That was part -- that was the main
16:28:42 dump, I guess, for Dayton and --
16:28:46 Q. Okay. Are we talking about the
16:28:47 same site then? Was this site -- this site was
16:28:49 at one time called the Shady dumpsite?
16:28:51 A. Right.
16:28:52 Q. Okay. So that's the name. Okay.
16:28:53 And I -- if I'm correct, you said it was open
16:28:55 in the '60s as well, correct, for dumping?
16:28:59 A. No, I think it was opened, I just
16:29:01 mentioned, way before the '20s, I think.
16:29:05 Q. Okay. And when did -- to the best
16:29:07 of your recollection, did the Shady dumpsite
16:29:12 that is now UD Arena stop taking waste and

16:29:16 1 close?
16:29:16 2 A. Well, the Shadytown was more on
16:29:25 3 the Welcome Stadium area, so where the arena
16:29:31 4 was I would not -- or where we're talking about
16:29:33 5 being dumped in the '70s and '80s would be at
16:29:37 6 two different lo -- or be the same area, but
16:29:40 7 would be other property that had to be either
16:29:44 8 traded or sold.
16:29:45 9 Q. Okay. So if I'm understanding
16:29:49 10 your -- your testimony correctly, what you're
16:29:50 11 saying is there were actually two different
16:29:53 12 parcels around the UD Arena that at one time or
16:30:00 13 another were used for waste disposal, correct,
16:30:03 14 or at least multiple parcels?
16:30:05 15 A. Right.
16:30:07 16 Q. Okay. All right. And depending
16:30:07 17 on the parcel, one or more may have been open
16:30:11 18 all the way into the '20s, and others only in
16:30:13 19 the '70s and into the '80s?
16:30:15 20 A. Yes.
16:30:15 21 Q. Okay. All right. So as -- as the
16:30:19 22 crow flies, those parcels are only a couple
16:30:23 23 blocks away from the University of Dayton,
16:30:25 24 correct?
16:30:25 25 A. Correct.

16:30:26 1 Q. Do you know who the haulers were
16:30:32 2 who hauled waste to those particular sites
16:30:37 3 while they were taking waste?
16:30:39 4 A. No.
16:30:39 5 Q. And do you know if people were
16:30:41 6 allowed to come and just dump on their own or
16:30:44 7 whether they had to use a hauler?
16:30:46 8 A. I don't know that.
16:30:47 9 Q. Okay. Are there any other
16:30:51 10 dumpsites, Mr. Grillot, that you remember being
16:30:57 11 open in and around the Dayton area in the '60s,
16:31:00 12 other than those we've talked about?
16:31:02 13 A. Yes, one more.
16:31:03 14 Q. Okay. And what was that?
16:31:05 15 A. I don't know the name of it, but
16:31:06 16 it was on either Vance or West River Road.
16:31:10 17 Q. Okay. Well, we talked about the
16:31:12 18 Vance Road Landfill.
16:31:13 19 A. Is it --
16:31:14 20 Q. Yeah, and you said it was already
16:31:17 21 open -- it was open from the '60s into the
16:31:20 22 '70s.
16:31:20 23 A. Okay.
16:31:21 24 Q. Yeah, you mentioned that one.
16:31:21 25 A. Okay.

16:31:22 1 Q. Are we talking about the same one
16:31:23 2 or was there another one?
16:31:25 3 A. That's the same one.
16:31:25 4 Q. Okay. All right. Okay. All
16:31:27 5 right. Now, I believe you testified yesterday
16:31:34 6 that the only two haulers who used the South
16:31:39 7 Dayton Dump site were Container Service and
16:31:43 8 General Refuse, general haulers, correct?
16:31:46 9 A. Please, could you rephrase that?
16:31:47 10 Q. Right. Yeah. As I -- as I
16:31:49 11 remember your testimony yesterday, the two
16:31:51 12 haulers -- general haulers who used the South
16:31:55 13 Dayton Dump site were Container Services and
16:31:58 14 General Refuse.
16:31:58 15 A. Yes.
16:31:58 16 Q. Okay. All right. So -- all
16:32:01 17 right. Now, with respect to the keys, what was
16:32:08 18 Mr. Brandon's connection to the north -- or to
16:32:15 19 the Powell Road Landfill?
16:32:17 20 A. What was his --
16:32:19 21 Q. Yeah, what was his connection?
16:32:20 22 Did he have a connection to that landfill?
16:32:22 23 A. I believe if he didn't own it, he
16:32:23 24 was the CEO of it, you know.
16:32:26 25 Q. Okay. So does that then explain

16:32:28 why keys would be available that would work at
16:32:32 both the South Dayton Dump site and at the
16:32:34 Powell Road site, correct?
16:32:36 A. Right.
16:32:36 Q. Okay. All right. So if you were
16:32:38 a hauler, Container Services or General Refuse,
16:32:44 and you were picking up on the north side of
16:32:45 Dayton, you could go into Powell Road as
16:32:48 opposed to drive all the way down to South
16:32:50 Dayton Dump, correct?
16:32:52 A. Other than what you were hauling.
16:32:54 Q. Right.
16:32:54 A. Yeah.
16:32:55 Q. Right. All right. Okay. Now, do
16:33:09 you know if haulers other than -- do you know
16:33:16 if other haulers around the Dayton area, like
16:33:23 IWD, Koogler, maybe Blaylock and some others,
16:33:27 would they have keys for landfills that they
16:33:29 were affiliated with?
16:33:29 A. No.
16:33:32 Q. Okay. So how would you know that?
16:33:35 How would you know whether Koogler had, for
16:33:37 example, keys to the landfills that were close
16:33:40 to where it did all of its hauling?
16:33:43 A. I would not know that.

16:33:43 1 Q. Okay. So the answer is you don't
16:33:43 2 know?
16:33:43 3 A. No.
16:33:43 4 Q. Okay. All right. I mean, I'm
16:33:49 5 just -- I'm curious, do you -- do you know if
16:33:50 6 other haulers had arrangements with other
16:33:53 7 landfills where they were allowed to come in
16:33:56 8 after hours and dump when the landfills were
16:33:56 9 closed?
16:34:01 10 A. I do not.
16:34:01 11 Q. Okay. All right. Okay. Just
16:34:28 12 give me a moment here. I've got to -- I need
16:34:31 13 to get this all arranged here. Excuse me for a
16:34:34 14 moment.
16:34:40 15 So I believe you testified that
16:34:44 16 Larry Brandon had an ownership interest in
16:34:48 17 Container Services, is that correct?
16:34:52 18 A. I don't know if he had ownership,
16:34:54 19 but they -- this -- all three entities was at
16:35:02 20 the same location, and they all seemed to have
16:35:06 21 the same -- what word do I use -- power, you
16:35:15 22 know, to give people orders, so they --
16:35:19 23 Q. Okay. Do you know what the
16:35:21 24 service area was for Container Service? Do you
16:35:26 25 know how far away from the South Dayton Dump it

16:35:29 1 would generally go to pick up trash and bring
16:35:32 2 it back to South Dayton?
16:35:34 3 A. Well, the General Refuge went as
16:35:42 4 far north as Union, Ohio.
16:35:44 5 Q. Okay. And if it picked up at
16:35:52 6 Union, which is north of Dayton, are you
16:35:54 7 telling me it would drive down to the South
16:35:58 8 Dayton Dump site rather than Powell Road, which
16:35:59 9 is on the north side of Dayton?
16:36:02 10 A. Well, when Powell Road was open,
16:36:05 11 that was where it went, but other than that,
16:36:07 12 because it was garbage, I would assume it would
16:36:15 13 go to Baylock -- Baylock's over -- the one on
16:36:16 14 South Dixie.
16:36:16 15 Q. Okay. What about Container
16:36:19 16 Service, did they pick up generally south of
16:36:24 17 Dayton or did they have a service area on all
16:36:27 18 sides of Dayton?
16:36:29 19 A. Pretty much all sides.
16:36:31 20 Q. And when you say the same thing
16:36:33 21 that as long as there was another landfill like
16:36:36 22 Powell open at the time on the north side of
16:36:38 23 Dayton and it was closer, they'd go there
16:36:40 24 first?
16:36:40 25 A. Depending upon what they were

16:36:44 1 hauling.
16:36:44 2 Q. Right.
16:36:44 3 A. But most of it was skids and stuff
16:36:47 4 like that, so they would go to South Dayton
16:36:47 5 Dump.
16:36:50 6 Q. Okay. And the reason you would
16:36:51 7 bring skids to South Dayton is because you had
16:36:53 8 a way to recycle them and make money and so you
16:36:56 9 brought them all there, correct?
16:36:57 10 A. Most -- that, and burn them.
16:36:59 11 Q. You burned them?
16:37:00 12 A. They could burn them in the
16:37:02 13 incinerator -- incinerator.
16:37:02 14 Q. Okay. Thank you. Okay. I don't
16:37:11 15 know how to -- I don't want to turn -- I don't
16:37:14 16 want you to get emotional on me again, because
16:37:17 17 I need to understand more about the situation
16:37:19 18 with the University of Dayton, because that's
16:37:23 19 one of our clients.
16:37:25 20 Yesterday during your testimony in
16:37:28 21 the morning, you testified that you did not
16:37:31 22 remember that the University of Dayton sent any
16:37:34 23 waste to the site.
16:37:35 24 And then about 15 minutes later
16:37:37 25 after a break, you came in and recanted that

16:37:41 1 testimony and said you remembered University of
16:37:44 2 Dayton being a customer. Do you remember that
16:37:46 3 sequence?
16:37:47 4 A. After thinking about it during
16:37:50 5 that break time, I remembered some -- yeah.
16:37:53 6 Q. Okay. And did you talk with
16:37:58 7 anyone during that break to help you remember
16:38:01 8 that you had misremembered?
16:38:02 9 A. No.
16:38:02 10 Q. Okay. Do you remember testifying
16:38:07 11 yesterday that you had a lack of memory because
16:38:13 12 you were having difficulty separating your
16:38:16 13 personal grudge or personal animosity involving
16:38:21 14 University of Dayton, do you remember that?
16:38:23 15 A. Yes.
16:38:23 16 MR. ROMINE: Objection to the word
16:38:25 17 grudge as vague.
16:38:26 18 THE WITNESS: Yes.
16:38:27 19 BY MR. HAUGHEY:
16:38:27 20 Q. Okay. Is there a building at the
16:38:33 21 University of Dayton that has Horace Boesch's
16:38:37 22 name on it?
16:38:38 23 A. Yes.
16:38:39 24 Q. Okay. Is that part of the -- the
16:38:45 25 ill will that you harbor for the University of

16:38:48 1 Dayton?
16:38:48 2 A. Like I mentioned today --
16:38:51 3 Q. Yeah.
16:38:51 4 A. -- which I got real emotional
16:38:56 5 about, I thought that it would carry the name
16:39:00 6 Grillot/Boesch, because they were partners, and
16:39:04 7 so I thought Dad got -- our family got the
16:39:07 8 short end of the stick, so --
16:39:08 9 Q. Where is that building? Is it on
16:39:10 10 campus?
16:39:11 11 A. No, I -- Boesch Hall, I think, is
16:39:15 12 in the Donoher Center. It's part of the
16:39:20 13 athletic -- where they shower and workout and
16:39:25 14 stuff like that.
16:39:25 15 Q. Okay. So it's a room or a series
16:39:28 16 of rooms at -- in the University of Dayton
16:39:28 17 Arena?
16:39:32 18 A. I believe so, yes.
16:39:33 19 Q. Okay. And is it then your
16:39:39 20 feelings about it have to do with the fact
16:39:40 21 that at the time of the donation, it was a
16:39:44 22 joint donation between your dad and Horace
16:39:44 23 Boesch?
16:39:47 24 A. His widow, yes.
16:39:49 25 Q. Right. Okay. And so your family

16:39:52 1 being part of the donating group did not get
16:39:54 2 any credit, correct?
16:39:55 3 MR. ROMINE: Asked and answered.
16:39:56 4 THE WITNESS: Correct.
16:39:57 5 BY MR. HAUGHEY:
16:39:57 6 Q. Okay. Okay. I understand. Now,
16:40:02 7 you testified that you saw trash or waste at
16:40:11 8 the Dayton dumpsite from the University of
16:40:13 9 Dayton, do you remember that?
16:40:15 10 A. Yes.
16:40:16 11 Q. And I believe you testified that
16:40:20 12 it might have been some -- it was some desks?
16:40:24 13 A. File cabinets.
16:40:25 14 Q. File cabinets. Pretty much the
16:40:29 15 same type of waste that I believe you said came
16:40:32 16 from the Dayton School District, correct?
16:40:36 17 A. Correct.
16:40:36 18 Q. All right. How did you separate
16:40:42 19 the waste as coming from University of Dayton
16:40:46 20 or from another school or from a school
16:40:52 21 district or coming from the demolition of a
16:40:54 22 commercial building that had desks in it?
16:40:57 23 How did you -- how -- what made
16:40:59 24 you believe it was from Dayton -- University of
16:41:03 25 Dayton?

16:41:03 1 A. Well, from the Dayton Schools --
16:41:06 2 Q. No, no, University of Dayton.
16:41:08 3 A. Oh, the university.
16:41:09 4 Q. Yeah. I'm sorry. Yeah. Give
16:41:09 5 me -- what made you think it was from the
16:41:12 6 University of Dayton versus some other source?
16:41:16 7 A. I think other than the books would
16:41:19 8 have been the only indication.
16:41:21 9 Q. Well, I want to get it clear. You
16:41:24 10 testified earlier that the Dayton School
16:41:29 11 District sent books, but you've never testified
16:41:31 12 either yesterday or in your 2012 deposition
16:41:33 13 that any books came to the site from the
16:41:36 14 University of Dayton.
16:41:37 15 A. Then I don't remember.
16:41:38 16 Q. Okay. So you really don't know
16:41:40 17 how you -- you just -- okay. That's fine. All
16:41:42 18 right. Yeah, I should shut up and move on.
16:41:47 19 Okay. Thank you.
16:41:48 20 MR. COUGHLIN: We're not allowed to
16:41:49 21 stipulate, are we?
16:41:55 22 MR. HAUGHEY: Oh, God, I walked into
16:41:56 23 that one.
16:41:57 24 MR. COUGHLIN: I withdraw that
16:42:01 25 nastily, good-natured comment.

16:42:03 1 MR. HAUGHEY: Asked and answered.
16:42:05 2 All right. Sorry about that.
16:42:05 3 BY MR. HAUGHEY:
16:42:06 4 Q. All right. Let's talk about
16:42:09 5 Standard Register. Okay. You testified in
16:42:14 6 2012 that NCR sent trash that consisted of old
16:42:20 7 cash register parts, adding machines, paper
16:42:23 8 rolls and -- to the site, correct?
16:42:26 9 A. Correct.
16:42:26 10 Q. Okay. You also said that you
16:42:30 11 thought that other trash like that could have
16:42:37 12 been Standard Register or National Cash
16:42:39 13 Register or NCR, correct?
16:42:40 14 A. Correct.
16:42:41 15 Q. And do you remember testifying
16:42:43 16 that you really couldn't tell the difference
16:42:45 17 between the two, correct?
16:42:46 18 A. Correct.
16:42:46 19 Q. Okay. And that's still your
16:42:48 20 testimony today, correct?
16:42:50 21 A. Correct.
16:42:52 22 Q. Okay. Okay. Let's talk about
16:42:59 23 Coca-Cola. All right. Now, I believe you
16:43:04 24 testified yesterday that you liked seeing old
16:43:10 25 pop bottles and things in the landfill because

16:43:13 1 they -- some of them you could keep for
16:43:16 2 souvenirs and sometimes you would look and see
16:43:17 3 what was under the cap. Do you remember that
16:43:19 4 testimony?
16:43:19 5 A. Yes.
16:43:19 6 Q. All right. Okay. Is that -- is
16:43:23 7 that the source of your recollection of waste
16:43:27 8 coming to the site from Coca-Cola, the fact
16:43:29 9 that you saw bottles at the site and saw some
16:43:36 10 of the old wooden crates at the site? Is that
16:43:39 11 the source of your recollection?
16:43:40 12 A. And then the syrup.
16:43:42 13 Q. And the syrup?
16:43:44 14 A. Yes.
16:43:44 15 Q. Okay. All right. Now, let's see
16:43:48 16 if I get this right. Okay. If I'm a
16:43:51 17 business -- if I'm a restaurant in Dayton or I
16:43:58 18 am a bar in Dayton, I would most likely serve
16:44:03 19 some sort of Pepsi or Coca-Cola products,
16:44:06 20 correct?
16:44:06 21 A. Correct.
16:44:06 22 MR. ROMINE: Objection. Objection to
16:44:06 23 the form.
16:44:08 24 THE WITNESS: Right.
16:44:08 25 BY MR. HAUGHEY:

16:44:08 1 Q. Okay. So why would you think
16:44:13 2 that -- and at the same time, if I'm a
16:44:16 3 restaurant or a bar, I would buy those products
16:44:20 4 as well and have them available for my
16:44:23 5 customers, right?
16:44:23 6 MR. ROMINE: Objection to the
16:44:24 7 hypothetical.
16:44:24 8 MR. COUGHLIN: Excuse me. Let the
16:44:24 9 record reflect --
16:44:27 10 MR. HAUGHEY: Yeah. I mean, David,
16:44:27 11 if you touch him again, I'm going to have you
16:44:30 12 moved. Do you understand me? You are not his --
16:44:32 13 MR. ROMINE: What do you mean, moved?
16:44:33 14 MR. HAUGHEY: Moved away from him.
16:44:34 15 You are not his lawyer. I'm sorry. I mean, with
16:44:37 16 all due respect, you're not his lawyer. Don't you
16:44:40 17 touch him again. I mean, I mean it. Don't --
16:44:44 18 please don't do that because you're not his
16:44:46 19 lawyer, so -- this is between me and him, okay?
16:44:48 20 I mean, please agree with me or we
16:44:51 21 will have to escalate it to another level.
16:44:53 22 MR. ROMINE: No, no, no, I will not
16:44:54 23 agree to that. I was touching the witness because
16:44:59 24 earlier there was some request made of the witness
16:45:05 25 that he give me time to object, and he did that

16:45:14 1 for a little while, and then the last five minutes
16:45:17 2 or so he has not been giving me that time to
16:45:21 3 object.
16:45:22 4 So I touched him to indicate to him
16:45:23 5 that he was talking before I had the chance to
16:45:26 6 object, and, therefore, the court reporter could
16:45:29 7 not take down both your question and his answer
16:45:33 8 and my objection simultaneously.
16:45:34 9 MR. HAUGHEY: Okay. So you -- for
16:45:36 10 the record, you were not touching him to prompt
16:45:39 11 his answer?
16:45:39 12 MR. ROMINE: I was touching him so
16:45:41 13 that -- my intention was touching him so that I
16:45:43 14 would have time to object.
16:45:46 15 MR. HAUGHEY: Okay. Then we're
16:45:47 16 clear, but please make your objection, don't touch
16:45:51 17 him. Make your objection and we'll sort it out.
16:45:51 18 BY MR. HAUGHEY:
16:45:55 19 Q. And I'll remind you, Edward,
16:45:57 20 please let me finish, pause for a second and
16:46:01 21 then let David, if he has an objection, give
16:46:03 22 his objection so that I don't have to be
16:46:05 23 worried about whether he's prompting you when
16:46:07 24 he touches you, okay?
16:46:07 25 A. Okay.

16:46:07 1 Q. Okay. All right. Thank you.
16:46:12 2 Now -- so I believe what we were talking about
16:46:15 3 was that Coca-Cola and Pepsi and 7-Up would
16:46:20 4 sell to lots of customers in the Dayton area,
16:46:22 5 correct?
16:46:28 6 A. Right.
16:46:28 7 MR. ROMINE: Objection.
16:46:34 8 Hypothetical.
16:46:34 9 THE WITNESS: Yes.
16:46:34 10 (Thereupon, the court reporter
16:46:34 11 interrupted the proceedings.)
16:46:34 12 BY MR. HAUGHEY:
16:46:35 13 Q. Okay. Now, you and I grew up in
16:46:39 14 the Dayton area, so I remember the old wooden
16:46:43 15 crates being dropped off. In fact, my
16:46:45 16 grandfather had a bar/tavern on Xenia Avenue.
16:46:49 17 So, anyway.
16:46:51 18 So we -- those would come in and
16:46:54 19 then they would be used and then the bar or the
16:46:56 20 customer would have to get rid of that waste,
16:46:56 21 correct?
16:46:58 22 A. Correct.
16:46:58 23 Q. Okay. So the fact that you saw
16:47:03 24 bottles at the site that had -- that were a
16:47:05 25 Coca-Cola bottle or an empty -- you know,

16:47:09 1 trays, you know, the old wooden carts or even
16:47:12 2 some syrup that went bad at a restaurant, it
16:47:14 3 could have come from them just as easily as it
16:47:17 4 could have come from Coca-Cola, correct?
16:47:20 5 A. Correct.
16:47:20 6 Q. Okay. All right. Thank you. I
16:47:29 7 believe you testified yesterday and again in
16:47:35 8 2012, that Duriron sent waste to the South
16:47:41 9 Dayton Dump site. Do you remember that?
16:47:42 10 A. Yes, I do.
16:47:43 11 Q. Now, I believe in your 2012
16:47:49 12 testimony, the only waste that you testified
16:47:51 13 coming to the site what was you called the hot
16:47:54 14 waste, correct?
16:47:58 15 A. Yes. Yes.
16:47:58 16 Q. On the Apollo vessels, as you
16:48:00 17 called them?
16:48:01 18 A. From -- from 2012?
16:48:01 19 Q. Yeah, from the 2012 deposition.
16:48:02 20 A. Okay. I believe that was -- yes.
16:48:03 21 Yeah.
16:48:03 22 Q. And then I believe yesterday you
16:48:06 23 testified about another stream called an oily
16:48:10 24 liquid.
16:48:10 25 A. Correct.

16:48:11 Q. Okay. All right. Now, how did
16:48:18 you -- how did you attribute the hot waste
16:48:23 coming to the site from Duriron?
16:48:28 A. Would you please rephrase that
16:48:30 question?
16:48:30 Q. Yeah. What was it about the waste
16:48:32 that made you attribute the hot waste as coming
16:48:37 from Duriron?
16:48:39 A. How did I know that?
16:48:41 Q. Yeah. What made you say, hey,
16:48:43 that's Duriron waste, the hot waste is Duriron
16:48:44 waste?
16:48:44 A. Because on the door it said
16:48:48 Duriron.
16:48:48 Q. Okay. I believe you also
16:48:51 testified yesterday that this hot waste would
16:48:56 come to the site on a regular basis?
16:48:59 A. Yes.
16:48:59 Q. Right. It was multiple times a
16:49:01 week.
16:49:01 A. Yes.
16:49:01 Q. Okay. All right. Would you look
16:49:04 at Defendants' Exhibit -- no, I'll tell you
16:49:10 what, I'll give you a new one.
16:49:12 MR. HAUGHEY: Let's mark off the --

16:49:13 1 this will be Defendants' Exhibit 5, am I correct?
16:49:16 2 Are we up to 5 or are we up to 6?
16:49:16 3 THE WITNESS: I think it's 6.
16:49:16 4 BY MR. HAUGHEY:
16:49:16 5 Q. All right. Why don't we start
16:49:23 6 off -- let's first look at Defendants'
16:49:25 7 Exhibit 1, okay?
16:49:25 8 A. Okay.
16:49:26 9 Q. And that's the map, and -- and I
16:49:28 10 believe you identified and agreed that I had
16:49:32 11 accurately set forth on that map the location
16:49:35 12 of Duriron marked as A off of Monument Avenue
16:49:42 13 versus the location of the South Dayton Dump
16:49:45 14 site, which I believe was marked as G. Do you
16:49:49 15 remember having that discussion with me?
16:49:51 16 A. Yes.
16:49:52 17 Q. Okay. All right. So -- so that's
16:49:54 18 what we're talking about. All right. Now, why
16:49:57 19 don't you set Plaintiffs' Exhibit -- or
16:50:02 20 Defendants' Exhibit 1 aside for a moment.
16:50:05 21 Okay. Did you -- did you know
16:50:07 22 that Duriron had its own landfill?
16:50:10 23 A. No, I did not know that.
16:50:12 24 Q. Did not -- did not know. You have
16:50:13 25 no recollection that Duriron had its own onsite

16:50:13 1 landfill?
16:50:16 2 A. No.
16:50:16 3 MR. ROMINE: Asked and answered.
16:50:16 4 Please --
16:50:16 5 BY MR. HAUGHEY:
16:50:17 6 Q. Okay.
16:50:17 7 MR. ROMINE: Please give me time to
16:50:19 8 object.
16:50:20 9 THE WITNESS: No.
16:50:20 10 BY MR. HAUGHEY:
16:50:20 11 Q. That's okay. If I could prove to
16:50:24 12 you that Duriron had its own onsite landfill,
16:50:28 13 would that change the recollection you --
16:50:30 14 your -- would that change your testimony?
16:50:32 15 MR. ROMINE: Objection.
16:50:33 16 Hypothetical. Go ahead.
16:50:33 17 THE WITNESS: No.
16:50:34 18 BY MR. HAUGHEY:
16:50:34 19 Q. It wouldn't?
16:50:36 20 A. No.
16:50:36 21 Q. So -- okay. So, in other words,
16:50:37 22 even if Duriron had its own onsite landfill,
16:50:40 23 you would still testify that your memory was
16:50:44 24 still that Duriron sent its waste down through
16:50:50 25 Dayton to the South Dayton Dump site rather

16:50:53 1 than going to their own site?
16:50:53 2 A. Yes.
16:50:56 3 Q. Okay. All right. I'm going to
16:50:58 4 hand you a document that I'm asking the court
16:51:00 5 reporter to mark as Defendants' Exhibit 6.
16:51:00 6 (Thereupon, Defendants' Exhibit
16:51:00 7 Number 6, Google map, was marked for purposes of
16:51:00 8 identification.)
16:51:00 9 BY MR. HAUGHEY:
16:51:32 10 Q. Okay. I'm going to represent to
16:51:34 11 you that this is a MapQuest or a Google
16:51:39 12 direction map showing the -- as site A, the
16:51:47 13 Duriron facility on Monument Avenue, and site B
16:51:50 14 as the South Dayton Dump site.
16:51:53 15 Would you look at the map and look
16:51:54 16 at the driving directions to the left and let
16:51:58 17 me know if you agree with what it represents?
16:52:02 18 A. Yes.
16:52:02 19 Q. Okay. All right. So let's talk
16:52:03 20 about that. You're talking about hot waste,
16:52:07 21 which I believe you said was so hot you had to
16:52:10 22 be careful with it because it could start
16:52:12 23 fires, correct?
16:52:12 24 A. Correct.
16:52:12 25 Q. And was it a solid hot waste or a

16:52:18 1 liquid hot waste?
16:52:18 2 A. Solid.
16:52:20 3 Q. Solid. Okay. And I believe you
16:52:22 4 testified in 2012 that it had -- it had steam
16:52:26 5 or smoke coming off of it, correct?
16:52:27 6 A. Correct.
16:52:28 7 Q. Okay. So let's look at it. What
16:52:31 8 did Duriron do? What was its business?
16:52:34 9 A. I believe it was a steel foundry.
16:52:42 10 Q. So you're telling me that multiple
16:52:45 11 times a week Duriron wouldn't use any own
16:52:52 12 landfill on some property, but would take hot
16:52:55 13 metal waste and drive it through Dayton down
16:53:01 14 approximately six miles and dump it at this
16:53:05 15 site?
16:53:05 16 MR. ROMINE: Objection. Asked and
16:53:06 17 answered.
16:53:06 18 THE WITNESS: Yes, I do.
16:53:08 19 BY MR. HAUGHEY:
16:53:08 20 Q. Okay. Okay. Wow. Okay. And --
16:53:24 21 okay. When was Interstate 75 built?
16:53:29 22 MR. ROMINE: Objection. Relevance.
16:53:32 23 BY MR. HAUGHEY:
16:53:32 24 Q. Go ahead.
16:53:32 25 A. I think the middle of the '60s.

16:53:36 1 Q. Okay. So if Duriron used I-75 for
16:53:40 2 this route, we're talking about almost seven
16:53:44 3 miles, correct?
16:53:45 4 A. Correct.
16:53:46 5 Q. Okay. So it's your testimony that
16:53:55 6 Duiron would send hot steaming metal waste
16:54:00 7 through downtown Dayton or on I-75 on a regular
16:54:06 8 basis to bring that hot waste and dump it at
16:54:11 9 your father's site, correct?
16:54:11 10 MR. ROMINE: Asked and answered
16:54:12 11 twice.
16:54:13 12 THE WITNESS: Correct.
16:54:13 13 BY MR. HAUGHEY:
16:54:22 14 Q. Okay. All right. All right.
16:54:25 15 Were there other foundries that sent waste to
16:54:31 16 the South Dayton Dump site for disposal?
16:54:35 17 A. Not to my recollection, no.
16:54:40 18 Q. Okay. With respect to Duriron, do
16:54:43 19 you remember ever filling out a dumping receipt
16:54:45 20 for Duriron?
16:54:48 21 A. I don't know. Don't remember.
16:54:50 22 Q. Okay. Do you remember seeing
16:54:52 23 Kenneth fill out a dumping receipt for Duiron?
16:54:55 24 A. I wouldn't know that.
16:54:56 25 Q. Okay. Based on the discussion we

16:55:01 1 had yesterday about what constitutes an
16:55:04 2 intermittent customer or a charge customer,
16:55:06 3 wouldn't Duriron delivering this hot waste two,
16:55:10 4 three times a week have been a regular
16:55:11 5 customer?
16:55:12 6 A. Yes.
16:55:12 7 Q. And wouldn't they have been a
16:55:14 8 charge customer?
16:55:17 9 A. I would assume, yes.
16:55:18 10 Q. Okay. All right. Let's talk
16:55:25 11 about some of the other foundries that sent
16:55:28 12 waste to the site. How about -- didn't NCR
16:55:31 13 have its own foundry at one time?
16:55:35 14 A. NCR?
16:55:36 15 Q. NCR.
16:55:39 16 A. If it did, I didn't have any
16:55:39 17 knowledge of it.
16:55:43 18 Q. Okay. So you don't know if
16:55:44 19 Duriron sent any -- what type of wastes are
16:55:47 20 generated from a foundry?
16:55:53 21 A. I don't know.
16:56:05 22 Q. What did this hot solid steaming
16:56:11 23 metal look like that was coming from the
16:56:16 24 Duriron company to the site?
16:56:17 25 MR. ROMINE: Asked and answered.

16:56:19 1 BY MR. HAUGHEY:
16:56:19 2 Q. I'm not asking what it looked
16:56:20 3 like. Go ahead, please answer. What did it
16:56:23 4 look like?
16:56:26 5 A. Separate from some other steel
16:56:31 6 hanging out of it, it would look like -- almost
16:56:44 7 like a porcelain or a marble-ish look. A lot
16:56:52 8 of reddish type of glaze on it.
16:56:55 9 Q. Okay. I believe you --
16:56:57 10 A. Because it was all stuck together
16:56:58 11 in one massive piece.
16:57:00 12 Q. Okay. Okay. I believe you
16:57:01 13 testified earlier that the Powell Road Landfill
16:57:08 14 was open at some point in the '60s on forward,
16:57:11 15 correct?
16:57:11 16 A. Correct.
16:57:12 17 Q. Okay. Now, if you look at
16:57:15 18 Defendants' Exhibit 1, the Powell Road Landfill
16:57:21 19 is a lot closer to the Duriron facility than
16:57:26 20 the South Dayton Dump site, correct?
16:57:29 21 A. Correct.
16:57:29 22 Q. Okay. If you look at the
16:57:33 23 Valleycrest Landfill on the map, which I
16:57:36 24 believe you called the North Sanitary Landfill,
16:57:37 25 that one was also located a lot closer to the

16:57:43 1 Duriron facility than the South Dayton Dump,
16:57:43 2 correct?
16:57:46 3 A. Correct.
16:57:46 4 Q. Okay. If I recall your testimony
16:57:52 5 correctly, you said that Powell Road was open
16:57:55 6 in the '60s, open in the '70s, and you don't
16:57:58 7 know about the '80s, correct?
16:58:02 8 MR. ROMINE: Asked and answered.
9 (Thereupon, the court reporter
10 interrupted the proceedings.)
11 BY MR. HAUGHEY:
12 Q. Okay. And at the Valleycrest --
13 MR. ROMINE: Asked and answered.
14 (Thereupon, the court reporter
15 interrupted the proceedings.)
16:58:07 16 MR. HAUGHEY: He said correct.
16:58:07 17 MR. ROMINE: Give me time to object.
16:58:07 18 THE WITNESS: Yeah.
16:58:07 19 (Thereupon, the court reporter
16:58:07 20 interrupted the proceedings.)
16:58:09 21 BY MR. HAUGHEY:
16:58:09 22 Q. And that the Valleycrest Landfill
16:58:18 23 was open at least in the '70s, correct?
16:58:22 24 MR. ROMINE: Same objection.
25 BY MR. HAUGHEY:

1 Q. Okay. Now, what logical reason --
2 (Thereupon, the court reporter
3 interrupted the proceedings.)
4 MR. HAUGHEY: He nodded.
16:58:59 5 MR. COUGHLIN: Off the record.
16:58:59 6 (Thereupon, an off-the-record
16:59:00 7 discussion was had.)
16:59:00 8 BY MR. HAUGHEY:
16:59:05 9 Q. Okay. So you can't think of any
16:59:07 10 logical reason why the Duriron company would
16:59:12 11 choose to go a much further distance away
16:59:14 12 through Dayton with this hot molten steaming
16:59:19 13 metal to get to your site as opposed to a
16:59:20 14 closer one, you know of no logical reason to
16:59:22 15 explain that, do you?
16:59:23 16 MR. ROMINE: Objection.
16:59:25 17 Hypothetical. Asked and answered three times.
16:59:26 18 THE WITNESS: Yes, I do.
16:59:26 19 BY MR. HAUGHEY:
16:59:26 20 Q. Okay. What logical reason would
16:59:28 21 Dayton -- would Duriron have to travel further
16:59:32 22 with this dangerous material than going to a
16:59:36 23 closer site?
16:59:37 24 A. Well, first of all, because it was
16:59:40 25 steaming hot, I would assume that they thought

16:59:42 1 it would be better to cool off a period before
16:59:46 2 it got to the -- the site.
16:59:47 3 And then the South Dayton Dump was
16:59:52 4 the largest hole. I don't know anything about
16:59:55 5 the size of the lot that's on Duriron, but
17:00:00 6 South Dayton Dump would have been a perfect
17:00:02 7 place, and Powell Road would not accept
17:00:06 8 something like that and neither would the
17:00:08 9 incinerators.
17:00:08 10 Q. Okay. And so what you're saying
17:00:12 11 is that Duriron would -- you think could have
17:00:16 12 logically chosen to send this dangerous
17:00:20 13 material through Dayton for a further distance,
17:00:24 14 because over that longer distance, it could
17:00:26 15 cool down in time and then it would be okay?
17:00:28 16 A. Correct.
17:00:28 17 Q. But that's not what you testified
17:00:30 18 to in 2012.
17:00:32 19 MR. ROMINE: Objection.
17:00:33 20 Argumentative.
17:00:33 21 BY MR. HAUGHEY:
17:00:33 22 Q. In 2012, you said it arrived at
17:00:37 23 the landfill steaming hot and had to be handled
17:00:40 24 carefully or people would be hurt or fires
17:00:43 25 could start.

17:00:43 1 MR. ROMINE: Objection.
17:00:45 2 Argumentative.
17:00:45 3 BY MR. HAUGHEY:
17:00:46 4 Q. Correct?
17:00:46 5 A. Correct.
17:00:46 6 Q. So when did the cooling -- so
17:00:48 7 apparently the distance between Duriron and the
17:00:52 8 South Dayton Dump site was not enough to cool
17:00:55 9 down and make safe this hot dangerous material?
17:00:58 10 MR. ROMINE: Objection.
17:00:59 11 Argumentative. Mischaracterizes his testimony.
17:01:01 12 THE WITNESS: Do you want me to say
17:01:03 13 what I think?
17:01:03 14 BY MR. HAUGHEY:
17:01:03 15 Q. Yeah. Sure.
17:01:04 16 A. I think it was a whole lot hotter
17:01:06 17 when it was in a cone than it -- you know, it
17:01:11 18 would probably shine like the sun. I don't
17:01:13 19 know. So I don't know how hot it was, I never
17:01:15 20 took the temperature of it, but when it came to
17:01:17 21 us, I'm sure it was a lot cooler because of the
17:01:20 22 ride and -- you know, through town.
17:01:22 23 Q. Okay. I'm going to hand you a
17:01:26 24 document that -- well, I guess we'll have to
17:01:32 25 mark it again. It was used as Deposition

17:01:35 1 Exhibit 28 in your 2012 deposition, and I'm
17:01:42 2 going to ask the court reporter to go ahead and
17:01:44 3 mark it as, I believe, Defendants' Exhibit 7?
17:01:47 4 A. Yeah.
5 MR. ROMINE: Correct.
6 MR. HAUGHEY: Okay. Thank you.
7 (Thereupon, Defendants' Exhibit
8 Number 7, photocopy of a color photograph of a
9 Container Service truck, was marked for purposes
10 of identification.)
17:02:10 11 BY MR. HAUGHEY:
17:02:11 12 Q. Do you remember, Edward, being
17:02:13 13 shown that exhibit at the time of your
17:02:16 14 deposition in 2012?
17:02:18 15 A. Yes.
17:02:18 16 Q. Do you remember testifying that
17:02:22 17 that was an example of a special truck that
17:02:24 18 would be used to deliver waste, this hot waste,
17:02:29 19 from Duriron?
17:02:30 20 A. Rephrase that again.
17:02:31 21 Q. Do you remember testifying in 2012
17:02:34 22 that the picture I'm showing you now was a
17:02:38 23 similar type of a truck to the one that you
17:02:43 24 believe Duriron sent its hot waste to the site
17:02:43 25 in?

17:02:47 1 A. Similar, yes.
17:02:47 2 Q. Yeah. Okay. All right. And is
17:02:48 3 that -- I believe there's a name on the top of
17:02:50 4 that calling it a lugger truck, is that
17:02:53 5 correct?
17:02:53 6 A. Lugger, yeah.
17:02:55 7 Q. Yeah.
17:02:55 8 A. Yes.
17:02:55 9 Q. All right. Okay. So I believe
17:02:58 10 you testified in 2012 that the truck you're
17:03:03 11 referring to for Duriron had -- was like the
17:03:07 12 one on the bottom of that picture with chains
17:03:10 13 on the sides, correct?
17:03:13 14 A. Correct.
17:03:13 15 Q. Okay. So -- and I believe you
17:03:16 16 testified in 2012 that this hot waste would be
17:03:21 17 swinging from those chains -- be suspended from
17:03:24 18 the chains, correct?
17:03:25 19 A. Correct.
17:03:26 20 Q. Okay. So it is your testimony
17:03:28 21 today that Duriron would take this dangerous
17:03:35 22 hot material swinging from chains and drive
17:03:39 23 five, six miles through downtown Dayton in
17:03:42 24 order to dump it at this site, correct?
17:03:42 25 MR. ROMINE: Objection. Asked and

17:03:44 1 answered four times.
17:03:45 2 THE WITNESS: Well, it was locked in
17:03:47 3 position, it wasn't hanging. I mean, it wasn't
17:03:49 4 swinging, but it was locked in position. Then
17:03:51 5 when you got there, he had to lower the lever to
17:03:54 6 release it and then tip it over, and somehow the
17:03:59 7 truck would dump it off, so I --
17:04:02 8 BY MR. HAUGHEY:
17:04:02 9 Q. Okay. Now, I believe you
17:04:06 10 testified that you believed it was Duriron
17:04:10 11 waste because you saw it on a Duriron -- you
17:04:13 12 saw the name Duriron on the side?
17:04:15 13 A. Correct.
17:04:15 14 Q. Okay. Was there a logo on the
17:04:17 15 side?
17:04:18 16 A. No.
17:04:19 17 Q. Okay. Do you know how to spell
17:04:26 18 the name Duriron?
17:04:27 19 MR. ROMINE: Objection. Asked and
17:04:29 20 answered.
17:04:29 21 THE WITNESS: No.
17:04:29 22 BY MR. HAUGHEY:
17:04:29 23 Q. Okay. Do you know -- well, the
17:04:38 24 only other waste that I remember you talking
17:04:40 25 about coming from Duriron was this oily waste.

17:04:44 1 A. Right. Correct.
17:04:44 2 Q. Okay. How did this waste get to
17:04:47 3 the site?
17:04:50 4 A. In a similar way, but the -- it
17:04:53 5 looked more like a container than -- than an
17:04:59 6 open pit.
17:05:00 7 Q. Okay. Would it come on a truck
17:05:03 8 that you thought was a Duriron truck because of
17:05:07 9 the name on the side?
17:05:08 10 A. Yes.
17:05:09 11 Q. Okay. All right. And do you know
17:05:13 12 what type of -- was it a coolant, a hydraulic
17:05:20 13 fluid, a waste oil or -- or just what was your
17:05:22 14 impression of what it was?
17:05:24 15 A. I wasn't really sure.
17:05:25 16 Q. Okay. Was it something that could
17:05:29 17 be salvaged and reused as oil somewhere else?
17:05:33 18 A. Not to my knowledge.
17:05:37 19 Q. Okay. Other than this hot waste
17:05:40 20 and the oily liquid, I understand your
17:05:43 21 testimony to be that Duriron sent no other
17:05:45 22 waste at all to this site, correct?
17:05:47 23 A. Correct.
17:05:48 24 Q. Okay. All right. Okay. Do you
17:05:57 25 remember testifying in 2012 that the

17:06:00 1 Dayton-Walther Company was a foundry that sent
17:06:05 2 waste to this site as well, correct?
17:06:10 3 A. I don't remember.
17:06:11 4 Q. Okay. Do you know what
17:06:15 5 Dayton-Walther did?
17:06:19 6 A. No. I'd say no.
17:06:24 7 Q. You don't know whether they --
17:06:27 8 didn't they make steel wheels and rims?
17:06:29 9 MR. ROMINE: Objection. Asked and
17:06:29 10 answered.
17:06:30 11 MR. HAUGHEY: I'm trying to help his
17:06:31 12 memory.
17:06:31 13 BY MR. HAUGHEY:
17:06:31 14 Q. Did they not make steel rims and
17:06:34 15 wheels?
17:06:35 16 MR. ROMINE: Objection. Asked and
17:06:35 17 answered.
17:06:36 18 THE WITNESS: Like I said, I don't --
17:06:36 19 BY MR. HAUGHEY:
17:06:38 20 Q. Okay. So that doesn't help your
17:06:39 21 memory?
17:06:39 22 A. No.
17:06:40 23 Q. All right. Thank you. Now, I --
17:06:46 24 when I was looking at your deposition in 2012,
17:06:49 25 you testified that a truck like those lugger

17:06:54 1 trucks was also used to deliver waste to the
17:06:59 2 site from Franklin Iron and Metal and Patterson
17:07:02 3 Iron and Metal. Do you remember giving that
17:07:04 4 testimony?
17:07:04 5 A. Correct.
17:07:05 6 Q. Okay. Do you know how far away
17:07:12 7 from the site Dayton-Walther was located?
17:07:15 8 A. Yes, it was south of South Dayton
17:07:23 9 Dump.
17:07:23 10 Q. Okay. About how far? Give me a
17:07:26 11 number of, let's say, city blocks.
17:07:29 12 A. Half a mile.
17:07:29 13 Q. Okay. Half mile. Okay. Didn't
17:07:32 14 you testify earlier today that your dad was
17:07:38 15 friends with the -- the Walther family?
17:07:41 16 A. Was that today? I --
17:07:42 17 Q. Yeah, today. Earlier today.
17:07:44 18 A. Yes.
17:07:44 19 Q. Yeah. Okay. And that it was like
17:07:46 20 family friends, as I recall -- as I remember
17:07:48 21 it, correct?
17:07:50 22 A. A close -- a close acquaintance
17:07:50 23 not a close friend.
17:07:54 24 MR. COUGHLIN: I'm sorry, what was
17:07:55 25 the answer?

17:07:55 THE WITNESS: A close acquaintance.
17:07:58 BY MR. HAUGHEY:
17:07:58 Q. Okay. All right. So am I to
17:08:02 believe that notwithstanding your knowing that
17:08:07 Dayton-Walther was a half mile at most away and
17:08:10 that Dayton-Walther was a close family friend
17:08:14 of your family, you have no idea what they did
17:08:18 as a business, is that correct?
17:08:20 MR. ROMINE: Objection.
17:08:20 THE WITNESS: Correct.
17:08:20 MR. ROMINE: Asked and answered.
17:08:20 THE WITNESS: Correct.
17:08:20 BY MR. HAUGHEY:
17:08:20 Q. That's still your testimony?
17:08:22 MR. ROMINE: Asked and answered.
17:08:23 THE WITNESS: My father might have
17:08:24 known, but I didn't.
17:08:24 BY MR. HAUGHEY:
17:08:25 Q. Okay. All right.
17:08:25 MR. ROMINE: Give me time to object.
17:08:27 THE WITNESS: Okay.
17:08:27 MR. ROMINE: Yeah. When he asks his
17:08:29 questions, just give me a moment, I might object,
17:08:29 I might not object.
17:08:32 THE WITNESS: Okay.

17:08:32 1 BY MR. HAUGHEY:
17:08:32 2 Q. Now, when you and I were talking
17:08:35 3 yesterday, we were talking about some other
17:08:39 4 people who worked at the landfill with you. Do
17:08:42 5 you remember us talking about that?
17:08:43 6 A. Yes.
17:08:44 7 Q. Okay. Do you remember us talking
17:08:47 8 about -- I believe it was Mike Wendling working
17:08:52 9 at the site as well?
17:08:53 10 A. Yes.
17:08:54 11 Q. Okay. And do you recall me asking
17:08:56 12 you that the -- the question, if he had to give
17:09:00 13 a deposition, that you would expect him to be
17:09:04 14 truthful, correct?
17:09:05 15 A. Correct.
17:09:05 16 Q. Now, if I told you that he had no
17:09:11 17 recollection of Duriron sending any waste to
17:09:15 18 the site, would you think he was lying?
17:09:17 19 MR. ROMINE: Objection.
17:09:18 20 Hypothetical.
17:09:19 21 THE WITNESS: No.
17:09:19 22 MR. HAUGHEY: Okay. Well, if we're
17:09:21 23 going to give hypotheticals, I'm happy to show him
17:09:23 24 the deposition, David. Would you want to spend
17:09:25 25 the time doing that?

17:09:26 1 MR. ROMINE: It's up to you.
17:09:27 2 MR. HAUGHEY: Okay. Then we might as
17:09:28 3 well do that.
17:09:28 4 BY MR. HAUGHEY:
17:09:30 5 Q. I'm going to hand you a document
17:09:32 6 which we will mark as Defendants' Exhibit 8,
17:09:39 7 which is the deposition that Mike Wendling gave
17:09:41 8 in the case.
17:09:41 9 (Thereupon, Defendants' Exhibit
17:09:41 10 Number 8, deposition of Michael A. Wendling, was
17:10:08 11 marked for purposes of identification.)
17:10:08 12 BY MR. HAUGHEY:
17:10:08 13 Q. Okay. Edward, could you please
17:10:10 14 turn to pages 60 to 62 starting at the bottom
17:10:19 15 of page 60? Yeah, these -- this deposition
17:10:27 16 format is in four pages per page, so the very
17:10:32 17 bottom of -- page 60 would be at the bottom of
17:10:38 18 the page that actually has four pages on it.
17:10:40 19 A. Yeah, I got it.
17:10:40 20 Q. Okay. Now, do you see at the
17:10:40 21 bottom there the question, are you familiar
17:10:42 22 with a company named Duriron? Duriron, yes.
17:10:44 23 And then there's a spelling of it.
17:10:46 24 Can you tell me a whole lot about
17:10:49 25 Duriron? No, not a whole lot. Do you see

17:10:49 1 that?
17:10:51 2 A. Um-hum.
17:10:51 3 Q. Okay. Would you carry on to the
17:10:52 4 next page? Question, do you remember whether
17:10:56 5 Duriron brought any waste to the South Dayton
17:11:00 6 Dump site? Answer, I'm not going to say.
17:11:04 7 Honestly, I don't recall.
17:11:04 8 A. Wait, wait, I'm not -- where you
17:11:04 9 at?
17:11:04 10 Q. The next page, page 61. Turn that
17:11:08 11 page over. Top of the page should be page 61.
17:11:10 12 A. Okay. And where you at?
17:11:12 13 Q. Page 61. Do you see the question
17:11:14 14 by Mr. Silver, do you remember whether Duriron
17:11:17 15 brought any waste to the South Dayton Dump?
17:11:21 16 Answer, I'm not going to say. I honestly don't
17:11:23 17 recall.
17:11:24 18 A. I'm still not -- well, wait, wait.
17:11:24 19 Mr. Silver. Okay.
17:11:24 20 Q. Okay.
17:11:29 21 A. Okay. Yeah, I found it. Okay.
17:11:32 22 Okay.
17:11:32 23 Q. Okay. Now, would you look down
17:11:35 24 that page and read further where Mr. Silver
17:11:38 25 then goes on to ask Mr. Wendling about people

17:11:44 who use the same type of lugger truck with
17:11:49 chains on it and brought waste to the site.
17:11:51 Do you see that series of
17:11:53 questions and answers there on page 61 and
17:11:57 continuing on to page 62?
17:12:03 A. Yes.
17:12:03 Q. Okay. Do you see the question,
17:12:05 what company -- on page 62 -- if you can
17:12:09 recall, used those kinds of trucks to dump
17:12:12 waste at the site? Answer, to what I can
17:12:15 recall, would have been Franklin Iron and Metal
17:12:20 and Walther's, what I can recall. Do you see
17:12:21 that answer?
17:12:21 A. Yes.
17:12:22 Q. Okay. Then the next question, do
17:12:27 you remember Duriron using these kinds of
17:12:27 trucks? Answer, I can't see the name Duriron
17:12:30 on anybody's trucks.
17:12:33 Okay. So you have no reason to
17:12:37 believe that he would have lied during that
17:12:39 deposition, correct?
17:12:40 A. Correct.
17:12:41 Q. Okay. And you previously
17:12:42 testified you found him to be truthful?
17:12:45 A. Yes.

17:12:46 1 Q. Okay. All right. Thank you.
17:12:48 2 A. You want this back?
17:12:49 3 Q. No, why don't you hold onto it.
17:12:52 4 Thank you. Now, I believe you also testified
17:12:58 5 in your deposition that Franklin had its own
17:13:04 6 key to dump at night, correct?
17:13:08 7 A. I don't remember what -- I don't
17:13:08 8 remember.
17:13:11 9 Q. Okay. Why don't we look at one
17:13:14 10 other deposition from another employee. You
17:13:18 11 remember talking with me yesterday about Horace
17:13:23 12 Boesch, Jr.?
17:13:23 13 A. Right.
17:13:23 14 Q. Right. Okay. Why don't we do the
17:13:25 15 same thing we just did here. We'll do it with
17:13:28 16 Mr. Boesch's deposition as well. I'm going to
17:13:30 17 hand you a document which -- excuse me, are we
17:13:30 18 up to 10?
17:13:30 19 THE COURT REPORTER: 9.
17:13:30 20 BY MR. HAUGHEY:
17:13:40 21 Q. I'm going to hand you a document
17:13:41 22 which I'm asking to be marked as Defendants'
17:13:43 23 Exhibit 9, which is Mr. Boesch's deposition.
17:13:43 24 (Thereupon, Defendants' Exhibit
17:13:43 25 Number 9, deposition of Horace Boesch, Jr., taken

17:13:43 1 on the 28th day of February, 2006, was marked for
17:14:12 2 purposes of identification.)
17:14:12 3 BY MR. HAUGHEY:
17:14:12 4 Q. Okay. Do you have Defendants'
17:14:15 5 Exhibit 9 in front of you?
17:14:15 6 A. Yes, I do.
17:14:16 7 Q. Okay. On the very top left part
17:14:19 8 of page one, do you see there where it says
17:14:21 9 this is a videotaped deposition of Horace
17:14:21 10 J. Boesch, B-O-E-S-C-H, Jr.? Do you see that
17:14:32 11 at the top of page one, it says who the
17:14:34 12 deposition is of?
17:14:34 13 A. I don't see video, see where it --
17:14:35 14 Q. That's okay. Just take your time.
17:14:37 15 We're at page one. We're on the same four
17:14:40 16 pages, they're numbered --
17:14:43 17 A. This number is lined. Is there a
17:14:43 18 line there?
17:14:43 19 Q. Yeah. Look at numbers nine and
17:14:48 20 ten on page one there.
17:14:49 21 A. Well, there's nothing on ten, and
17:14:52 22 nine says Montgomery, Ohio. Do we have the
17:14:56 23 same paper?
17:15:06 24 Q. Yeah. No, we don't. We're
17:15:07 25 using -- we have the same deposition, but we

17:15:09 1 don't have the -- can I look at -- excuse me
17:15:14 2 for a moment. Can I look at yours to see if
17:15:14 3 it's --
17:15:14 4 A. Sure. Yes.
17:15:16 5 Q. Okay. Well, look at line 16 on
17:15:20 6 both of yours. It looks like I've got two
17:15:22 7 different versions of it. Line 16, and doesn't
17:15:25 8 line 16 confirm that that is, indeed, the
17:15:30 9 deposition of Horace Boesch, Jr.?
17:15:35 10 A. Yes.
17:15:36 11 Q. Okay. All right. Thank you. I'm
17:15:38 12 sorry for having two different formats.
17:15:40 13 A. That's okay.
17:15:40 14 Q. All right. Now, let's look at his
17:15:42 15 deposition, and let's see what he has to say.
17:15:45 16 Can you turn to page 25 of his deposition.
17:16:34 17 This is not going to work. We're
17:16:35 18 going to use my copy, because the formatting is
17:16:40 19 different. So when we're done here, we will
17:16:42 20 change and we'll put this one into the record
17:16:44 21 and I'll take off the tabs and we'll make this
17:16:47 22 one Defendants' Exhibit Number 9.
17:16:52 23 So I'm going to hand you, and,
17:16:53 24 again, apologize for the discrepancy with using
17:16:58 25 two different formats. Now, same question

17:17:00 there on pages 25 -- at the bottom of page 25
17:17:04 there's some highlighting in yellow.
17:17:08 Can you read that series --
17:17:12 doesn't that series of questions and answers
17:17:14 identify other sources of foundry waste coming
17:17:20 to the site including NCR?
17:17:21 A. Correct.
17:17:22 Q. Okay. Reading further -- can I
17:17:26 have it back just for a second?
17:17:27 A. Yes.
17:17:28 Q. Okay. And didn't it also identify
17:17:31 Dayton-Walther as sending foundry waste, same
17:17:38 location?
17:17:40 A. Yes.
17:17:40 Q. Okay. Now, turn to page 61.
17:17:42 A. 61?
17:17:53 Q. Yes.
17:17:53 A. Okay.
17:17:54 Q. Can you hand it back to me and
17:17:56 then I'll ask you the question and then give it
17:17:58 to you?
17:18:01 Okay. On the bottom of page 61
17:18:04 carrying onto page 62, can you identify the
17:18:09 companies that Mr. Boesch testified dumped at
17:18:15 night and dumped foundry waste at the site?

17:18:17 1 And tell me what those two
17:18:19 2 companies are and tell me if you agree that one
17:18:21 3 was the Dayton-Walther Corporation and one was
17:18:24 4 a company called Finn, F I N N?
17:18:27 5 MR. ROMINE: I object to the extent
17:18:27 6 you're asking him to -- to read the content of a
17:18:30 7 deposition testimony and ask him what it says.
17:18:33 8 BY MR. HAUGHEY:
17:18:33 9 Q. Yeah. No, I'm asking, you know,
17:18:36 10 do you agree that it represents the testimony
17:18:39 11 of Mr. Boesch that Dayton-Walther and a company
17:18:43 12 called Finn were also sending foundry waste to
17:18:47 13 this site, correct?
17:18:48 14 MR. ROMINE: Same objection.
17:18:54 15 THE WITNESS: It just --
17:18:54 16 BY MR. HAUGHEY:
17:18:59 17 Q. That's okay. I mean, does it --
17:19:00 18 does that highlighted text also -- in the
17:19:02 19 deposition of Mr. Boesch also identify
17:19:06 20 Dayton-Walther and Finn as having sent foundry
17:19:10 21 waste to the site?
17:19:11 22 A. And NCR, yes.
17:19:12 23 MR. ROMINE: Same -- same objection.
17:19:12 24 THE WITNESS: Yes.
17:19:12 25 BY MR. HAUGHEY:

17:19:13 1 Q. Okay. Now, turn to page 144 and
17:19:17 2 145. Here, I'll tell you what. I'll turn the
17:19:25 3 page to you. That way I can get the question
17:19:27 4 and then I'll hand it right back to you.
17:19:27 5 A. All right.
17:19:30 6 Q. Thank you.
17:19:30 7 MR. ROMINE: Please give me time
17:19:31 8 to --
17:19:31 9 THE WITNESS: Yeah. Yeah.
17:19:31 10 MR. ROMINE: Please give me time to
17:19:31 11 object after he asks his questions.
17:19:34 12 BY MR. HAUGHEY:
17:19:34 13 Q. Okay. All right. What I'd like
17:19:39 14 you to do is, on your own, look at the
17:19:42 15 highlighted text of Mr. Boesch's deposition,
17:19:46 16 highlighted in yellow, on pages 144 and
17:19:49 17 carrying onto page 145, and tell me if you
17:19:55 18 agree that that testimony -- if you have any
17:20:03 19 reason to -- any reason to dispute the accuracy
17:20:05 20 of that testimony.
17:20:07 21 A. Pardon me?
17:20:07 22 Q. Yeah. I want you to look at the
17:20:09 23 testimony on pages 144 and 145 that is
17:20:13 24 highlighted and tell me if there's any reason
17:20:16 25 to believe that Mr. Boesch is lying.

17:20:35 1 A. I don't believe he's lying, no.
17:20:36 2 Q. Okay. All right. Thank you. Do
17:20:40 3 you know if anyone else has given a deposition
17:20:44 4 who worked at the landfill along with you,
17:20:46 5 other than Mike Wendling and Horace Boesch,
17:20:52 6 Jr.?
17:20:52 7 A. Well, I think your information
17:20:58 8 isn't quite accurate. As far as Horace, to my
17:21:01 9 knowledge, if he worked at the dump, it had to
17:21:04 10 have been in the '30s or '40s.
17:21:05 11 Q. Okay. Well, how about if I --
17:21:07 12 Horace Boesch, Jr.
17:21:09 13 A. That's what I mean, I'm sorry,
17:21:11 14 junior, junior, junior.
17:21:11 15 Q. Right, right, junior would --
17:21:13 16 we're not talking about senior, we're talking
17:21:15 17 about junior.
17:21:15 18 A. Yeah, in the -- before my time,
17:21:18 19 before the '60s --
17:21:18 20 Q. Yeah. Yeah.
17:21:20 21 A. -- I don't remember. I made a
17:21:22 22 statement yesterday that his involvement on the
17:21:26 23 dump, to my knowledge, was only the erecting --
17:21:34 24 the disassembling and erecting of a certain
17:21:35 25 building they -- they got from Wright-Patterson

17:21:37 1 Air Force Base.
17:21:38 2 Q. Okay. But based on what we just
17:21:40 3 looked at in terms of his deposition testimony,
17:21:42 4 he seems to have a lot more knowledge about
17:21:45 5 waste disposal than what you think he has,
17:21:46 6 correct?
17:21:46 7 MR. ROMINE: Objection. Calls for
17:21:47 8 opinion.
17:21:48 9 THE WITNESS: At that time frame,
17:21:49 10 yes.
17:21:50 11 BY MR. HAUGHEY:
17:21:50 12 Q. Yes. Okay. Thank you.
17:21:50 13 A. Um-hum.
17:21:51 14 Q. All right.
17:21:51 15 MR. ROMINE: Steve, can you make as
17:21:55 16 an exhibit -- or mark as an exhibit the deposition
17:21:58 17 testimony that you put in front of him?
17:21:59 18 MR. HAUGHEY: I did. Yes, let's do
17:22:01 19 that. I'll tell you what. Why don't we do this,
17:22:03 20 David: Why don't I just wait till we're done,
17:22:06 21 because I'd like to wrap up, and then we'll fix
17:22:08 22 the discrepancy, and, again, I apologize for
17:22:12 23 having the wrong format.
17:22:12 24 BY MR. HAUGHEY:
17:22:13 25 Q. Okay. Let's talk a little bit --

17:22:15 1 I'm close to being done. I want to talk about
17:22:19 2 your memory. Edward, you have an amazing
17:22:21 3 memory of dates from the '60s, from 1960, when
17:22:26 4 you were eight, to early '70s, about what took
17:22:28 5 place at the landfill, correct?
17:22:30 6 A. Yes.
17:22:30 7 Q. Right. And you've testified over
17:22:32 8 the last couple of days about McCall's waste
17:22:37 9 starting in 1963 and ending in this day,
17:22:40 10 remember -- remember you had -- amazing.
17:22:43 11 So did -- does your memory also --
17:22:47 12 is your memory that good that you remember
17:22:49 13 other things that occurred in the '60s as well?
17:22:53 14 How about, you know, some of the
17:22:55 15 bigger events, the national, the worldwide
17:22:58 16 events that took place in the '60s, do you
17:22:58 17 remember those?
17:23:00 18 A. Oh, yeah.
17:23:01 19 Q. Okay.
17:23:01 20 MR. ROMINE: Objection to relevance.
17:23:04 21 BY MR. HAUGHEY:
17:23:04 22 Q. All right. Do you remember what
17:23:07 23 year John F. Kennedy was elected?
17:23:09 24 MR. ROMINE: Objection. Relevance.
17:23:10 25 THE WITNESS: Elected?

17:23:10 1 BY MR. HAUGHEY:
17:23:11 2 Q. Elected, yeah.
17:23:11 3 A. I believe 1960.
17:23:13 4 Q. Do you remember when his brother,
17:23:17 5 Robert F. Kennedy, was assassinated?
17:23:19 6 MR. ROMINE: Same objection.
17:23:21 7 THE WITNESS: I believe '65 or '66.
17:23:25 8 BY MR. HAUGHEY:
17:23:26 9 Q. Okay. All right. Do you remember
17:23:30 10 if we -- do you remember what year in the '60s
17:23:33 11 we landed a man on the moon?
17:23:34 12 MR. ROMINE: Same objection.
17:23:45 13 THE WITNESS: I can only state it was
17:23:50 14 in the early '60s, but I don't have the definite
17:23:53 15 date. It was the early '60s.
17:23:55 16 BY MR. HAUGHEY:
17:23:55 17 Q. Okay. Do you remember when
17:23:58 18 John F. Kennedy was assassinated?
17:24:00 19 MR. ROMINE: Same objection.
17:24:02 20 THE WITNESS: Yeah, '63, I believe.
17:24:03 21 BY MR. HAUGHEY:
17:24:03 22 Q. Okay. Do you remember when the
17:24:10 23 Civil Rights riots occurred in Dayton?
17:24:12 24 MR. ROMINE: Same objection.
17:24:20 25 THE WITNESS: I believe it to be '64,

17:24:21 1 '65, but I'm leaning more towards '65 called the
17:24:26 2 '65 riots of -- like in Detroit and so on.
17:24:26 3 BY MR. HAUGHEY:
17:24:29 4 Q. All right. Okay. Thank you. All
17:24:30 5 right. Now, did Bill Walsh or Larry Silver or
17:24:39 6 David ever help you with your memory of the
17:24:44 7 customers who used this site?
17:24:44 8 A. No.
17:24:46 9 Q. Did they ever correct a statement
17:24:49 10 you made about a customer at this site?
17:24:49 11 A. No.
17:24:54 12 Q. Okay. Did they ever tell you that
17:24:57 13 you said something different in your deposition
17:25:00 14 in 2012 than what you're saying today?
17:25:02 15 A. No.
17:25:03 16 Q. Okay. Now, your deposition notice
17:25:10 17 gives your address as Snow Hill, North
17:25:13 18 Carolina. Did you know that?
17:25:14 19 A. Correct.
17:25:14 20 Q. Okay. But yet you testified
17:25:18 21 earlier that you've been living up here for at
17:25:21 22 least the last year and a half, not in North
17:25:23 23 Carolina, correct?
17:25:24 24 A. Correct.
17:25:25 25 Q. Okay. So that's not the correct

17:25:27 1 address for you anymore, Snow Hill, North
17:25:31 2 Carolina, correct?
17:25:33 3 A. Correct.
17:25:33 4 Q. Okay. All right. Now, the last
17:25:40 5 thing I have, you and I talked a lot yesterday,
17:25:45 6 and I specifically asked you if anyone was
17:25:50 7 paying for your hotel or lodging and food up
17:25:53 8 here for purposes of this deposition. Do you
17:25:56 9 remember me asking you that?
17:25:57 10 A. Um-hum.
17:25:57 11 Q. Yeah. And do you remember telling
17:26:00 12 me the answer was no?
17:26:03 13 A. No, I -- because I wouldn't have
17:26:07 14 lied, and I'd remember I -- it was -- I don't
17:26:09 15 know how it was paid for, okay?
17:26:12 16 Q. No, that -- that's not what I
17:26:13 17 asked you. What I recall asking you was, was
17:26:16 18 anyone paying for your hotel and meals for
17:26:19 19 purposes of this deposition and your saying no.
17:26:22 20 A. Oh, no, because I know better.
17:26:23 21 Q. Okay. So they are. Okay. So --
17:26:25 22 A. Um-hum.
17:26:26 23 Q. You just -- you may have
17:26:28 24 misremembered, is that what you're saying?
17:26:30 25 A. Or maybe I didn't understand the

17:26:32 1 exact way you worded it.
17:26:34 2 Q. Okay. Do you remember me also
17:26:38 3 asking you if you met with anyone else before
17:26:42 4 your deposition, other than Bill Walsh, and
17:26:44 5 your saying no?
17:26:48 6 A. But that wouldn't be consistent.
17:26:52 7 We had dinner. I think we talked about I had
17:26:54 8 dinner with -- but talking about deposition?
17:26:54 9 Yeah. No, I -- you know, no, no, no.
17:26:57 10 Q. That's what I meant, yeah. So it
17:26:58 11 may have been just a misunderstanding about --
17:26:59 12 A. Right.
17:27:00 13 Q. -- what you thought the question
17:27:01 14 was about?
17:27:01 15 A. Right.
17:27:02 16 Q. Okay. Do you recall the testimony
17:27:05 17 earlier about your receiving the two five
17:27:09 18 hundred dollar checks?
17:27:09 19 A. Correct.
17:27:10 20 Q. Did those checks state what they
17:27:13 21 were for?
17:27:13 22 A. Yes.
17:27:14 23 Q. What were they for?
17:27:16 24 A. Gas mileage and I think lodging
17:27:24 25 and food, I think, but I'm not sure about the

17:27:30 1 lodging and food.
17:27:31 2 Q. Okay. Both of them for the same
17:27:33 3 thing?
17:27:33 4 A. Correct.
17:27:34 5 Q. Okay. Why would you be paid
17:27:36 6 twice? Did you make two trips up here in 2012?
17:27:39 7 A. No, I went back to Snow Hill after
17:27:43 8 everything was done with the deposition and I
17:27:46 9 stayed -- stayed longer because I had -- people
17:27:48 10 had honey-do lists for me to do, so -- so I
17:27:53 11 think I moved down October -- it might have
17:27:58 12 been October of that year.
17:27:58 13 Q. Okay. I'm -- I'm confused.
17:27:58 14 A. No, no, no.
17:28:00 15 Q. You only came up one time for one
17:28:02 16 deposition in 2012, correct?
17:28:04 17 A. Correct, um-hum.
17:28:05 18 Q. Okay. Then why did you get two
17:28:08 19 five hundred dollar checks for mileage and
17:28:09 20 other expenses?
17:28:10 21 A. Because the trip coming up and the
17:28:12 22 trip going back.
17:28:13 23 Q. Really? So you made over a
17:28:17 24 thousand dollars for mileage for a trip up and
17:28:19 25 a trip back, correct?

17:28:21 1 A. Um-hum.
17:28:21 2 MR. EDDY: Is that a yes, just for
17:28:21 3 the record?
17:28:23 4 BY MR. HAUGHEY:
17:28:23 5 Q. Is that a yes for the record?
17:28:29 6 A. Yes. Do you want me to explain
17:28:31 7 why?
17:28:31 8 Q. If you want to, sure.
17:28:34 9 A. It was a RV, a motor home, and I
17:28:37 10 was pulling a trailer behind it. That's why it
17:28:40 11 took so much gas.
17:28:42 12 MR. HAUGHEY: Okay. I'd like to take
17:28:47 13 a moment to look at my notes to see if I have
17:28:50 14 anything else. Thank you. I do. Oh, no, just
17:28:54 15 give me another moment here. I want to make sure
17:28:58 16 I don't miss something. Thank you.
17:28:58 17 BY MR. HAUGHEY:
17:29:09 18 Okay. I have just -- do you remember
17:29:12 19 ever filling out of a dumping ticket for Standard
17:29:18 20 Register?
17:29:18 21 A. No.
17:29:18 22 Q. Okay. Do you remember seeing any?
17:29:21 23 A. No.
17:29:21 24 Q. Okay. Do you remember filling out
17:29:23 25 a dumping ticket for Coca-Cola?

17:29:27 1 A. No.
17:29:28 2 Q. Okay. Do you remember seeing them
17:29:30 3 in the pile?
17:29:33 4 A. Well, if you're talking about
17:29:34 5 sorting, yeah.
17:29:35 6 Q. No, no, no, dumping tickets. Do
17:29:37 7 you remember seeing dumping tickets with the
17:29:39 8 name Coca-Cola on them that maybe Kenneth would
17:29:43 9 have prepared?
17:29:43 10 A. Well, I made a statement yesterday
17:29:49 11 during the deposition that one of my jobs was
17:29:51 12 to staple them together, so I put Ds, Es, Fs,
17:29:58 13 but I really didn't pay attention of the name,
17:30:01 14 so --
17:30:01 15 Q. Okay. All right. So I just
17:30:02 16 wanted to confirm.
17:30:03 17 A. Okay.
17:30:06 18 MR. HAUGHEY: Just a moment. Thank
17:30:08 19 you.
17:30:08 20 (Pause in proceedings.)
17:30:43 21 MR. HAUGHEY: Thank you. I'm done.
17:30:47 22 MR. ROMINE: Do you want a break?
17:30:49 23 THE WITNESS: I'm okay if you want to
17:30:50 24 keep going.
17:30:50 25 MR. ROMINE: Okay.

17:30:51 1 THE WITNESS: Get it done.
17:30:52 2 MR. HAUGHEY: Yeah, we're off the
17:30:53 3 record. We want to fix the label for Defendants'
17:30:53 4 Exhibit 9, which I believe is the Boesch depo.
17:30:53 5 (Thereupon, Defendants' Exhibit
17:30:53 6 Number 10, deposition of Horace Boesch, Jr., taken
17:30:53 7 on December 1st, 2011, was marked for purposes of
17:31:48 8 identification.)
17:31:48 9 (Pause in proceedings.)
17:31:52 10 CROSS-EXAMINATION
17:31:52 11 BY MR. PIERCE:
17:37:02 12 Q. Mr. Grillot, my name is David
17:37:04 13 Pierce. I'm an attorney at Coolidge Wall. I
17:37:07 14 represent two companies. Fickert Devco and
17:37:11 15 Dayton Industrial Drum, okay?
17:37:11 16 A. Um-hum.
17:37:13 17 Q. I just have a few questions for
17:37:16 18 you. Famous words from a lawyer. Did I
17:37:18 19 understand you correctly yesterday to say that
17:37:21 20 you had actually gotten a job at A.E. Fickert
17:37:24 21 at some point in time?
17:37:25 22 A. Correct.
17:37:25 23 Q. Now, did you work directly for
17:37:28 24 A.E. Fickert or did you work for one of the
17:37:30 25 other drivers at A.E. Fickert?

17:37:31 1 A. I worked for A.E. Fickert.
17:37:32 2 Q. And for what period of time did
17:37:34 3 you work for A.E. Fickert?
17:37:41 4 A. I believe '69 and maybe part of
17:37:49 5 '70.
17:37:50 6 Q. Do you remember who your
17:37:51 7 supervisor was at A.E. Fickert?
17:37:54 8 A. Darrell Fickert.
17:37:56 9 Q. And what were your job duties?
17:38:00 10 A. I started out as a painter.
17:38:04 11 Q. And when you were painting, where
17:38:06 12 were you painting?
17:38:07 13 A. They do fire alterations, so
17:38:12 14 houses throughout Dayton that had been damaged
17:38:15 15 by wind or fire.
17:38:16 16 Q. Residential?
17:38:17 17 A. Correct.
17:38:18 18 Q. All right. And did you, in your
17:38:21 19 employment at A.E. Fickert, take materials to
17:38:24 20 the South Dayton Dump?
17:38:25 21 A. I personally did not.
17:38:27 22 Q. Over what period of time do you
17:38:30 23 recall A. E. Fickert taking materials to the
17:38:33 24 South Dayton Dump?
17:38:34 25 A. What time period?

17:38:36 1 Q. Yes.
17:38:39 2 A. It would have to been '67, '68,
17:38:45 3 somewhere in that time frame.
17:38:47 4 Q. And when did A.E. Fickert stop
17:38:49 5 taking materials to the South Dayton Dump?
17:38:51 6 A. It was during -- I was working
17:38:53 7 there, he got a big Dumpster, and I don't know
17:38:56 8 what they done with it after that, so --
17:38:56 9 Q. All right.
17:38:58 10 A. A roll on, pull on.
17:38:58 11 Q. So in -- during 1967 or 1968, A.E.
17:39:03 12 Fickert stopped taking materials to the South
17:39:05 13 Dayton Dump?
17:39:05 14 A. Around that time frame, yeah.
17:39:09 15 Q. And when they did take materials
17:39:17 16 to the dump, I think you said in your last
17:39:20 17 deposition that they were taking materials
17:39:22 18 maybe twice a week, something like that?
17:39:25 19 A. At most, yeah.
17:39:26 20 Q. All right. And the materials they
17:39:30 21 were taking were general construction debris,
17:39:33 22 that type of thing?
17:39:34 23 A. Correct.
17:39:36 24 Q. And do you know if A.E. Fickert
17:39:37 25 was also taking materials to other dumpsites?

17:39:41 A. I wouldn't have known that.
17:39:43 Q. All right. So they may have been
17:39:44 taking materials to EPA approved sites?
17:39:48 A. Correct.
17:39:50 Q. And when did Fickert stop -- or
17:39:54 start taking materials to the South Dayton
17:39:56 Dump? I think you gave me the end date. I
17:39:58 want to make sure I got the start date.
17:40:00 A. To my knowledge, it would have
17:40:03 been the '67, '68 period.
17:40:07 Q. All during that same time period
17:40:09 was the starting and stop?
17:40:10 A. Right.
17:40:10 Q. And the only trucks that you can
17:40:14 recall from A.E. Fickert were pickup trucks?
17:40:17 A. Correct.
17:40:18 Q. And which part of the site did
17:40:20 they take the materials to?
17:40:22 A. That would have been the second
17:40:23 tier.
17:40:25 Q. And what happened to the materials
17:40:26 when they were taken there?
17:40:28 A. It was burnt.
17:40:31 Q. Let's switch gears and talk about
17:40:34 Dayton Industrial Drum, if we can. In 2012,

17:40:38 1 you were asked about drums coming from the
17:40:41 2 Barrel Factory, do you recall that?
17:40:42 3 A. Yes, I do.
17:40:43 4 Q. And you were also asked back then
17:40:45 5 if you had heard of Dayton Industrial Drum, do
17:40:48 6 you recall that?
17:40:48 7 A. Yes.
17:40:48 8 Q. Back then, you didn't specifically
17:40:52 9 mention drums coming from Dayton Industrial
17:40:55 10 Drums to the South Dayton Dump, do you know
17:40:57 11 why?
17:40:59 12 A. I do not.
17:41:01 13 Q. Do you know specifically if drums
17:41:06 14 came from Dayton Industrial Drums rather than
17:41:10 15 the barrel company to the South Dayton Dump?
17:41:14 16 A. I believe because they would have
17:41:16 17 liquid in them, you know, that was my -- you
17:41:20 18 know.
17:41:20 19 Q. All right. I'm asking you
17:41:22 20 though -- you've talked about two companies,
17:41:23 21 the barrel company and Dayton Industrial Drum,
17:41:26 22 okay?
17:41:26 23 A. Um-hum.
17:41:28 24 Q. Yes?
17:41:29 25 A. Yes. Yes. Yes.

17:41:31 1 Q. And do you know whether the drums
17:41:33 2 that went to the South Dayton Dump came from
17:41:36 3 Dayton Industrial Drum as opposed to the barrel
17:41:36 4 company?
17:41:40 5 A. I don't know that.
17:41:41 6 Q. All right. So the drums -- all
17:41:43 7 the drums that may have come to the South
17:41:46 8 Dayton Dump, may have come from the barrel
17:41:48 9 company rather than Dayton Industrial Drum?
17:41:50 10 A. Could have, yes.
17:41:51 11 Q. And do you have any knowledge, as
17:41:55 12 you sit here today, as to those two companies
17:41:58 13 being the same?
17:42:02 14 A. Do I believe that?
17:42:03 15 Q. Do you have any knowledge that
17:42:05 16 they are the same?
17:42:05 17 A. No, I don't have any knowledge,
17:42:07 18 no.
17:42:07 19 Q. Did I hear you right yesterday to
17:42:14 20 say you did not recall the name Dayton
17:42:18 21 Industrial Drum until you were working at the
17:42:20 22 Powell Road Landfill?
17:42:22 23 A. I believe so.
17:42:24 24 Q. And when was that?
17:42:29 25 A. '70, 1970, somewhere in there.

17:42:32 1 Q. All right. So prior to 1970, you
17:42:34 2 don't even recall the name Dayton Industrial
17:42:40 3 Drum?
17:42:40 4 A. I'm not -- I don't remember.
17:42:46 5 Q. And how often were you at the
17:42:52 6 South Dayton Landfill after you started working
17:42:55 7 at Powell Road?
17:42:57 8 A. How long after?
17:42:58 9 Q. Yeah, how often -- I assume once
17:43:01 10 you started working at Powell Road, you would
17:43:03 11 come to the South Dayton Landfill less often.
17:43:06 12 A. Right.
17:43:07 13 Q. And how often would you come to
17:43:10 14 the South Dayton Landfill while you were
17:43:11 15 working at the Powell Road Landfill?
17:43:15 16 A. It would be evenings and weekends
17:43:17 17 until -- no, no, no. Evenings and weekends.
17:43:19 18 Q. All right. I want to talk then
17:43:24 19 about your knowledge of drums coming from the
17:43:26 20 Barrel Factory.
17:43:27 21 Back in 2012, you told Mr. Silver
17:43:30 22 that that was from talking to other drivers.
17:43:33 23 Do you recall that?
17:43:34 24 A. Correct.
17:43:35 25 Q. Do you have any personal knowledge

17:43:38 1 from your own eyes or your own ears of drums
17:43:42 2 coming from the Barrel Factory?
17:43:43 3 A. No.
17:43:43 4 Q. The trucks that you indicated
17:43:49 5 from -- that you thought were Dayton Industrial
17:43:52 6 Drums' trucks, they had no markings on them
17:43:55 7 whatsoever, did they?
17:43:55 8 A. No.
17:43:56 9 Q. And whether they were coming from
17:44:03 10 Dayton Industrial Drums or someone else, when
17:44:05 11 is the first time you can recall seeing drums
17:44:08 12 that indicated they were from Dayton Industrial
17:44:11 13 Drum?
17:44:11 14 A. Could you rephrase that again,
17:44:13 15 please?
17:44:13 16 Q. Sure. It's a confusing question.
17:44:15 17 When is the first time you can recall seeing a
17:44:17 18 drum that said Dayton Industrial Drum on it?
17:44:24 19 A. I would have to go back, I don't
17:44:29 20 know.
17:44:29 21 Q. Sometime in the '70s?
17:44:32 22 A. Yeah. Yes. Yes.
17:44:36 23 Q. At what period of time did you see
17:44:38 24 those drums up until?
17:44:47 25 A. Mid '70s.

17:44:49 1 Q. So sometime starting in the '70s
17:44:51 2 until the mid '70s you saw drums that indicated
17:44:55 3 they were from Dayton Industrial Drums?
17:44:58 4 A. Yes.
17:44:59 5 Q. Now, let's talk about who was
17:45:01 6 bringing those drums there. Other companies
17:45:03 7 brought drums into the South Dayton Landfill,
17:45:06 8 didn't they?
17:45:07 9 A. Yes.
17:45:07 10 Q. All right. Which companies do you
17:45:11 11 recall bringing drums to the South Dayton
17:45:20 12 Landfill?
17:45:20 13 A. Delco Products, Frigidaire,
17:45:28 14 Inland. In my mind, that would be about it.
17:45:38 15 Q. How about Delphi and GM?
17:45:43 16 A. GM, yes. Yes.
17:45:46 17 Q. And those other companies could
17:45:48 18 bring drums to the landfill, some of them even
17:45:51 19 had keys to the landfill, didn't they?
17:45:54 20 A. Some of them what?
17:45:54 21 Q. Had keys to the landfill for -- to
17:45:56 22 come in at night?
17:45:57 23 A. Yes.
17:45:57 24 Q. Which ones had keys to the
17:46:00 25 landfill that also delivered drums to the

17:46:03 1 landfill?
17:46:13 2 A. I want to say Delco and maybe
17:46:13 3 Delphi.
17:46:21 4 Q. And how often were those companies
17:46:23 5 bringing drums to the landfill?
17:46:27 6 A. Once a week.
17:46:30 7 Q. How do you know -- when you see a
17:46:37 8 Dayton Industrial Drum drum, how do you know
17:46:41 9 it? What's it look like?
17:46:42 10 A. Well, I think I mentioned
17:46:44 11 yesterday, there was a slip that would be on
17:46:47 12 the side of the drum that was taped to plastic,
17:46:49 13 and I think there was mentioned another
17:46:50 14 company, too, that had the contents and where
17:46:55 15 it came from.
17:46:56 16 Q. All right. Are there any markings
17:46:57 17 though on the drum itself?
17:46:58 18 A. No. No. No.
17:47:00 19 Q. All right. So there would be a
17:47:02 20 slip on the drum that would say where it came
17:47:05 21 from or what it was?
17:47:06 22 A. Right.
17:47:06 23 Q. And it could be either of those,
17:47:09 24 this is a drum from a certain company or this
17:47:12 25 is what it is?

17:47:13 1 A. Yes.
17:47:15 2 Q. Are there any other markings on
17:47:17 3 the drums themselves?
17:47:18 4 A. Yes.
17:47:18 5 Q. All right. What other markings
17:47:22 6 would be on the drums to indicate it came from
17:47:25 7 or was affiliated with Dayton Industrial Drum?
17:47:28 8 A. It would not.
17:47:40 9 MR. PIERCE: I think that's all I
17:47:41 10 have for you. Thank you.
17:47:43 11 THE WITNESS: Thank you.
17:47:46 12 MR. ROMINE: Is there anybody else in
17:47:47 13 the room that has questions for the witness? Is
17:47:53 14 there anyone on the telephone that has questions
17:47:56 15 for the witness?
17:47:57 16 MR. SHARETT: This is Anthony
17:47:59 17 Sharett. I have a few questions on behalf of
17:48:02 18 DP&L.
17:48:02 19 MR. ROMINE: Are you ready to go
17:48:02 20 ahead?
17:48:02 21 CROSS-EXAMINATION
17:48:02 22 BY MR. SHARETT:
17:48:11 23 Q. Sir, my name is Anthony Sharett on
17:48:13 24 behalf of DP&L. I just have a few questions.
17:48:17 25 I believe earlier you testified

17:48:18 that you thought or anticipated that you may
17:48:22 have a chance to own the South Dayton Dump at
17:48:26 one time, is that correct?
17:48:27 A. Correct.
17:48:27 Q. And before I continue, just let me
17:48:29 make sure, it's late in the day here, I guess
17:48:32 close to six o'clock here. You're still able
17:48:34 and feeling well enough to answer just a few
17:48:36 questions?
17:48:36 A. Yes, sir.
17:48:37 Q. Okay. And let me ask you, had you
17:48:41 actually been able to garner ownership of the
17:48:45 site, what would you have done with the site?
17:48:47 MR. ROMINE: Objection.
17:48:52 Hypothetical. Form of the question.
17:48:54 THE WITNESS: I planned to operate it
17:48:57 pretty much in my manner, but I -- I would have
17:49:01 changed a few things.
17:49:03 BY MR. SHARETT:
17:49:03 Q. What would you have changed?
17:49:04 MR. ROMINE: Same objection.
17:49:07 THE WITNESS: I would have -- I had
17:49:09 a -- a drawing of how I wanted to puts slabs, like
17:49:16 the skids, and recycle more of the material.
17:49:20 As I got older, I learned that wood

17:49:24 1 and stuff like that can be pulverized and made
17:49:27 2 into mulch. Tires could be shredded into -- go
17:49:32 3 into asphalt and so on and so forth.
17:49:35 4 BY MR. SHARETT:
17:49:35 5 Q. So you would have tried to
17:49:37 6 repurpose some of the items that were brought
17:49:39 7 to the dump?
17:49:39 8 MR. ROMINE: Same objection.
17:49:41 9 THE WITNESS: Correct.
17:49:43 10 BY MR. SHARETT:
17:49:43 11 Q. What else would you -- what else
17:49:44 12 would you have done differently?
17:49:46 13 MR. ROMINE: Same objection.
17:49:46 14 BY MR. SHARETT:
17:49:53 15 Q. You said you would have done a few
17:49:55 16 things differently. I'm just trying to --
17:49:55 17 you've told me one. What else?
17:49:57 18 MR. ROMINE: Same objection.
17:50:03 19 THE WITNESS: There's con -- concrete
17:50:04 20 that -- and they're doing it today that can be
17:50:08 21 pulverized, I think that's the right word, broken
17:50:11 22 up and reused, so just -- I would purchase those
17:50:16 23 machines, what are very expensive, and I talked to
17:50:20 24 it -- about it with a gentleman that had a
17:50:23 25 landfill down in West Carrollton, and we kind of

17:50:26 1 had a idea of what we were going to do.
17:50:30 2 BY MR. SHARETT:
17:50:31 3 Q. And the gentleman that you talked
17:50:33 4 to was -- what line of business was he in?
17:50:36 5 A. In -- in the same business as
17:50:40 6 Alcine, he -- he had a landfill.
17:50:43 7 Q. And when did you have that
17:50:46 8 conversation?
17:50:48 9 A. In the early '80s.
17:50:51 10 Q. And how many times did you talk
17:50:52 11 with him about this topic?
17:50:55 12 A. Half a dozen.
17:50:59 13 Q. And what happened?
17:51:04 14 A. He mentioned to me that if I went
17:51:06 15 to Dad and asked for two million dollars to buy
17:51:11 16 the -- the one that breaks up the skids and
17:51:14 17 stuff for mulch and -- and other products and
17:51:19 18 the one for the concrete.
17:51:22 19 Q. And so you would have tried to
17:51:29 20 break down some of the materials to repurpose
17:51:30 21 it, but you still would have run it as a
17:51:33 22 landfill, correct?
17:51:33 23 MR. ROMINE: Objection.
17:51:34 24 Hypothetical.
17:51:35 25 THE WITNESS: Correct.

17:51:37 1 BY MR. SHARETT:
17:51:37 2 Q. And that means you still would
17:51:39 3 have allowed people to pay the company in order
17:51:44 4 to deliver items at the dump, correct?
17:51:46 5 MR. ROMINE: Same objection.
17:51:46 6 THE WITNESS: I had more of an idea
17:51:50 7 that if it was -- I would like to have done it --
17:51:54 8 because the incinerator and stuff at that
17:51:56 9 particular time was in operation, and I was
17:52:00 10 wanting to dump for free.
17:52:02 11 BY MR. SHARETT:
17:52:03 12 Q. Okay. But you still would have
17:52:04 13 operated as a dump, correct?
17:52:05 14 A. Yes.
17:52:05 15 MR. ROMINE: Same objection. Give me
17:52:07 16 time to object.
17:52:07 17 Q. Okay. And what was -- I'm sorry.
17:52:09 18 You were answering while there was an
17:52:11 19 objection. What did you -- and I'm on the
17:52:12 20 phone, so what did you say?
17:52:14 21 A. Yes.
17:52:15 22 Q. Okay. So I think you had also
17:52:19 23 testified that -- and I believe this was
17:52:21 24 yesterday, that, you know, you were wanting to
17:52:26 25 testify to clear your conscience regarding

17:52:29 1 operating the dump, correct?
17:52:30 2 A. Correct.
17:52:31 3 Q. And so I'm just trying to
17:52:34 4 reconcile the two, because on the one hand, you
17:52:37 5 say that you thought that you may -- you were
17:52:41 6 looking forward to owning the dump and running
17:52:42 7 it as a dump, but on the other, you say you're
17:52:46 8 here to testify to clear your conscience
17:52:47 9 regarding what happened at the dump.
17:52:50 10 Can you explain to me how you were
17:52:53 11 able to sort of reconcile those differences?
17:52:55 12 MR. ROMINE: Objection. Relevance.
17:52:57 13 THE WITNESS: Well, it would -- I
17:53:00 14 don't know if it sounds obvious, but you heard me
17:53:03 15 say that I would very seldom -- everything has a
17:53:09 16 use in this -- on this planet. We haven't just
17:53:13 17 found ways to use it, so I felt it would be to the
17:53:19 18 earth's best interests to recycle as much as
17:53:21 19 possible, which we're doing today, and eventually
17:53:26 20 digging up the dump and getting some of the --
17:53:30 21 because there are a lot of material that was done
17:53:33 22 earlier that -- that was quickly dumped without
17:53:35 23 knowing that some of the other products, like
17:53:38 24 glass and stuff like that, had a purpose.
17:53:41 25 So I was -- I was looking forward to

17:53:44 1 the future and making it done right so my
17:53:49 2 conscience, I felt that would help do that.
17:53:54 3 BY MR. SHARETT:
17:53:55 4 Q. Switch gears a little bit and talk
17:53:58 5 about your health. It's been covered, I think,
17:54:01 6 at length over the last -- the last two days,
17:54:03 7 so I'm not going to belabor the point, but
17:54:08 8 your -- your physician that you see for your
17:54:09 9 pancreatitis, what was his name again?
17:54:12 10 MR. ROMINE: Asked and answered.
17:54:16 11 THE WITNESS: Al Samkari.
17:54:16 12 BY MR. SHARETT:
17:54:18 13 Q. And where's he -- where does he
17:54:20 14 practice, what city?
17:54:21 15 A. Dayton, Ohio.
17:54:22 16 Q. And when's the last time you've
17:54:26 17 seen that physician?
17:54:28 18 A. It would have been on the 4th of
17:54:33 19 this month.
17:54:35 20 Q. And -- and is that physician a
17:54:41 21 specialist?
17:54:43 22 A. I'm not sure.
17:54:48 23 Q. Does he specialize in dealing with
17:54:51 24 patients that have pancreatitis?
17:54:53 25 MR. ROMINE: Asked and answered.

17:54:55 1 THE WITNESS: I know he's a
17:54:56 2 general -- general doctor, so I -- I guess that
17:55:00 3 would put him in that category, I'm not sure.
17:55:03 4 BY MR. SHARETT:
17:55:03 5 Q. But do you -- you don't know if he
17:55:05 6 specializes in dealing with people that have
17:55:07 7 your condition?
17:55:08 8 MR. ROMINE: Asked and answered.
17:55:09 9 THE WITNESS: I would say I don't
17:55:13 10 know.
17:55:13 11 BY MR. SHARETT:
17:55:13 12 Q. You don't know. Well, I don't
17:55:15 13 want you to guess. If you don't know, you
17:55:15 14 don't know.
17:55:17 15 A. I don't know.
17:55:17 16 Q. Is -- were you referred to him by
17:55:20 17 another physician?
17:55:20 18 A. No.
17:55:22 19 Q. Okay. So how did you find him?
17:55:28 20 A. He's a doctor that I had seen back
17:55:33 21 in the early '70s at Miami Valley Hospital.
17:55:39 22 Then just recently, we reunited meeting
17:55:45 23 together, and he's the one, well, you might
17:55:49 24 recall that I said, sent me down to Marco
17:55:52 25 Island in Florida to redo a house for him.

17:55:57 1 Q. Okay. So when you saw him in the
17:56:01 2 '70s or whatever that was initially, what did
17:56:04 3 you see him for?
17:56:05 4 A. For the alcoholism.
17:56:07 5 Q. Okay. So -- and does he have a
17:56:11 6 private practice or is he part of a hospital or
17:56:14 7 something like that?
17:56:15 8 A. To my knowledge, at first, in the
17:56:20 9 '70s, he was head of the alcohol and
17:56:25 10 psychiatric -- or just the alcohol ward of
17:56:28 11 Miami Valley Hospital. It's called the care
17:56:30 12 unit.
17:56:31 13 Q. Have you seen any other physician
17:56:36 14 that specializes in the pancreatitis that
17:56:39 15 you've said that you've -- that you have?
17:56:41 16 A. Other than the ERs, no.
17:56:45 17 Q. Are you planning on doing that?
17:56:48 18 A. Yes, I am.
17:56:50 19 Q. How did you pay for the medical
17:56:53 20 care that you received by this -- by the
17:56:56 21 physician that you saw a few weeks -- or about
17:56:58 22 a month ago?
17:57:01 23 A. Because of my work arrangement
17:57:04 24 with him, he -- he didn't charge me.
17:57:13 25 Q. The investigator that we've talked

17:57:15 1 about, is -- what's his last name? Mr. Walsh,
17:57:18 2 is that his name?
17:57:19 3 MR. ROMINE: Asked and answered.
17:57:22 4 THE WITNESS: Correct.
17:57:22 5 BY MR. SHARETT:
17:57:22 6 Q. Okay. How many times have you met
17:57:28 7 with him?
17:57:29 8 MR. ROMINE: Asked and answered.
17:57:36 9 THE WITNESS: A dozen times.
17:57:38 10 BY MR. SHARETT:
17:57:38 11 Q. Where do you meet with him?
17:57:44 12 A. Various locations.
17:57:47 13 Q. Well, give me a couple.
17:57:51 14 A. Probably most of them are at Old
17:57:55 15 Hickory restaurant here in Dayton.
17:57:58 16 Q. And how does he get in touch with
17:58:00 17 you to -- to have your meetings?
17:58:03 18 MR. ROMINE: Asked and answered.
17:58:04 19 THE WITNESS: Phone.
17:58:09 20 BY MR. SHARETT:
17:58:09 21 Q. And he pays for those meals where
17:58:11 22 you eat, correct?
17:58:12 23 A. Correct.
17:58:14 24 Q. Does he pay for anything else?
17:58:16 25 A. No.

17:58:20 1 Q. Have you talked with any other
17:58:22 2 investigators about this case, other than him?
17:58:25 3 A. No.
17:58:36 4 Q. You had mentioned that I think --
17:58:39 5 correct me if I'm wrong -- with the University
17:58:43 6 of Dayton, that you may have -- it may have
17:58:46 7 been difficult for you to separate this case
17:58:48 8 with some personal issues you may have had.
17:58:50 9 Was that the correct party, the University of
17:58:50 10 Dayton?
17:58:55 11 A. Yes.
17:58:56 12 MR. ROMINE: Asked and answered.
17:58:57 13 BY MR. SHARETT:
17:58:58 14 Q. Is that correct?
17:58:58 15 A. Yes.
17:59:00 16 MR. SHARETT: Okay. And just -- I
17:59:03 17 mean, this -- for the -- for the attorney who's
17:59:07 18 objecting, just -- I mean, it's okay to ask a
17:59:11 19 question that's been asked and answered before,
17:59:13 20 just -- that happens all the time, particularly
17:59:15 21 when you're trying to ask a line of questions, but
17:59:18 22 you can continue to object all day, that's fine,
17:59:20 23 we've been doing it for nine hours.
17:59:22 24 BY MR. SHARETT:
17:59:22 25 Q. Do you have those biases, sir,

17:59:26 1 against any of the other companies that we've
17:59:29 2 talked about today, any similar biases against
17:59:32 3 any other companies like you may have against
17:59:34 4 the University of Dayton?
17:59:36 5 And take your time on this,
17:59:37 6 because you've named a lot of companies so, you
17:59:40 7 know, just -- are there any other companies
17:59:43 8 that you think that you may feel a little
9 conflicted?
10 A. Yes.
11 (Thereupon, the court reporter
12 interrupted the proceedings.)
13 (Pause in proceedings.)
18:02:56 14 BY MR. SHARETT:
18:02:56 15 Q. All right. So I think we're back
18:02:59 16 on the record. I think what I was asking you
18:03:01 17 before we had to change the tape there was,
18:03:05 18 were there any other parties that we've talked
18:03:07 19 about today that you named where you may feel a
18:03:11 20 little conflict because of some personal
18:03:13 21 feelings you may have about the company, and I
18:03:14 22 think you answered the question, so I'm asking
18:03:17 23 you, who are those companies?
18:03:19 24 A. What's the word I want to use?
18:03:25 25 You guys, DP&L.

18:03:28 1 Q. Okay. Who else?
18:03:30 2 A. That's it.
18:03:32 3 Q. All right. And what's your issue
18:03:35 4 with DP&L?
18:03:39 5 A. The first one was, I tried to get
18:03:42 6 gas back in the '70s, I believe, in one of the
18:03:47 7 houses that my father had given me through the
18:03:51 8 houses we got through HUD, and at that time,
18:03:54 9 they were trying to go all electric, and it
18:04:00 10 took my dad to doing -- to get a meter. That
18:04:03 11 was the first instance.
18:04:04 12 And then through my life, I was
18:04:05 13 just struggling with my alcoholism and -- and
18:04:09 14 tight with money, I was shut off so many times.
18:04:12 15 A few times it got pretty dangerous, so I felt
18:04:16 16 bad about that situation. Then the last was
18:04:21 17 the dealings with DP&L with my father.
18:04:27 18 Q. All right. So you've described,
18:04:33 19 what I count, three separate situations where
18:04:35 20 you feel like you've had sort of a negative
18:04:37 21 experience with Dayton Power and Light, is that
18:04:39 22 correct?
18:04:39 23 A. Correct.
18:04:40 24 Q. The first one was you said that
18:04:43 25 you tried to get -- deal with them in the 1970s

18:04:48 1 with your dad. Could you talk about that
18:04:52 2 instance a little more so I can -- provide me a
18:04:54 3 little more detail, if you don't mind.
18:04:56 4 A. Well, I mentioned that we
18:04:57 5 purchased six HUD houses, and for my hard work,
18:05:01 6 Dad gave me one of the houses, and that
18:05:03 7 particular house, the meter was either taken
18:05:07 8 out or stolen. After I remodeled the house, I
18:05:11 9 just assumed we'd get a meter.
18:05:13 10 When I got done, I couldn't get
18:05:15 11 one because it was some kind of ruling you had
18:05:18 12 to go to all electric at that time, so
18:05:24 13 that's --
18:05:24 14 Q. And DP&L, Dayton Power and Light,
18:05:26 15 just to be clear, was supplying the power for
18:05:29 16 the meter?
18:05:31 17 A. Yes. At that time, Dayton Power
18:05:33 18 and Light was not only electric, but it was the
18:05:36 19 gas.
18:05:36 20 Q. So for that particular case, we're
18:05:39 21 talking about gas, correct?
18:05:41 22 A. Yes.
18:05:41 23 Q. Okay. And what was the result of
18:05:44 24 that situation?
18:05:47 25 A. Dad made some phone calls to DP&L,

18:05:52 1 and Dad had been nice enough to let them use
18:05:56 2 part of the dump, and he owned some property
18:06:00 3 adjacent to DP&L, and said if they graveled it
18:06:04 4 and put a fence around it, they could use that
18:06:07 5 to their leisure, and Dad just said, if you
18:06:12 6 can't get us a meter over here, then move your
18:06:16 7 vehicles.
18:06:16 8 Q. Um-hum. And so how did that make
18:06:20 9 you feel?
18:06:22 10 A. In which way?
18:06:25 11 Q. I mean, after -- you know, you
18:06:26 12 said that this may have impacted your feelings
18:06:29 13 towards DP&L. I'm trying to figure out how --
18:06:32 14 how they impacted your feelings.
18:06:34 15 As you can imagine, this may be
18:06:35 16 important to my client, so how did that impact
18:06:38 17 you?
18:06:38 18 A. Well, like I said, two ways. One
18:06:40 19 way was that I was frustrated because the time
18:06:43 20 we were living and -- and the reaction I got
18:06:46 21 from whoever I talked to on the phone at that
18:06:51 22 particular time, but relieved and proud of my
18:06:53 23 dad that -- for he was able to have a hold on
18:06:55 24 the situation.
18:06:57 25 Q. And I believe the second scenario

18:07:03 1 you gave me was that due to your alcoholism, it
18:07:09 2 sounds like DP&L, you said, had shut off your
18:07:12 3 electricity multiple times, is that correct?
18:07:14 4 A. Correct.
18:07:16 5 Q. When did they shut off your
18:07:22 6 electricity?
18:07:23 7 A. Several times. I -- I can't give
18:07:26 8 you specific, but I do remember 1978 to be for
18:07:31 9 sure.
18:07:35 10 Q. And was that for nonpayment?
18:07:37 11 A. Correct.
18:07:38 12 Q. And where were you living where
18:07:43 13 that electricity was shut off in 1978?
18:07:47 14 A. Be -- I think it was 75 Anderson
18:07:59 15 Street off of -- off of Wayne Avenue.
18:08:01 16 Q. Is that in Dayton?
18:08:03 17 A. Yes.
18:08:03 18 Q. And it sounds like subsequent to
18:08:07 19 that or after that, DP&L has shut off your
18:08:11 20 electricity as well?
18:08:12 21 A. Correct.
18:08:12 22 Q. And was that ballpark time in the
18:08:17 23 '80s, '90s, 2000s? When did -- when did these
18:08:20 24 instances occur?
18:08:20 25 A. '70s and '80s.

18:08:24 1 Q. Approximately how many times did
18:08:25 2 that happen?
18:08:28 3 A. When I couldn't pay it.
18:08:31 4 Q. Well, sir, your memory has been
18:08:33 5 excellent over the past few days, so I'm just
18:08:35 6 going to assume that if your electricity is cut
18:08:37 7 off, you're going to know when that was, so
18:08:40 8 I'll ask again.
18:08:41 9 In the '80s, '90s about how --
18:08:44 10 '70s, '80s and '90s, approximately how many
18:08:45 11 times was your electricity shut off by Dayton
18:08:48 12 Power and Light?
18:08:50 13 A. Well, as you mentioned, I been on
18:08:51 14 this seat for nine hours and I'm tired and I
18:08:54 15 well can't think as well as probably I should,
18:08:56 16 but I'll do as best as I can for you.
18:09:01 17 Q. To the -- to the extent that you
18:09:02 18 can.
18:09:17 19 A. 1970.
18:09:20 20 Q. Okay.
18:09:28 21 A. '74. I mentioned '78 already.
18:09:40 22 Q. Okay.
18:09:42 23 A. And around the time frame of '81
18:09:46 24 and '82.
18:09:50 25 Q. All right. So I count at least

18:09:55 1 five separate years where your electricity was
18:09:58 2 cut off by DP&L because your bill wasn't paid,
18:10:02 3 correct?
18:10:03 4 MR. ROMINE: Objection.
18:10:04 5 Mischaracterizes his testimony.
18:10:06 6 THE WITNESS: Correct.
18:10:06 7 BY MR. SHARETT:
18:10:06 8 Q. I'm sorry?
18:10:06 9 A. Correct.
18:10:07 10 Q. All right. And when -- you know,
18:10:11 11 when DP&L shut off your electricity, how did
18:10:12 12 that make you feel?
18:10:17 13 A. Obviously I blamed myself because
18:10:20 14 I didn't have accurate funds for whatever
18:10:22 15 reason, but I felt there was no wiggle room on
18:10:28 16 negotiation for whatever -- for whatever
18:10:31 17 reason.
18:10:33 18 Q. Just kind of feel like DP&L didn't
18:10:35 19 work with you enough?
18:10:36 20 A. Correct.
18:10:38 21 Q. All right. And then the last
18:10:40 22 instance you gave, you said that dealt with
18:10:43 23 DP&L and your father, did I get that right?
18:10:46 24 A. Correct.
18:10:47 25 Q. Talk to me about that. What is

18:10:49 1 that about?
18:10:51 2 A. Most -- mostly on parking
18:10:57 3 instance -- instant -- parking things where
18:11:00 4 they were parking vehicles. That was the
18:11:08 5 main -- pretty much the main issue.
18:11:10 6 Q. I'm sorry. That doesn't really
18:11:14 7 tell me what that means. Could you kind of
18:11:17 8 expand upon that? Parking vehicles, what do
18:11:19 9 you mean by that?
18:11:20 10 A. Well, they were dumping the
18:11:23 11 long -- longer trucks with maybe big spools on
18:11:25 12 it, and it was between the pit that was
18:11:31 13 being -- that -- what do you call it, the sand
18:11:36 14 and gravel sticking out and the dump, and
18:11:39 15 sometimes they would block the entrance which
18:11:43 16 would lead to the site in which they needed to
18:11:47 17 go up and down the road to get -- get the sand
18:11:50 18 and gravel, and it angered him, you know, if --
18:11:55 19 if they couldn't get down there.
18:11:58 20 Q. You gave a deposition, I believe,
18:12:01 21 last year where -- when you were asked a lot of
18:12:04 22 questions about Dayton Power and Light,
18:12:06 23 correct?
18:12:07 24 A. Last year?
18:12:09 25 Q. 2012.

18:12:10 1 A. Oh, 2012. And what was the
18:12:13 2 question again?
18:12:14 3 Q. Did you -- in the prior deposition
18:12:16 4 that you took, did you answer questions
18:12:19 5 regarding your knowledge about Dayton Power and
18:12:22 6 Light?
18:12:24 7 A. I don't recall.
18:12:25 8 Q. You don't remember?
18:12:27 9 A. No.
18:12:28 10 Q. Let me ask you a different
18:12:30 11 question. Do you think that -- do you think
18:12:33 12 that you could be fair when talking about
18:12:37 13 DP&L's involvement in this lawsuit given your
18:12:41 14 previous history that we've just discussed
18:12:44 15 regarding what happened with the HUD houses and
18:12:47 16 what happened with the termination of your
18:12:49 17 electricity?
18:12:49 18 A. Yes, I could.
18:12:52 19 Q. How can you do that?
18:12:56 20 A. Being sober as long as I am now,
18:12:59 21 that one of the ways of staying sober is live
18:13:09 22 and let live. There's a lot of variability --
18:13:11 23 or variables on my process of staying sober,
18:13:19 24 one which is -- one of the sayings is like
18:13:25 25 animosity will get you drunk again, something

18:13:28 1 like that, but I can't remember, but that's --
18:13:31 2 that's the -- that's the main reason I'm trying
18:13:32 3 to take what was my -- my fault and what --
18:13:40 4 other people's fault and forget about it.
18:13:45 5 Q. And you think you can -- you can
18:13:47 6 do that despite the fact you had -- you had
18:13:51 7 some of those ill feelings about Dayton Power
18:13:53 8 and Light given your previous experiences with
18:13:56 9 them?
18:13:57 10 MR. ROMINE: Asked and answered.
18:13:58 11 THE WITNESS: Yes, sir.
18:13:59 12 MR. SHARETT: Okay. I have no
18:14:00 13 further questions.
18:14:02 14 MR. ROMINE: Was there any other
18:14:03 15 lawyer on the phone that had questions for Mr.
18:14:07 16 Grillot?
18:14:07 17 MS. HUNT: Ann Hunt for Day
18:14:13 18 International. No, I have no questions at this
18:14:14 19 time. Thank you.
18:14:20 20 MR. ROMINE: Anyone else on the
18:14:20 21 phone? Does anyone else here in the room have any
18:14:25 22 questions for Mr. Grillot? The deposition is
18:14:28 23 concluded.
18:14:28 24 (Thereupon, an off-the-record
18:14:28 25 discussion was had.)

18:15:33 1 MR. HAUGHEY: I had a brief
18:15:34 2 conversation with David here about the photographs
18:15:40 3 that were marked at Mr. Grillot's 2012 deposition.
18:15:45 4 I forget the exhibit numbers, but they're the
18:15:49 5 photographs of the buildings that I took him
18:15:50 6 through.
18:15:50 7 I did not mark them as separate
18:15:53 8 deposition exhibits in this case, but I think we
18:15:55 9 have an agreement that those exhibits in the prior
18:16:00 10 case can be used here.
18:16:04 11 MR. ROMINE: That could be -- that
18:16:04 12 could be deemed as exhibits in this case, too.
18:16:09 13 MR. HAUGHEY: Yeah, the -- just the
18:16:09 14 photographs. Does anybody got a problem with
18:16:13 15 that? If so, I want to hear it, just so I know
18:16:17 16 whether or not I want to mark them here and ask
18:16:19 17 the witness to simply testify to them.
18:16:22 18 If there's any issues with it, we
18:16:22 19 might as well get it out.
18:16:25 20 MR. COUGHLIN: You're only asking
18:16:26 21 about using the photographs?
18:16:28 22 MR. HAUGHEY: Correct.
18:16:33 23 MR. COUGHLIN: No objection.
18:16:34 24 MR. EDDY: None. We have that on the
18:16:35 25 record then. And I would simply say none of us

18:16:42 1 here represent you, Mr. Grillot, we appreciate
18:16:43 2 your patience here with all of us. And I'll
18:16:48 3 simply say you have the right to read your
18:16:50 4 transcript.
18:16:52 5 I don't represent you, none of the
18:16:54 6 lawyers in here represent you, as I understand it,
18:16:59 7 but you're allowed to read your transcript to make
18:17:00 8 sure that the court reporter accurately took down
18:17:02 9 your responses to the questions, or to make any
18:17:06 10 corrections to that. You can do that, to read it
18:17:11 11 and -- or you can waive that right.
18:17:11 12 If you want to read it and you don't
18:17:11 13 read it after a certain time, it's automatically
18:17:11 14 waived, I believe, under the rules, but you'll
18:17:22 15 have to tell the court reporter that on your own,
18:17:23 16 what you want to do or not do.
18:17:25 17 THE WITNESS: Okay. Thank you.
18:17:29 18 MR. HAUGHEY: Do we have an agreement
18:17:31 19 or stipulation as to the amount of time that he
18:17:32 20 will have to review?
18:17:34 21 MR. ROMINE: The default is 30 days.
18:17:36 22 MR. HAUGHEY: Right, I understand the
18:17:37 23 default, yeah. So we're going to go with the
18:17:37 24 default?
18:17:37 25 MR. ROMINE: Yeah.

18:17:39 MR. HAUGHEY: Okay. That's fine.

18:17:42 MR. EDDY: You need to let the court

18:17:42 reporter know what you want to do.

18:17:42 THE WITNESS: Okay. I would like a

18:17:42 copy.

18:17:42 THE COURT REPORTER: He'll have to

18:17:47 come to my office and read it.

THE WITNESS: Pardon me?

THE COURT REPORTER: You'll have to come to my office and read it. We'll send you a letter.

(Thereupon, an off-the-record discussion was had.)

18:18:21 THE WITNESS: I don't want to read

18:18:23 it.

18:18:23 (Thereupon, the deposition was

18:18:23 concluded at 6:18 p.m.)

STATE OF OHIO)
COUNTY OF MONTGOMERY) SS: CERTIFICATE

I, Barbara A. Nikolai, a Notary Public within and for the State of Ohio, duly commissioned and qualified,

DO HEREBY CERTIFY that the above-named EDWARD GRILLOT, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth.

Said testimony was reduced to writing by me stenographically in the presence of the witness and thereafter reduced to typewriting.

I FURTHER CERTIFY that I am not a relative or Attorney of either party, in any manner interested in the event of this action, nor am I, or the court reporting firm with which I am affiliated, under a contract as defined in Civil Rule 28(D).

1 IN WITNESS WHEREOF, I have hereunto set
2 my hand and seal of office at Dayton, Ohio, on
3 this 30th day of December, 2013.
4
5 _____
6 BARBARA A. NIKOLAI
NOTARY PUBLIC, STATE OF OHIO
My commission expires 12-13-2018
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