

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,
Plaintiff,

vs.

Case No. 5:89CV1988

INDUSTRIAL EXCESS LANDFILL,
INC., et al.,
Defendants.

STATE OF OHIO, et rel.,
LEE FISHER, ATTORNEY
GENERAL OF OHIO,
Plaintiff,

CONFIDENTIAL

vs.

Case No. 5:91CV2559

INDUSTRIAL EXCESS
LANDFILL, INC., et al.,
Defendants.

In Camera Sealed Deposition before Judge
John M. Manos of CHARLES M. KITTINGER, taken
before me, Michele E. Eddy, a Registered
Professional Reporter and Notary Public in and
for the State of Ohio, at the offices of Judge
John M. Manos, 33rd Floor Key Tower, Cleveland,
Ohio, on Wednesday, the 21st day of February,
2001, at 12:50 p.m.

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|---|---|---|---|
| 2 | <p>1 APPEARANCES:</p> <p>2</p> <p>3 On behalf of the Plaintiff United</p> <p>4 States of America:</p> <p>5 U.S. Department of Justice</p> <p>6 Environmental Enforcement</p> <p>7 Section, by</p> <p>8 STEVE C. GOLD, Senior Attorney</p> <p>9 P.O. Box 7611</p> <p>10 Ben Franklin Station</p> <p>11 Washington, D.C. 20044</p> <p>12 (202) 514-5260</p> <p>13</p> <p>14 U.S. Environmental Protection</p> <p>15 Agency, Region 5</p> <p>16 Office of Regional Counsel, by</p> <p>17 TIMOTHY J. THURLOW, ESQ.</p> <p>18 77 West Jackson Boulevard, C-14J</p> <p>19 Chicago, Illinois 60604-3590</p> <p>20 (312) 886-6623</p> <p>21</p> <p>22 —</p> <p>23</p> <p>24</p> <p>25</p> | 4 | <p>1 APPEARANCES, Continued:</p> <p>2</p> <p>3 On behalf of the Defendants The Goodyear</p> <p>4 Tire and Rubber Company,</p> <p>5 Bridgestone/Firestone, Inc., The</p> <p>6 B.F. Goodrich Company and Gen Corp:</p> <p>7 Shumaker, Loop & Kendrick, LLP, by</p> <p>8 DOUGLAS G. HAYMAN, ESQ.</p> <p>9 LOUIS E. TOSI, ESQ.</p> <p>10 North Courthouse Square</p> <p>11 1000 Jackson</p> <p>12 Toledo, Ohio 43624</p> <p>13 (800) 444-6659</p> <p>14</p> <p>15 On behalf of the Defendant Goodyear Tire</p> <p>16 & Rubber Company:</p> <p>17 The Goodyear Tire & Rubber</p> <p>18 Company, by</p> <p>19 FRANK A. CICH, ESQ.</p> <p>20 1144 East Market Street</p> <p>21 Akron, Ohio 44316-0001</p> <p>22 (330) 796-4362</p> <p>23</p> <p>24 —</p> <p>25</p> |
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1 APPEARANCES, Continued:
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 3 On behalf of the Defendant B.F. Goodrich:
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 12 Industries, Inc.:
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 12 On behalf of the Defendants Hyman Budoff,
 13 Hybud Equipment Corp., and
 14 Industrial Excess Landfill, Inc.:
 15 Day, Ketterer, Raley, Wright &
 16 Rybolt, Ltd., by
 17 MATTHEW YACKSHAW, ESQ.
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1 APPEARANCES, Continued:
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 3 On behalf of the Department of Justice:
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 16 Assistant United States
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 23
 24 ALSO PRESENT:
 25 Larry Drasner, Law Clerk

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1 CHARLES M. KITTINGER, of lawful age,
 2 called for examination as provided by the
 3 Federal Rules of Civil Procedure, being first
 4 duly sworn, as hereinafter certified, deposed
 5 and said as follows:
 6 THE COURT: Before we commence with
 7 the deposition, at the end of the deposition,
 8 each of you will given your name to the court
 9 reporter.
 10 Proceed, Mr. Gold.
 11 EXAMINATION OF CHARLES M. KITTINGER
 12 BY MR. GOLD:
 13 Q. Good afternoon, Mr. Kittinger.
 14 THE COURT: Louder.
 15 Q. Good afternoon, Mr. Kittinger. As
 16 you know, my name is Steve Gold, and I work for
 17 the United States Department of Justice. And I
 18 represent the plaintiff, the United States of
 19 America in this lawsuit.
 20 I'm going to ask you some questions
 21 today. I would ask that if at any time you
 22 don't understand my question, you ask me to
 23 rephrase it. Otherwise I'll assume that you
 24 understood it. Is that okay?
 25 A. Okay.

1 Q. And I would like to remind you that
 2 you need to keep your voice up and that you
 3 need to answer yes or no and not with m-hm or
 4 with nods. All right?
 5 A. Yes.
 6 Q. Could you tell us your age, please.
 7 Mr. Kittinger?
 8 A. 72.
 9 Q. What's your current employment?
 10 A. I drive a truck part-time for the
 11 postal service.
 12 Q. Are you an employee of the United
 13 States Postal Service?
 14 A. No, contract.
 15 Q. So you drive a truck part-time for
 16 a contractor to the postal service, is that
 17 correct?
 18 A. Different contractors, emergencies,
 19 yes.
 20 MR. TOSI: Charlie, if you could
 21 speak up a little bit. We have a big room
 22 today.
 23 Q. And primarily you do that driving
 24 at night, is that correct?
 25 A. It varies. Sometimes at night.

1 Q. What have you taken, please?
 2 A. Hytrin.
 3 Q. Is that a prescription medication?
 4 A. Prescription, yes.
 5 Q. Hytrin, is that right?
 6 A. Yes.
 7 Q. H Y T R I N?
 8 A. Correct.
 9 Q. Anything else?
 10 A. No, that's it.
 11 Q. When you testified in this case in
 12 your deposition in December and January, were
 13 you also taking Hytrin?
 14 A. Yes.
 15 Q. Have you taken any other
 16 medications in the past 30 years that might
 17 affect your memory or your mental condition?
 18 A. Not that I recall.
 19 Q. I just want to confirm that you're
 20 here voluntarily today, you were told you would
 21 be noticed, but you have not received a written
 22 notice of this deposition, have you?
 23 A. No.
 24 Q. And you understand that you are
 25 under oath?

1 Sometimes in the daytime.
 2 Q. And in fact you drove last night,
 3 right?
 4 A. That's correct.
 5 Q. When did you get home from your
 6 shift last night?
 7 A. 3:30.
 8 Q. Have you had enough sleep today?
 9 A. No.
 10 Q. How much sleep did you get?
 11 A. Probably three hours.
 12 Q. Are you feeling well today?
 13 A. I'm okay. I've had this flu for
 14 this past week. It's just - I'm just starting
 15 to get over it. I'll be okay.
 16 Q. In general have you been feeling
 17 well in the last few months? Do you have any
 18 chronic illnesses?
 19 A. No.
 20 Q. Are you being treated for any
 21 illness right now, mental or physical?
 22 A. No.
 23 Q. Have you taken any medications
 24 today?
 25 A. Yes.

1 A. Yes.
 2 Q. And you understand that although
 3 Judge Manos has issued an order sealing this
 4 testimony until further order of the court, if
 5 the court issues such further order, then at
 6 some time the testimony that you're giving
 7 today may become a matter of public record?
 8 A. That's fine with me if it does.
 9 Q. And one last question about that,
 10 which is that you are not represented by an
 11 attorney here today, is that correct?
 12 A. That's correct.
 13 Q. Thank you.
 14 Could you tell us a little bit
 15 about your educational background briefly?
 16 A. I graduated from college in 46,
 17 attended Kent State for a few semesters. And
 18 later on in 76 I attended Akron U, took
 19 business courses.
 20 Q. When you said in 46 you graduated
 21 from college, did you mean high school?
 22 A. High school.
 23 Q. And what did you study at Kent
 24 State?
 25 A. Electrical engineering.

14

1 Q. As part of those studies did you
 2 become familiar with various types of metals?
 3 A. Yes.
 4 Q. So you can distinguish between
 5 common metals that are used in everyday life,
 6 is that right?
 7 A. Yes.
 8 Q. At some point in your career you
 9 worked for Firestone, correct?
 10 A. I was a contractor for Firestone.
 11 I hauled ash for the power plant.
 12 Q. You were never actually an employee
 13 for Firestone?
 14 A. No.
 15 Q. What was the name of the
 16 contractor?
 17 A. It was my trucking company,
 18 Kittinger Trucking.
 19 Q. So you had a company called the
 20 Kittinger Trucking Company?
 21 A. Yes.
 22 Q. For how long did you have that
 23 company?
 24 A. From 50 -- 1950 to 1989.
 25 Q. And you never incorporated that

15

1 business, did you?
 2 A. No.
 3 Q. From owning that business, did you
 4 become familiar with various types of trucks?
 5 A. Yes.
 6 Q. So you can distinguish, for
 7 instance, a straight truck from a tractor
 8 trailer type of vehicle, correct?
 9 A. Yes.
 10 Q. Have you ever been in the military?
 11 A. No.
 12 Q. I would like to focus on the site
 13 that we know as the Industrial Excess Landfill.
 14 Just very briefly go over some history that I
 15 know you've talked about before. I just want
 16 to get down for the record a little bit of how
 17 your involvement developed at the landfill.
 18 When you first found out about the
 19 landfill, it was a sand and gravel pit,
 20 correct?
 21 A. That's correct, yes.
 22 Q. And for a time you leased some
 23 space there to store cinders and fly ash?
 24 A. That's correct.
 25 Q. Do you recall approximately when

16

1 that was?
 2 A. 65 and 66.
 3 Q. Thereafter you purchased, you and
 4 your wife Merie purchased the property from the
 5 people who had the sand and gravel operation,
 6 correct?
 7 A. That's correct.
 8 Q. You purchased that in your own
 9 names, not in the name of a corporation?
 10 A. That's correct.
 11 Q. Initially as I recall you testified
 12 that what you did was the same activity, you
 13 were storing fly ash there, correct?
 14 A. Yes.
 15 Q. And then at some point you received
 16 a license to run a landfill at that location?
 17 A. Yes, sanitary landfill.
 18 Q. Do you recall approximately when
 19 that license, that first license was issued to
 20 you?
 21 A. I think it was 67.
 22 Q. And at that time you were just
 23 referring to your business as the Kittinger
 24 Trucking Company; you hadn't yet called the
 25 landfill Industrial Excess, is that right?

17

1 A. That's right.
 2 Q. But at some point in the next
 3 couple of years you thought up the name
 4 Industrial Excess Landfill and began to use it
 5 for your unincorporated business at the
 6 landfill?
 7 A. Yes.
 8 Q. And then you created a corporation
 9 with Mr. Budoff as equal shareholders called
 10 Industrial Excess Landfill, Incorporated; is
 11 that right?
 12 A. That's correct.
 13 Q. About when did that happen?
 14 A. I think it was 68.
 15 Q. For a time -- and Industrial Excess
 16 Landfill, Incorporated bought the piece of
 17 property from you and your wife, right?
 18 A. That's correct.
 19 Q. After Industrial Excess Landfill,
 20 Incorporated was formed, you continued to have
 21 day-to-day control over the operations of the
 22 landfill for a time, right?
 23 A. That's correct.
 24 Q. And then at some point there came a
 25 time when you tendered your shares of that

18

1 corporation back to the corporation and gave up
 2 your interest in it; is that right?
 3 A. That's correct.
 4 Q. And do you remember about when that
 5 happened?
 6 A. The end of 71 or the first part of
 7 72.
 8 Q. Thereafter the trucking company,
 9 your trucking company, continued to use the
 10 site for a brief period of time as a disposal
 11 location, right?
 12 A. That's correct.
 13 Q. About how long did that last, did
 14 that persist?
 15 A. It was I would say July of 72 we
 16 were completely out of the landfill.
 17 Q. And after that point you had
 18 nothing to do with either running the landfill
 19 or bringing materials to the landfill, is that
 20 right?
 21 A. That's correct.
 22 Q. Did somebody named Jim Shover,
 23 S H O V E R, work at the landfill at any time
 24 while you were involved in running it?
 25 A. I recall his name, but I don't

19

1 recall him working for the landfill or for me.
 2 I think one time he tried to date my daughter.
 3 That's about all I can remember of it.
 4 Q. You've been aware of the cleanup
 5 and controversy surrounding the Industrial
 6 Excess Landfill for many years, have you not?
 7 A. That's correct.
 8 Q. And you know, for instance, that
 9 the Ohio EPA and the United States EPA have
 10 been very interested in conditions at this
 11 landfill, correct?
 12 A. That's correct.
 13 Q. You're also aware that the
 14 defendants in this lawsuit that we call the
 15 rubber company defendants have been interested
 16 in what happens to clean up this landfill?
 17 A. Yes.
 18 Q. And you've known that for at least
 19 ten years, probably more, right?
 20 A. Probably, yes.
 21 Q. Are you aware of a group called the
 22 Concerned Citizens of Lake Township?
 23 A. Oh, yes.
 24 Q. What do you know about them?
 25 A. Well, I know they stirred up a lot

20

1 of problems at the landfill sometime when I was
 2 leaving and afterwards. And they're still
 3 highlighting problems.
 4 Q. So your recollection is that as
 5 long ago as 1972 the landfill, the operation of
 6 the landfill was an issue for the Concerned
 7 Citizens of Lake Township?
 8 A. I'm not sure it was that year, but
 9 it was in that -- pretty close to that time.
 10 Q. What about the Lake Township
 11 Trustees, have they ever indicated any concern
 12 about the landfill that you're aware of?
 13 A. No.
 14 Q. You've been a party to this lawsuit
 15 since the day it was filed in 1989, right?
 16 A. That's correct.
 17 Q. How do you feel about this lawsuit?
 18 A. I feel a lot of money is being
 19 wasted and I feel there's really nothing been
 20 accomplished, cleanup of the landfill. I think
 21 money should have been funneled toward more
 22 important things than all the paperwork.
 23 Q. Do you have a view about the United
 24 States as a plaintiff in the lawsuit?
 25 A. Well, I feel they're trying to do

21

1 their job, but it's kind of one-sided. They
 2 should be on both sides of the fence on
 3 protecting people on both sides, the people
 4 that use the landfill and the people that's
 5 opposed to the landfill.
 6 Q. What about the rubber company
 7 defendants, do you have a view of them as it
 8 relates to the landfill?
 9 A. Well, they use the landfill. And I
 10 feel they're partly responsible for cleanup.
 11 But I also feel that there's lots of other
 12 companies and businesses that's just as
 13 responsible that should be included in all of
 14 this.
 15 Q. Do you like being a party to the
 16 lawsuit?
 17 A. No. No.
 18 Q. Do you enjoy coming to conferences
 19 in court that we have here with Judge Manos on
 20 a regular interval?
 21 A. Well, I'm getting an education from
 22 this. I appreciate the judge and his ideas and
 23 comments. I'm getting to know everybody in the
 24 room. I feel like family anymore.
 25 Q. Like family?

22

1 A. Yes.

2 Q. So that's a good feeling for you?

3 A. That's a good feeling, yes

4 Q. Let's go back and think about the

5 time when you were working the landfill as a

6 landfill. Just very quickly I want to talk

7 about some of the general procedures of how the

8 landfill worked.

9 Many, many different individuals,

10 companies, agencies brought waste to the

11 landfill at some point during the time that you

12 were involved with operating it, correct?

13 A. Correct.

14 Q. Did you go out and solicit

15 customers to dump material at the landfill, or

16 did the business pretty much just come to you?

17 A. The business just come to me. I

18 don't recall soliciting any customers for that

19 type of business. I did solicit some customers

20 for a waste soil operation I had going after

21 the landfill, but not for the landfill.

22 Q. The landfill itself is located on

23 Cleveland Avenue in Uniontown, right?

24 A. That's correct.

25 Q. And Cleveland Avenue forms

23

1 essentially the western boundary of the

2 landfill?

3 A. Yes.

4 Q. And there's a street that runs

5 along the northern edge of the landfill.

6 What's the name of that street?

7 A. Edison Avenue, but I think it's

8 619, Route 619.

9 Q. During the time that you were

10 involved in operating the landfill, when

11 somebody brought a load of material to be

12 dumped at the landfill, where was their access

13 point?

14 A. Off Cleveland Avenue.

15 Q. They came in off the west end of

16 the landfill off Cleveland Avenue?

17 A. The northwest end.

18 Q. The northwest end.

19 But the actual entrance was located

20 on Cleveland Avenue, is that correct?

21 A. Yes.

22 Q. And then where did they go?

23 A. They would drive along the north

24 boundary line of the property. There's an

25 office and garage down at the bottom of the

24

1 hill. They would usually stop by the office

2 and get a ticket written out for the load they

3 was going to dump.

4 Q. Let's take that a piece at a time.

5 The land sloped downhill from the western

6 entrance to where the office was located?

7 A. Yes.

8 Q. About how far was it that someone

9 would have to drive from the gate to the

10 office?

11 A. Probably 700 feet.

12 Q. And before they stopped at the

13 office, they were not allowed to dump, is that

14 right, they had to go get their ticket first at

15 the office?

16 A. That was the procedure, yes.

17 Q. To your knowledge was that

18 procedure generally followed?

19 A. There was some exceptions to the

20 rule.

21 Q. But they were exceptions, it

22 wasn't -- the normal practice was people came

23 to the office first?

24 A. Yes.

25 Q. Who was working in the office to

25

1 write out the tickets?

2 A. Let's see, there's a woman named

3 Johnnie Skeen at one time. And Becky Murphy

4 and Lou Bonaphant.

5 Q. And Lou Bonaphant. All right.

6 What information did the people

7 working in the office record on the tickets?

8 A. Usually just the size of the load,

9 a pick-up or stake truck or dump truck or

10 packer.

11 Q. What about the name of the

12 customer?

13 A. Name of the customer is usually put

14 on there, yes.

15 Q. And then a price?

16 A. A price.

17 Q. The price was based on the size of

18 the load?

19 A. The size of the load, yes.

20 Q. So a pick-up costs less than a dump

21 truck?

22 A. Oh, yes, yes.

23 Q. And customers either paid cash or

24 they had credit with you, correct?

25 A. That's correct, yes.

26

1 Q. And if they paid cash, where and
 2 when did they pay it?
 3 A. The girls in the office would
 4 pay -- collect the cash.
 5 Q. And then mark paid on the ticket,
 6 correct?
 7 A. Yes.
 8 Q. And if it was a credit drop-off,
 9 what would happen then?
 10 A. Usually the driver would sign the
 11 ticket.
 12 Q. What happened after they had their
 13 ticket and it was either marked with paid or
 14 that it was a credit ticket?
 15 A. They would take the load down in
 16 the fill and usually the dozer operator would
 17 show them where to dump it.
 18 Q. So there was a dozer operator out
 19 at the fill pretty much the whole time that the
 20 fill was open?
 21 A. Yes.
 22 Q. On any given day?
 23 A. Yes.
 24 Q. Now, this piece of property is
 25 almost 40 acres.

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1 A. Correct.
 2 Q. At the time that you were involved
 3 in operating the landfill, where was the active
 4 filling going on; was it spread out over the
 5 whole site?
 6 A. No, it was contained to a couple
 7 acres, maybe two and a half acres in the
 8 northeast -- northwest corner of the property.
 9 Q. The northwest corner near the
 10 entrance?
 11 A. Yes.
 12 Q. So people would drive from the
 13 entrance across the top of the landfill to the
 14 office and then drive back in the direction
 15 they came from to see the dozer operator in the
 16 northwest corner?
 17 A. Correct.
 18 Q. And what would the dozer operator
 19 then say to them?
 20 A. Well, they would show him the slip
 21 that they had signed it or paid for it and he
 22 would show them where to dump their load.
 23 Q. Was the dumping at this point going
 24 on at the location that was at the same grade
 25 level as the road into the office or was it

28

1 below grade?
 2 A. It was probably at least 50, 60
 3 feet below grade.
 4 Q. Did people drive down into this 50,
 5 60-foot deep pit or did they dump from the top
 6 edge of it?
 7 A. Well, they drove down in from the
 8 start, because by the time they drove down to
 9 the lower level and down into the pit, it was
 10 just a gradual slope.
 11 Q. So there was kind of a ramp to
 12 drive down?
 13 A. Yes.
 14 Q. Is that fair to say?
 15 A. Yes.
 16 Q. And it wouldn't matter what
 17 material came in, ordinarily it would go to the
 18 same general part of the landfill and exactly
 19 where depended where the dozer operator needed
 20 it to go that day. Is that fair to say?
 21 A. That's correct.
 22 Q. At some point did you have a lagoon
 23 built on the landfill to hold liquid waste?
 24 A. Yes.
 25 Q. Where was that located?

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1 A. That was probably maybe a hundred
 2 feet to the southwest of the maintenance
 3 building.
 4 Q. Was the maintenance building
 5 separate from the office?
 6 A. Yes.
 7 Q. Where was it located relative to
 8 the office?
 9 A. It was to the northeast of the
 10 office.
 11 Q. So the office was not in the
 12 north -- in the extreme northeast corner of the
 13 landfill?
 14 A. No. No, the office was actually on
 15 the road down into the landfill. You had to go
 16 around it to the right to miss the office and
 17 then around the end of the garage.
 18 Q. When you say the road down into the
 19 landfill, you mean the descending road down
 20 into the pit?
 21 A. The entrance to the -- the entrance
 22 off Canton Road into the landfill.
 23 Q. I'm sorry, Canton Road, which is
 24 the same as Cleveland Avenue?
 25 A. Yes. I get them mixed up.

30

1 Q. Then you said the garage, where was
 2 that located relative to the office and
 3 maintenance building?
 4 A. The garage and the maintenance
 5 building is the same building.
 6 Q. Okay.
 7 A. It was about 60 feet to the
 8 southwest of the office building.
 9 Q. And you built this lagoon after the
 10 landfill had already been accepting solid waste
 11 for some period of time?
 12 A. That's correct.
 13 Q. Where was the lagoon relative to
 14 the area where you were filling?
 15 A. It was farther east toward the
 16 maintenance building.
 17 Q. Okay. But not as far east as the
 18 maintenance building?
 19 A. No.
 20 Q. I think you've told us that it was
 21 a regular event that the landfill have
 22 inspectors from the zoning board or the board
 23 of health, the department of health at the
 24 landfill all the time, is that right?
 25 A. Yes, they were there two or three

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1 times a week.
 2 Q. Pretty much throughout the entire
 3 period that you were involved in running the
 4 landfill?
 5 A. Yes.
 6 Q. Those individuals were Joe Dopler,
 7 correct?
 8 A. Yes.
 9 Q. And someone named Mattson, is that
 10 right?
 11 A. Gary Mattson, I believe, yes, if I
 12 recall.
 13 Q. And someone named Parr, correct?
 14 A. Parr was the zoning inspector from
 15 the township.
 16 Q. And one or the other of those
 17 people was at the landfill two or three times a
 18 week pretty much the whole time that you were
 19 involved with running it, is that fair to say?
 20 A. Yes.
 21 Q. Was the United States Army ever a
 22 customer of the landfill?
 23 A. Yes.
 24 Q. How do you know that, that the Army
 25 was a customer?

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1 A. Well, I know there's tickets
 2 written for the Army. I imagine they were the
 3 customer that was filling them out or
 4 getting - signing for them.
 5 Q. I would like to ask you during what
 6 period of time you recall the Army being a
 7 customer of the landfill.
 8 Was it in the early period when you
 9 were running the landfill before the
 10 corporation, was it after the corporation was
 11 formed?
 12 Can you place that in time for me?
 13 A. I think it was just about the time
 14 the corporation was formed, sometime between 67
 15 and 68.
 16 Q. So the Army was bringing material
 17 to the landfill you recall at about the same
 18 time that you formed the corporation with
 19 Mr. Budoff?
 20 A. Yes.
 21 Q. And how long did it continue that
 22 the Army was a customer of the landfill?
 23 A. Well, I think they were still
 24 customers up to the time I left. That I'm not
 25 sure of, but it seemed like they were still

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1 there when I was still managing the landfill.
 2 Q. And was the Army treated any
 3 differently from any other customer with
 4 respect to coming in and filling out a ticket
 5 and then being told where to dump whatever it
 6 was dumping?
 7 A. No, they was treated the same way.
 8 Q. So if we have - it's a big if -
 9 but if we have all of the tickets for the
 10 landfill and we find tickets that say - that
 11 indicate the United States Army on them, to the
 12 best of your knowledge there were no other
 13 loads dumped by the Army at the landfill
 14 without a ticket, is that right?
 15 A. No.
 16 MR. TOSI: Objection.
 17 A. No.
 18 Q. You don't know of any loads that
 19 the Army dumped without getting a ticket,
 20 correct?
 21 A. No.
 22 Q. If I understand your testimony
 23 correctly, you think that the Army was involved
 24 as a customer for maybe a period of as long as
 25 four years, from about when the corporation

1 started to about when you left?
 2 A I believe so, yes.
 3 Q How frequently did the Army make
 4 deliveries during that period of time?
 5 A It wasn't very often. Maybe
 6 sometimes once, twice a week. Sometimes maybe
 7 a month or so would go by and they wouldn't
 8 bring anything in.
 9 Q Can you estimate how many loads
 10 altogether during the time that you were
 11 involved with the landfill were delivered by
 12 vehicles that you thought were from the United
 13 States Army?
 14 A Maybe 20.
 15 THE COURT: How many?
 16 THE WITNESS: 20.
 17 Q Do you know what military
 18 installations these deliveries were made from?
 19 A No.
 20 Q Did you ever know?
 21 A No.
 22 Q Would that information have been
 23 recorded on the tickets?
 24 A No.
 25 Q What do you think the tickets would

1 Q What kind of stuff did the postal
 2 service bring to the site?
 3 A Well, what we call today in the
 4 postal service junk mail. They recycle it now.
 5 Q What was the typical material, if
 6 you know, that trucks from the Army brought to
 7 the landfill, the normal stuff?
 8 A It seems like it was material from
 9 their maintenance, that have cleanup from
 10 machines. And once in a while they would throw
 11 away some drums of stuff that was empty,
 12 probably motor oil.
 13 At one time they brought in some
 14 canisters that -- it's kind of vague in my
 15 memory of what all that stuff was. It was
 16 different materials in the truck.
 17 Q I want to be clear that when I say
 18 the Army, I mean the United States, and I'm not
 19 talking about the National Guard. I want to
 20 make sure that we're understanding each other.
 21 A Okay.
 22 Q Just speaking generally about the
 23 Army, can you recall what they brought to the
 24 site as a usual thing?
 25 A It seems like it would just be

1 have said if they represented Army deliveries?
 2 A Stake truckload or load. From the
 3 Army that would be it.
 4 Q So as far as the customer
 5 identification, you're saying you would expect
 6 to see Army, is that right?
 7 A That would be, yes, U.S. Army on
 8 it.
 9 Q Do you know of any other military
 10 or U.S. government agencies that were customers
 11 of the landfill while you were involved with
 12 it?
 13 A National Guard, I think that they
 14 had material coming in.
 15 Q But none other than that that you
 16 can recall today?
 17 A That's the only military I recall.
 18 Q What about government, Federal
 19 Government?
 20 A Seems like -- this wouldn't be
 21 federal. The townships and the local cities
 22 dumped material there, but I don't recall the
 23 Federal Government ticketing anything. The
 24 postal service did, but not the -- not the
 25 government.

1 stuff out of the offices and out of the
 2 maintenance garages and stuff.
 3 Q You remember that pretty clearly at
 4 this point?
 5 A Well, not real clearly, but I
 6 vaguely remember some of the stuff.
 7 Q What was the usual type of truck
 8 that loads from the Army came in?
 9 A They had a stake truck they hauled
 10 in with.
 11 Q Did it have any markings on it; did
 12 it say Army, did it have a big yellow star,
 13 anything else?
 14 A No. It seemed like it was an
 15 off-color truck, that was all.
 16 Q What do you mean by off-color?
 17 A Dark, dark-colored, green or --
 18 dark-colored green or blue.
 19 Q Did they usually have the same
 20 driver?
 21 A I saw the one driver a couple of
 22 times, but I can't state for sure.
 23 Q Did the driver who hauled these
 24 loads that you think came from the United
 25 States Army wear a uniform?

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1 A. He didn't seem to be, no, unless it
 2 was a coverall type thing.
 3 Q. Do you recognize the name armoured
 4 board, A R M O U R E D, B O A R D?
 5 A. No.
 6 Q. That doesn't mean anything to you?
 7 A. No.
 8 Q. Now, a private customer of the
 9 landfill, not an Army customer, you don't
 10 remember at all?
 11 A. No.
 12 Q. What about armoury board, does that
 13 mean something to you?
 14 A. No.
 15 MR. GOLD: Why don't we mark an
 16 exhibit. I guess we'll call it Plaintiff's 1.
 17 - - - - -
 18 (Thereupon, Plaintiff's Exhibit 1
 19 was marked for purposes of
 20 identification.)
 21 - - - - -
 22 MR. GOLD: For the record, these
 23 are a collection of apparently delivery tickets
 24 that I received from counsel for the rubber
 25 company defendants.

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1 Q. Mr. Kittinger, do you recognize
 2 these as delivery tickets of Industrial Excess
 3 Landfill?
 4 A. Yes.
 5 Q. You've had a chance to look at all
 6 of them, right? It's not a large set.
 7 A. Yes.
 8 Q. Do you recognize the handwriting on
 9 any of these tickets?
 10 A. It looks like Lou Bonaphant's
 11 handwriting, if I recall.
 12 Q. On all of them? Because some of
 13 them look a little different. If you see a
 14 different handwriting that you recognize, I
 15 would like you to tell us about that.
 16 Does it all look like Lou
 17 Bonaphant's handwriting to you?
 18 A. No.
 19 Q. Can you tell us which tickets
 20 appear to be someone else's handwriting and
 21 whose handwriting that is?
 22 A. 15333, I can tell that's my
 23 scribbling.
 24 Q. That's on the last page?
 25 A. The last page, yes.

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1 On 12777, that's my handwriting.
 2 Q. Good.
 3 Can you read what it says under
 4 customer, please?
 5 A. It says U.S. Army National Guard.
 6 Q. Are there any others that are not
 7 in Lou Bonaphant's handwriting?
 8 A. Well, there's 15255 and 15254.
 9 That doesn't look like her handwriting.
 10 Q. Do you recognize the handwriting on
 11 those tickets?
 12 A. Yes, I recognize it. It looks like
 13 my wife's.
 14 Q. And the others are all Lou's,
 15 right?
 16 A. I believe so.
 17 Q. There are a number of tickets in
 18 here that say armory board or armoured board.
 19 Does looking at these tickets in any way
 20 refresh your recollection as to what that
 21 means?
 22 A. No, I can't recall what that is.
 23 Q. Let me just ask you to look real
 24 quickly at one of these tickets, which is just
 25 a couple of pages from the back, four pages

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1 from the back of the exhibit. It's ticket
 2 number 6448.
 3 I would like to know if you can
 4 make out what it says under customer there.
 5 A. Well, it looks like board, but it
 6 doesn't -- the top part doesn't make sense. It
 7 looks like G R M U R M Y.
 8 Oh, it's Army. Army board, yes.
 9 Q. What does the last line say, can
 10 you read it?
 11 A. Twinsburg.
 12 Q. Twinsburg. Thank you very much. I
 13 had not been able to make those out.
 14 Did there come a time,
 15 Mr. Kittinger, when the Army delivered
 16 something out of the ordinary that you
 17 remember?
 18 A. Yes.
 19 Q. Would you tell us about that,
 20 please?
 21 A. It was just kind of like a routine
 22 delivery, but when they brought them in --
 23 THE COURT: Keep your voice up.
 24 A. It was a routine delivery. They
 25 brought these items in and told me they wanted

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1 them buried right away, get them covered. And
 2 they informed me that I shouldn't fool around
 3 with them, not to salvage them because they
 4 were large stainless steel eggs.
 5 They were about six foot wide and
 6 eight foot high and they were shaped just like
 7 an egg, only the bottom was a little flatter.
 8 They had doors all around them,
 9 heavy doors. It was thick, the same thickness
 10 as the shell of them. They had a core in them.
 11 They had a center core in them.
 12 Someone in the group when they was
 13 bringing them in informed me that you don't
 14 want to fool with them because they still got
 15 live cores in them, but they're safe for the
 16 next 10,000 years. As long as no one bothers
 17 them, they'll lay there forever.
 18 Whoever I was talking to told me to
 19 make them vanish, not to ever mention them to
 20 anybody.
 21 But they're laying there yet in the
 22 fill. I can identify the location of them.
 23 For what little research I've done on them, I
 24 think they're probably nuclear bombs.
 25 Q. What research have you done about

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1 this?
 2 A. Well, just -- I just read a few
 3 little books and stuff on them, nothing --
 4 nothing big, but just -- and stuff I heard over
 5 the different TV programs, not that deal with
 6 this particular item, but just different things
 7 over the years.
 8 Q. So part of what leads you to
 9 conclude that these are nuclear bombs is stuff
 10 that you've heard on TV?
 11 A. Yes.
 12 Q. And when did you hear that stuff?
 13 A. Just recently. There was an
 14 article -- there was some programs on Channel 3
 15 that had to do with plutonium leaking out of
 16 the landfill. They showed pictures of this,
 17 where it was leaking and the exact location
 18 where these eggs are buried.
 19 And I just thought with everything
 20 that was going on that I probably better
 21 finally let the little secret out of the bag
 22 that I've been keeping for 30 years.
 23 Q. What else did you hear that helped
 24 you to conclude that these are nuclear bombs
 25 besides the recent TV program?

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1 A. I don't know, it's just -- it's
 2 knowledge that I've picked up over the past
 3 years, the design and stuff of them.
 4 Q. When did you conclude that these
 5 were nuclear bombs?
 6 A. Well, I never really concluded
 7 that. I still don't know if that's what they
 8 are. But it's just awful suspicious that that
 9 amount of stainless steel objects would be
 10 buried and not salvaged and -- because you're
 11 looking at about eight tons of stainless apiece
 12 for them. And stainless is a pretty expensive
 13 item.
 14 Q. You said you did research and you
 15 read some books. What books were those and
 16 when did you read them?
 17 A. Oh, gosh, I don't know. It's been
 18 a long time ago now.
 19 Q. Can you think of any of the books
 20 that you read about this?
 21 A. I'm trying to think of it now. I'm
 22 trying to figure out what I did with the book.
 23 I can't recall the book now.
 24 Q. Was it a hard-covered book?
 25 A. I think it was, yes.

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1 Q. Did you buy it or did you take it
 2 out of the library?
 3 A. No, I don't know how I got a hold
 4 of it. I don't recall.
 5 Q. You don't recall whether it was
 6 called or what it was by or anything?
 7 A. No.
 8 Q. Were there any other books or was
 9 it just the one?
 10 A. It was just that one. It was a
 11 book on, it seemed like on the Tennessee Valley
 12 Authority, whatever that was.
 13 Q. How did you happen to read a book
 14 about the Tennessee Valley Authority?
 15 A. I don't know.
 16 Q. When did you read it?
 17 A. 20 years ago, maybe.
 18 Q. So after these deliveries but
 19 before the lawsuit was filed, is that right?
 20 A. No, this is long before the lawsuit
 21 was filed.
 22 Q. Long before the lawsuit but after
 23 these things had been delivered to the
 24 landfill?
 25 A. Oh, yes, after it was delivered.

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1 Q. Do you still have the book?
 2 A. I think so. I got it somewhere.
 3 Q. Would you mind taking a look for it
 4 and sharing it with us?
 5 A. Sure. I can dig it out.
 6 Q. Thank you.
 7 You said there was some other
 8 stuff. Anything else?
 9 Did you do any Internet research
 10 about this recently, for example?
 11 A. No. I'm not computerized.
 12 Q. Did you read any magazine articles,
 13 anything else that contributed to this
 14 knowledge that you say you've learned over the
 15 years?
 16 A. No, that's -- it was probably the
 17 book and different things that's come up over
 18 the years. And then -- somewhere I read about
 19 how they charge these things. They have to
 20 have sealed doors where they pump liquid
 21 hydrogen in. And where I got that information
 22 from, I don't know.
 23 I knew somewhere along the line
 24 each door was a trigger to trip the charge for
 25 the core. And I don't know where I got that

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1 information from either.
 2 Q. But you've done some reading about
 3 nuclear bombs and you think that what you saw
 4 at the landfill was consistent with what you've
 5 read about nuclear bombs, is that fair to say?
 6 A. That's correct. I'm pretty sure.
 7 In fact I would stake my life on it that's what
 8 they are.
 9 Q. What about any of the news coverage
 10 that's come out over the years about the
 11 landfill, did any of that influence your
 12 conclusion about what these things are?
 13 A. No.
 14 Q. Let's talk about these objects that
 15 were delivered. How many of them were there in
 16 total?
 17 A. Three, I think.
 18 Q. The first thing I would like to ask
 19 about is when this happened. So let's talk --
 20 let's focus on the very first delivery of one
 21 of these objects. When did that occur?
 22 A. Well, I would say 68 or 69. I
 23 think the landfill was incorporated after it
 24 was delivered.
 25 Q. That's exactly the kind of thing I

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1 was trying to get to.
 2 You think that this happened before
 3 the landfill was incorporated, is that right?
 4 A. It was about the time it was being
 5 incorporated.
 6 Q. About the time.
 7 So that would still be a couple of
 8 years before you actually left the operation of
 9 the landfill?
 10 A. Oh, yes, yes.
 11 Q. It was not about the same time as
 12 when you were leaving the landfill?
 13 A. No.
 14 Q. Or shortly before?
 15 A. It was before.
 16 Q. Was it before or after the 1968
 17 riots?
 18 MR. STRANG: Which ones?
 19 Q. Can you remember?
 20 A. No, I don't remember.
 21 Q. What about Bobby Kennedy's
 22 assassination, was it before or after that?
 23 A. I'm not sure of the date of any of
 24 that stuff you're talking about now.
 25 Q. I'm not trying to ask you what the

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1 dates were. I'm trying to see if there's some
 2 events in time that you can compare this to.
 3 A. I understand. I understand.
 4 Q. What about the Kent State
 5 shootings, before or after?
 6 A. It was probably before.
 7 Q. Do you remember who was president
 8 at the time?
 9 A. Johnson, I think.
 10 Q. You said there were three of these
 11 objects delivered. Were they delivered in
 12 three separate shipments?
 13 A. Yes.
 14 Q. How close in time were the three
 15 separate shipments?
 16 A. I'm not sure if they come in all
 17 one day or if they come in one a day for three
 18 days.
 19 Q. But they were all within the same
 20 week, is that right?
 21 A. I believe so, yes.
 22 Q. Was the lagoon built and operating
 23 at the time these shipments came in?
 24 A. Yes.
 25 Q. Do you remember if that was the

1 first lagoon or the second lagoon?
 2 A. I think it was the first lagoon.
 3 Q. What time of year was it?
 4 A. Probably July or August.
 5 Q. It was hot?
 6 A. It was hot.
 7 Q. What kind of clothing were you
 8 wearing on these days or on this day,
 9 whichever?
 10 A. Just light work clothes.
 11 Q. The trees were in full green leaf,
 12 is that right, or were they -- were the trees
 13 bare or were they in autumn color, or were they
 14 just budding?
 15 A. I think the trees were green at the
 16 time. It seemed like it was in July or August.
 17 Q. Besides the temperature, what else
 18 was the weather like when these deliveries
 19 occurred?
 20 A. Well, it seemed like it was a
 21 sunny day.
 22 Q. Every time each one of these three
 23 deliveries came in, or just the first time?
 24 A. Well, I recall the first time. I
 25 think it was the same for all of them.

1 Q. I'm trying to get a handle on this
 2 delivery. Let's just focus on the first one.
 3 try to make it easy. The truck comes in.
 4 Where were you when the truck
 5 delivering this object came in?
 6 A. I think I was in the service
 7 building, maintenance garage.
 8 Q. So you didn't actually see the
 9 truck arrive?
 10 A. No.
 11 Q. Were there any other vehicles
 12 besides the truck?
 13 A. It seemed like there was two
 14 automobiles that followed the truck, but I
 15 can't recall what they look like, though.
 16 Q. So a truck followed by two cars
 17 came into the landfill with that first
 18 delivery?
 19 A. Yes.
 20 Q. Did the two cars also come with the
 21 subsequent deliveries?
 22 A. I don't recall. I don't remember
 23 about the other deliveries.
 24 Q. Were the cars military cars or did
 25 they look like civilian cars?

1 Q. What time of day did the first
 2 delivery happen?
 3 A. It seemed like it was in the
 4 afternoon.
 5 Q. Was there a lot of daylight left at
 6 that point, or was it getting near dark?
 7 A. No, there was a lot of daylight
 8 left.
 9 Q. Was it a Saturday or was it a
 10 weekday?
 11 A. That I don't recall.
 12 Q. On the day that that first delivery
 13 came in, how busy was the landfill?
 14 A. It didn't seem like it was too busy
 15 that day. There wasn't that many people
 16 around. There was traffic going in and out.
 17 There was traffic going in and out, but we
 18 weren't really overwhelmed with business.
 19 Q. So what would that be, about how
 20 many different vehicles going in and out during
 21 the course of that day?
 22 A. Ten or 15, probably.
 23 Q. Was that an average day for the
 24 landfill or a slow day?
 25 A. It's an average day.

1 A. They looked like civilian cars.
 2 Q. Do you remember what color they
 3 were?
 4 A. Seemed like about the color of
 5 these seats here.
 6 Q. Kind of a beige color?
 7 A. Yes.
 8 Q. Were they large cars or small cars?
 9 A. They were just midsize cars. They
 10 weren't big or small. They was just midsize.
 11 Q. What make were they?
 12 A. I don't recall that now.
 13 Q. Did you notice at the time?
 14 A. No.
 15 Q. So this -- were the two cars the
 16 same?
 17 A. Seemed like one had a different
 18 color, but I can't recall what color it was.
 19 Q. So this little group of vehicles
 20 comes into the landfill and where did they go?
 21 A. Well, they stopped by the office up
 22 there and I went over to talk to the people.
 23 Some military personnel was with the truck at
 24 the time. And we just briefly talked. Someone
 25 said just cover them up as soon as, you know,

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1 immediately, and we got a couple more to bring
 2 in. That was about the end of the
 3 conversation.
 4 Then it seemed like the driver of
 5 the truck told me not to cut into them or do
 6 anything with them other than just bury them.
 7 Q. Okay. Let me ask you a couple
 8 questions about that.
 9 Before this truck arrived, did you
 10 have any idea that this unusual delivery was
 11 coming?
 12 A. No.
 13 Q. Do you know whether anybody else
 14 was told in advance about it?
 15 A. I don't know. No one in the
 16 landfill was told.
 17 Q. So the truck and the two cars go to
 18 the office as usual, right?
 19 A. Yes.
 20 Q. Did the people -- did one or more
 21 of the people in the vehicles go into the
 22 office to get a ticket for the load as usual?
 23 A. I believe they did. I think they
 24 went in the office.
 25 Q. Do you remember that?

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1 A. Well, I don't remember seeing them
 2 go in, but that was customary, they go in and
 3 get a ticket first.
 4 Q. Who was working in the office that
 5 day?
 6 A. I think it was Lou.
 7 Q. Lou Bonaphant?
 8 A. Yes.
 9 Q. Was it your usual practice to go
 10 down and chat with the drivers who were in the
 11 office getting a ticket or near the office?
 12 A. Not usually, but I was called in
 13 for that particular delivery.
 14 Q. Somebody called you to talk about
 15 that particular delivery?
 16 A. Yes.
 17 Q. Who was that?
 18 A. Maybe it was Lou. I don't know.
 19 Someone called me to the office.
 20 Q. Was there a phone in the
 21 maintenance building or did somebody have to go
 22 get you?
 23 A. They had to go get me.
 24 Q. But you don't recall who went and
 25 got you?

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1 A. No.
 2 Q. If Lou left -- if Lou had done it,
 3 would that have meant that the office was
 4 unattended?
 5 A. Yes. Well, she could have hollered
 6 over to me.
 7 Q. How far apart were the two
 8 buildings?
 9 A. 60, 70 feet, something like that.
 10 Q. Did whoever went to get you tell
 11 you why you were needed?
 12 A. No.
 13 Q. But then you walked over to the
 14 office where the truck and the two cars were
 15 parked, is that right?
 16 A. Yes.
 17 Q. And what -- to whom did you speak?
 18 A. Well, there was one person. He had
 19 kind of a -- seemed like he had a kaki uniform
 20 on, like a police hat. He done most of the
 21 talking. It seemed like there was someone
 22 there in civilian clothes, too, just had like a
 23 suit on. But I don't know.
 24 Q. How many people in all were in
 25 these three vehicles?

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1 A. Seemed like it was four or five
 2 altogether.
 3 Q. What did you say to the person in
 4 the kaki uniform?
 5 A. I didn't say much at all. They
 6 just said they had these things they wanted to
 7 dump there and wanted to know if I could make
 8 them disappear.
 9 Q. Why did they need to talk to you?
 10 Wouldn't the bulldozer operator normally have
 11 done that?
 12 A. Probably would have, yes.
 13 Q. Did anybody tell you why they went
 14 and fetched you?
 15 A. Well, they didn't want -- they
 16 didn't want anybody to know what was being
 17 dumped there. That's why they contacted me.
 18 Q. Except you?
 19 A. Yes.
 20 Q. If they hadn't talked to you, they
 21 would have gone out in the fill like any other
 22 delivery, dumped it, the dozer would have
 23 covered it up, that would have been the end of
 24 it, right?
 25 A. Possibly. And possibly not. They

1 might have just left with them.
 2 Q. So what did you instruct them to do
 3 when they said they wanted these things buried,
 4 et cetera?
 5 A. Well, they told me how they wanted
 6 them buried. So I said, yeah, we can handle
 7 that. So I did it. That was all.
 8 Q. What did they say by way of how
 9 they wanted it buried?
 10 A. They wanted them put down as deep
 11 as we could get them, as much material over
 12 them as we could right away.
 13 Q. Did you tell them where to go on
 14 the landfill or did they decide where to dump
 15 them?
 16 A. No, I told them - I showed them
 17 the spot where they could put them.
 18 Q. Where was that spot?
 19 A. It was probably 70 or 80 feet
 20 behind the southern corner of the garage and
 21 maintenance building.
 22 Q. When you say behind, what compass
 23 are you talking about?
 24 A. The entrance of the building was to
 25 the east. The back of the building was to the

1 area distinct from the area of the fill you
 2 were working at the time, is that right?
 3 A. Yes.
 4 Q. And you had already put some
 5 material down there like old cars and you were
 6 going to put these objects in with them, right?
 7 A. Yes.
 8 Q. Why did you choose that area
 9 instead of just going to the regular fill area?
 10 A. I don't know. I have no idea why I
 11 chose it.
 12 Q. Well, the next -
 13 A. Well, one, probably the reason, if
 14 I could go back and answer that, is they wanted
 15 them covered up right away and buried. The
 16 fill stays open for a whole day before it even
 17 gets covered. It would have been exposed to a
 18 lot of other traffic coming in.
 19 Q. Then after you had this
 20 conversation, what happened next?
 21 A. We dumped one of the objects off
 22 into the area that was designated for it and
 23 had the dozer man come up, push cover over top
 24 of it. Everybody left. The next day - the
 25 next day or that same day they brought two more

1 west.
 2 Q. So you're talking about a spot 70
 3 or 80 feet west of the garage, is that right?
 4 A. Yes.
 5 Q. Was that in part of the landfill
 6 that you were working at that time?
 7 A. No.
 8 Q. It was in a separate area, is that
 9 right?
 10 A. Yes.
 11 Q. Was it in the liquid lagoons?
 12 A. No. It was away from them.
 13 Q. Where was it in relationship to the
 14 lagoons?
 15 A. North and east.
 16 Q. About how far?
 17 A. Maybe a hundred feet.
 18 Q. What did that area look like where
 19 you told them to dump this stuff?
 20 A. Well, it's still a big hole in the
 21 ground where they dumped them. I put some fly
 22 ash down at the bottom of it. We had disposed
 23 of some old cars and trucks in that same area.
 24 We was just kind of putting metal in that area.
 25 Q. So this is a separate, depressed

1 in. We did the same thing with them. But
 2 there was no escort with the last two.
 3 Q. So the truck had to drive back away
 4 from the office building to the dump spot?
 5 A. Just around the garage a little
 6 ways.
 7 Q. How many feet was that in distance?
 8 A. Maybe 80 feet behind the garage.
 9 Q. Did the cars follow the truck
 10 around behind the garage?
 11 A. No, they stayed up at the office.
 12 Q. Did the people in the cars follow
 13 the truck around the garage or did they stay by
 14 the office?
 15 A. A couple of them did, but they just
 16 come back to observe where they was being
 17 dumped.
 18 Q. Who was operating the bulldozer at
 19 this time?
 20 A. Gene Laston.
 21 Q. Where was the bulldozer when you
 22 were having this conversation and telling the
 23 military truck where to dump?
 24 A. He was on down in the fill working.
 25 Q. So some hundreds of feet away, is

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1 that right?
 2 A. Yes.
 3 Q. So you had to go get Mr. Laston to
 4 bring the bulldozer over to the spot you
 5 selected to dump these objects, right?
 6 A. I'm not sure that I did that or I
 7 took our big front-end loader and just bucketed
 8 fly ash on them. I might have done that at the
 9 time to get them covered up right away.
 10 Q. So you don't remember whether you
 11 covered these objects using the front-end
 12 loader or Mr. Laston did using the bulldozer?
 13 A. I think initially I did to cover
 14 over, make them disappear and then later on he
 15 graded over them.
 16 Q. When you say graded over them, you
 17 mean actually drove the bulldozer above the
 18 surface beneath which these objects were
 19 buried?
 20 A. Oh, yes. Yes.
 21 Q. How big was the front-end loader
 22 that you used? What was the capacity of its
 23 bucket?
 24 A. Four yards.
 25 Q. Where did you get the material that

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1 you used to cover the objects over?
 2 A. It was stored in the general area
 3 there. We had a large pile of fly ash that we
 4 kept on stock for covering at night. And when
 5 we had everything compacted in, we would take
 6 the fly ash and the bucket, put the fly ash
 7 over top of the materials and then pack it in
 8 with the dozer.
 9 Q. How many loads did it take to bury
 10 one of these objects?
 11 A. One bucket.
 12 Q. One bucket did it?
 13 A. Yes.
 14 Q. How long did it take you to do
 15 that?
 16 A. Four or five minutes.
 17 Q. Did the people in the vehicles and
 18 in the truck stick around to watch you do that?
 19 A. Yes. It's starting to come back
 20 again on me now.
 21 Q. Was that true on each one of these
 22 deliveries?
 23 A. The driver stayed. I don't think
 24 the other people were there when they brought
 25 the other two in.

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1 Q. But is it fair to say that on each
 2 occasion somebody stayed and watched you
 3 actually bury the object?
 4 A. Oh, yes, yes.
 5 Q. And then just left?
 6 A. Yes.
 7 Q. When the object was dumped, you
 8 said there was a hole there. How deep was that
 9 hole?
 10 A. It was maybe 18 to 25 feet. The
 11 hole was already there. We didn't dig a hole.
 12 There was already dirt excavated out. The ramp
 13 down into the rest of the fill went down
 14 alongside of it.
 15 Q. How wide was that hole, the 18 to
 16 25-foot hole?
 17 A. 50 feet, maybe.
 18 Q. And the ramp went down through it?
 19 A. Went down alongside of it.
 20 Q. Alongside of it.
 21 Where did the truck go to dump the
 22 object?
 23 A. He just backed off the side of the
 24 ramp.
 25 Q. Did he go partway down the ramp,

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1 was he at the top of the ramp, at the bottom of
 2 the ramp?
 3 A. Well, the ramp hadn't even
 4 started - it was just the start of the ramp
 5 that he had started when he dumped. He was
 6 kind of on level ground when he dumped it.
 7 Q. So when these objects were dumped,
 8 did they then fall 18 to 25 feet?
 9 A. They rolled down into the low area,
 10 yeah.
 11 Q. They rolled down the slope of the
 12 embankment, is that what you're saying?
 13 A. Yes.
 14 Q. They just didn't drop through the
 15 air?
 16 A. No. No.
 17 He just backed up to the edge and
 18 they just rolled down in.
 19 Q. Did Mr. Laston see all of this
 20 happening?
 21 A. I don't think he saw it all
 22 happening, but I think later on I did have him
 23 push more material over with the dozer.
 24 Q. Did you tell him why you were
 25 having him push material to this part of the

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1 landfill that you weren't working?
 2 A. No.
 3 Q. You just said, Gene, push some fly
 4 ash over here and he just did it, he didn't
 5 ask, you didn't tell him?
 6 A. I don't think he's even aware of
 7 them being there.
 8 Q. Did anybody else see the truck come
 9 into the landfill -- or let me rephrase that.
 10 Did anybody else see the truck that
 11 you're talking about?
 12 A. My one son he was around there at
 13 the time, he witnessed the truck, but he didn't
 14 see what was in it either.
 15 Q. Where was he?
 16 A. I think he was up around the
 17 office.
 18 Q. How old was he at the time?
 19 A. Probably 15.
 20 Q. And he didn't go over and watch
 21 these things being dumped?
 22 A. Him?
 23 Q. Yes.
 24 A. No.
 25 Q. Did you tell him not to?

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1 A. No. I think he was preoccupied
 2 with something else at the time.
 3 Q. What would that have been? What
 4 were his duties at the landfill?
 5 A. He didn't have any duties. He was
 6 just there.
 7 Q. What was he doing?
 8 A. He might have just been hanging
 9 around because I think his mother was there and
 10 I was there. His little brother was there,
 11 too. But he don't remember any of it.
 12 THE COURT: Put your hand down from
 13 your face just so we can hear you.
 14 THE WITNESS: Okay.
 15 Q. His little brother, how old was he?
 16 A. He's a year and a half younger than
 17 him.
 18 Q. What's his name?
 19 A. Bruce.
 20 Q. He was there, too, when these
 21 deliveries occurred?
 22 A. Yes. I asked him. He didn't
 23 remember any of it, though.
 24 Q. Merle was there also?
 25 A. I think she was. That's probably

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1 why Chris was there because both the boys was
 2 there and she was there for maybe making out
 3 payroll or doing something. But I'm pretty
 4 sure she was in the office or the boys wouldn't
 5 have been there.
 6 Q. So Merle was in the office when
 7 these deliveries occurred?
 8 A. Now, I'm not sure. It seemed like
 9 she would have been there if the boys were
 10 there. I wouldn't think they would have been
 11 there under my control when I had other stuff
 12 to do.
 13 Q. Was she the person who came to get
 14 you?
 15 A. No.
 16 Q. Did you tell her about this
 17 delivery?
 18 A. (Shaking head.)
 19 Q. You have to answer orally.
 20 A. No.
 21 Q. Why not?
 22 A. Well, I just kind of wanted it to
 23 be kept secret.
 24 Q. Didn't she ask, I mean, wasn't this
 25 unusual enough for her to ask?

69

1 A. No, she wasn't that much involved
 2 with the daily operation.
 3 Q. What about Lou, did she ask about
 4 it, after all, she had to do something
 5 different and get you to talk to these drivers?
 6 A. Lou might have some knowledge of
 7 this. I think Lou is still around and we could
 8 possibly get a hold of Lou and we could get
 9 more knowledge out of her about some of the
 10 stuff that went on.
 11 Q. Did she see the objects?
 12 A. I don't know -- I'm not sure. I
 13 don't know if she did or not.
 14 Q. Have you talked to her recently?
 15 A. Not in years, no.
 16 Q. But you think she might remember
 17 this?
 18 A. I would think she might remember
 19 some of it, yes.
 20 Q. Was there anybody else working in
 21 the office at the time?
 22 A. No. It was just probably, if
 23 she -- if Merle was there, she would have been
 24 in the back office doing payroll. And if Lou
 25 was there, she would have been out front

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1 writing tickets.
 2 Q. Was there anybody else working on
 3 the landfill besides you and Mr. Laston?
 4 A. I don't believe so.
 5 Q. Was Joe Dopler around when any of
 6 these deliveries occurred?
 7 A. I didn't see him, no.
 8 Q. What about Mr. Mattson or Mr. Parr?
 9 A. No, I didn't see them either.
 10 Q. Did you ever tell any of the three
 11 of them about this?
 12 A. No.
 13 Q. Why not?
 14 A. Well, that's a good question, too.
 15 Why am I just waiting all these years to tell
 16 it? I was informed not to tell it.
 17 Q. We'll talk about that in a bit.
 18 Let's talk a little bit more about
 19 the truck. What type of truck was it?
 20 A. A stake truck. It had sides on it.
 21 It was a type of stake truck that also dumped.
 22 It had --
 23 Q. So this was a single-axle truck,
 24 not a tractor trailer, right?
 25 A. A single-axle, yes.

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1 Q. It had a cab up front?
 2 A. Yes.
 3 Q. How many people would fit in the
 4 cab?
 5 A. Probably three people could sit in
 6 it.
 7 Q. And then there was a bed in the
 8 back, you described it as a stake truck. What
 9 does that mean?
 10 A. It was a flatbed. It had stakes
 11 that went into the side of the flatbed and a
 12 gate on it that lifted up. You could take the
 13 gate off. The stakes kind of covered up
 14 everything that was in the truck because they
 15 were high. You couldn't see anything in the
 16 truck that was being delivered.
 17 Q. The sides of the truck consisted
 18 only of stakes or was there some other
 19 material?
 20 A. Wood slats along. It was solid
 21 wood.
 22 Q. Horizontal slats of wood, is that
 23 what you're saying?
 24 A. The stakes fit into the pockets
 25 alongside the bed and the horizontal slats fit

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1 along the stakes.
 2 Q. Got it.
 3 There were enough stakes and slats
 4 so that in effect it was a solid side of truck;
 5 is that what you're saying?
 6 A. Yes.
 7 Q. So you couldn't see inside of it
 8 from the outside?
 9 A. You couldn't see inside unless you
 10 crawled up on top.
 11 Q. Did the bed of the truck have a top
 12 on it?
 13 A. No.
 14 Q. So it was open to the air on top?
 15 A. Yes.
 16 Q. And the back of the truck, was that
 17 also made of wood?
 18 A. It had -- yes, the tailgate was the
 19 same type of material as the sides and the same
 20 height.
 21 Q. What was the bed of the truck made
 22 of, the bottom?
 23 A. I think it was just wood. I'm not
 24 sure. It could have been a steel bottom. I
 25 never looked in the bottom, in the bed of it.

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1 Q. You never looked in the bed of the
 2 truck?
 3 A. No. I mean, I didn't look at the
 4 floor of it to see if it was wood or steel. I
 5 looked in the truck, but I didn't pay attention
 6 to the floor.
 7 Q. Did it appear to be the same truck
 8 that made each of these three deliveries?
 9 A. Yes, the same truck. The same
 10 driver.
 11 Q. Do you know what make the truck
 12 was?
 13 A. No.
 14 Q. How many wheels did the truck have?
 15 A. Two steering wheels and a drive
 16 axle.
 17 Q. So just a four-wheel truck?
 18 A. Four-wheel truck, yes.
 19 Q. What size was it?
 20 A. Probably a ton and a half.
 21 Q. When you say a ton and a half, what
 22 does that mean?
 23 A. The chassis, they classify them ton
 24 and a half, two ton, two and a half. Usually a
 25 tractor is two and a half tons capable of

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1 hauling 30,000 pounds or more.
 2 Q. What from your experience was the
 3 maximum capacity of this truck?
 4 A. Probably eight-ton.
 5 Q. Eight tons.
 6 A. Yes.
 7 Q. How long was the bed of the truck?
 8 A. It was pretty long. It was
 9 probably 12 or 14 feet. Probably 12 feet long.
 10 Q. How wide was it?
 11 A. Eight-foot.
 12 Q. And you know that because you're
 13 familiar with that kind of truck, right?
 14 A. Yes.
 15 Q. You didn't measure it?
 16 A. No, I didn't measure it, but I
 17 looked at it and guessed at it.
 18 Q. How tall were the sides of the bed?
 19 A. Probably four and a half, five
 20 feet.
 21 Q. So an object more than five feet
 22 tall would have stuck up above the top of the
 23 truck; is that right?
 24 A. Yes, probably 16 inches or so.
 25 Q. What color was the cab?

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1 A. I don't recall now.
 2 Q. Do you recall -- I think I asked
 3 you this. Do you recall whether or not it had
 4 any markings on it?
 5 A. No.
 6 Q. How many passengers were in the
 7 truck?
 8 A. Just the driver.
 9 Q. Do you know who the driver was?
 10 A. No.
 11 Q. Did you ever know his name?
 12 A. No.
 13 Q. But he was not wearing a uniform,
 14 correct?
 15 A. Didn't seem like he was.
 16 Q. Did the trucks have anything -- or
 17 the truck when it made each of these three
 18 deliveries, did it have anything else in it
 19 besides the object that you're talking about?
 20 A. Seems like they had some other
 21 debris in there with it, but I don't recall
 22 what it was.
 23 Q. What amount of debris?
 24 A. I don't know, maybe four or five
 25 wheelbarrow loads.

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1 Q. And how was that in the truck; was
 2 it in some organized way or just lying about?
 3 A. It was just lying about in along
 4 the edges and stuff of the truck. There was
 5 some materials in there that kept these objects
 6 from rolling around.
 7 Q. Were the objects, these egg-shaped
 8 objects secured in any way?
 9 A. I don't recall them being secured.
 10 I think they was just laying inside the rubble
 11 of the truck that was in there.
 12 Q. How high up these objects did the
 13 rubble extend?
 14 A. Maybe a foot and a half along the
 15 edges.
 16 Q. You said these objects were
 17 egg-shaped. Were they lying along the flat
 18 side pointing up or were they lying along their
 19 long axis?
 20 A. Long axis pointing.
 21 Q. Were they in the center of the
 22 truck or lying to the side or off to the back?
 23 A. They were in the center of the
 24 truck.
 25 Q. Why didn't they roll around in

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1 there?
 2 A. Well, the rubble material they had
 3 stacked around them kept them from rolling.
 4 Q. The four or five wheelbarrows full
 5 of stuff?
 6 A. Yes.
 7 Q. While these deliveries were going
 8 on, was there any other business coming into
 9 the landfill?
 10 A. I'm sure there was. I'm sure there
 11 was other people coming in and going out.
 12 Q. And those people on their regular
 13 business at the landfill would have come in the
 14 gate, driven to the office, gotten the ticket,
 15 right?
 16 A. Right.
 17 Q. And then driven off to the fill to
 18 get instructions from Mr. Laston about where to
 19 dump their loads, right?
 20 A. That's correct.
 21 Q. To drive off to the fill, did they
 22 have to go down the same ramp where these --
 23 A. They had to pass right by where we
 24 was unloading these.
 25 Q. Did these Army guys instruct you in

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1 any way from keeping people from coming into
 2 the landfill while they were there?
 3 A. No
 4 Q. Did they instruct you to keep
 5 people from driving past on their way to
 6 deliver their own loads?
 7 A. No, they didn't do that either.
 8 Q. So anybody who happened to come in
 9 with a pick-up truck of household trash at the
 10 right moment –
 11 A. Could have saw them, yes.
 12 Q. Did that actually happen; did
 13 anybody drive by while this was being dumped or
 14 buried?
 15 A. I don't recall anybody being in the
 16 area at the time.
 17 Q. But no one posted a guard to keep
 18 anybody from seeing this?
 19 A. No.
 20 Q. Could this be seen, the spot where
 21 the egg was being dumped, could it be seen from
 22 the office?
 23 A. No.
 24 Q. How about from the garage?
 25 A. It could have been if there had

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1 been windows in the garage, but the garage
 2 didn't have any windows on the back side of it.
 3 Q. What about along the top side of
 4 the fill from Cleveland Avenue, could it have
 5 been seen from there?
 6 A. Yes.
 7 Q. So anybody who happened to drive in
 8 at the time could have seen it just from their
 9 vantage point entering the landfill, is that
 10 right?
 11 A. They could have seen it there, yes.
 12 Q. By the time you got the deliveries
 13 of these objects, the Army had been delivering
 14 ordinary material to the landfill for some
 15 period of time before this?
 16 A. Yes, kind of routine.
 17 Q. How close did you get to the
 18 objects that were being dumped on these three
 19 occasions?
 20 A. I had my hands on them. I looked
 21 inside the one that had the doors off.
 22 Q. How did you come to have your hands
 23 on them? I thought you told me that they were
 24 dumped out of the back of a dump truck down a
 25 20-foot slope.

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1 A. Well, they were.
 2 Q. What did you do, scramble down into
 3 the hole after them?
 4 A. No, I looked down in there before
 5 we dumped them.
 6 Q. So the Army guys allowed you to
 7 look inside the truck before it was dumped?
 8 A. Yes.
 9 Q. Did you actually get into the truck
 10 and inspect these objects?
 11 A. No, I just crawled up on the side
 12 and I looked in. I could see what was in
 13 there.
 14 Q. How close did you get to any of
 15 these objects?
 16 A. Close enough to touch them.
 17 Q. Did you actually touch them?
 18 A. M-hm.
 19 Q. You have to answer orally. I'm
 20 sorry.
 21 A. Yes. The one I touched. I didn't
 22 touch the others.
 23 Q. You touched one of them. Do you
 24 remember which one?
 25 A. It had the doors off.

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1 Q. We'll talk about that.
 2 But they all looked substantially
 3 the same, isn't that right?
 4 A. Yes, they all looked almost
 5 identical.
 6 Q. When you touched the one particular
 7 egg-shaped object, what did it feel like?
 8 A. Smooth stainless steel. It was
 9 smooth as glass.
 10 Q. What was its temperature?
 11 A. It was cold, like any metal would
 12 be. The air wasn't cold, but the metal was
 13 cold.
 14 THE COURT: Steve, why don't you
 15 bring him into a comfortable close so we can
 16 take a brief recess.
 17 MR. GOLD: This is a fine time for
 18 a recess.
 19 THE COURT: You can refresh
 20 yourselves. Ten minutes be back.
 21 (Recess off record.)
 22 THE COURT: Continue.
 23 BY MR. GOLD:
 24 Q. We were talking about these
 25 egg-shaped objects. Can you tell us about how

1 big they were?
 2 A. Around six foot in diameter and
 3 eight foot long.
 4 Q. In diameter at the widest part of
 5 the egg, is that right?
 6 A. Yes.
 7 Q. They were really shaped pretty much
 8 like a hen's egg?
 9 A. Yes.
 10 Q. They had no flat surfaces on them?
 11 A. No flat surfaces.
 12 Q. They stuck up above the top of the
 13 truck, correct?
 14 A. A little bit, yes.
 15 Q. And based on your description of
 16 the bed of the truck, is it fair to say that
 17 they occupied most of the bed?
 18 A. They took up the biggest part of
 19 the bed.
 20 Q. Were these things larger than say
 21 your average refrigerator?
 22 A. Yes.
 23 Q. About the length of a small car?
 24 A. Yes, that's about the size of them.
 25 Q. What color were they?

1 A. Black.
 2 Q. How large was the writing?
 3 A. Probably a couple inches, a couple
 4 inches high.
 5 Q. Just one number?
 6 A. That's all I recall.
 7 Q. Where was that located on the
 8 object?
 9 A. Seems like it was up around close
 10 to the narrowest end of the egg. The egg come
 11 down, it was up around --
 12 Q. I think you said that the object
 13 had doors in it. Is that correct?
 14 A. Correct.
 15 Q. What did the doors look like?
 16 A. They were about 12, 14 inches in
 17 diameter. Solid metal. They were stepped off
 18 in stages. The smallest stage was maybe four
 19 inches.
 20 Q. So you were describing a whole door
 21 then?
 22 A. The whole door.
 23 Q. Let's focus on just what they
 24 looked like from the south side looking at one
 25 of these objects from the outside. What did

1 A. Silver.
 2 Q. Were they painted or were they bare
 3 silver metal?
 4 A. Bare shiny.
 5 Q. From your experience, can you
 6 conclude that these were made of stainless
 7 steel?
 8 A. Yes.
 9 Q. You actually touched it and you
 10 could tell?
 11 A. Well, I couldn't tell it was
 12 stainless. It could have been silver, but it
 13 appeared to be stainless steel.
 14 Q. It didn't, for instance, feel like
 15 aluminum, did it?
 16 A. No.
 17 Q. Were there any markings on the
 18 objects of any kind?
 19 A. Seemed like there were, but I don't
 20 recall what they were.
 21 Q. What did they look like if you
 22 can't recall what they were?
 23 A. Seemed like it was just a stenciled
 24 number or something on them.
 25 Q. Stenciled in what color?

1 the doors look like?
 2 A. Just a ring with bolts in them.
 3 Q. What kind of bolts?
 4 A. Large Allen screws.
 5 Q. You remember that quite clearly,
 6 correct?
 7 A. Yes.
 8 Q. How many screws were in each door?
 9 A. Seems like there was four. Three
 10 or four, but it seemed like it was four.
 11 Q. So am I right that from the outside
 12 the doors appeared to be circular areas, about
 13 14 inches in diameter; is that what you said?
 14 A. Yes, 12 to 14. I never really
 15 measured them, but from appearance --
 16 Q. And otherwise they didn't look any
 17 different from the rest of the surface of the
 18 object, is that right?
 19 A. They were just as smooth as the
 20 rest of it.
 21 Q. There were no handles or anything
 22 attached to these doors?
 23 A. No.
 24 Q. Was there anything coming out of
 25 any of the doors?

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1 A There was wires coming through
2 them.
3 Q Coming through the doors?
4 A Yes.
5 Q Were there holes in the doors that
6 the wires came through?
7 A I didn't see the inside, but there
8 was wires coming out the outside of the door.
9 Q Were they coming out of holes in
10 these doors?
11 A Looked like there was some kind of
12 insulators in the doors and the wires was
13 coming out of the holes in the doors.
14 Q What I'm trying to get a handle on
15 is how the wires were attached.
16 A I don't know. They just -- they
17 were just pig tailed wires hanging.
18 Q Coming out of a smooth metal
19 surface?
20 A Yes.
21 Q So there wasn't some kind of a
22 protuberance on the door that the wires were
23 mounted to?
24 A It looked like little holes where
25 the wires went through and there's insulators

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1 around the holes, some kind of material around
2 that the wires was encased in.
3 Q How many wires were in any given
4 door?
5 A There's two in each door.
6 Q All 16 of the doors had wires?
7 A Yes.
8 Q Were the wires --
9 A Well, now, wait a minute. I didn't
10 see all the doors on all of them, but the doors
11 that I could visually see had wires on them.
12 Q And what color were the wires?
13 A I don't recall the color of them.
14 Q Were they all the same color?
15 A I don't believe they were all the
16 same color now come to think of it.
17 Q Well, as you recall that, can you
18 recall what different colors there were?
19 A No, I can't recall the colors, but
20 I can recall some of the wires didn't look
21 exactly the same. There was some difference in
22 some of the wires.
23 Q Describe that for us, please.
24 A The coating on the wires, some of
25 them had a different design in it. I did

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1 notice that.
2 Q What do you mean by design?
3 A Well, if you take a fabric and you
4 have cross fabric, some of them looked like
5 they might have had a diamond design in the
6 outer shell of them. Some of them just looked
7 like they had a clear color to them.
8 Q Was there any pattern of those
9 differences that you recall?
10 A I didn't notice any significant
11 pattern to them.
12 Q But you don't remember the color of
13 the wires at all?
14 A No.
15 Q Is it correct that at some point
16 you got an opportunity to see all the -- one of
17 these doors entirely, not just from the
18 outside?
19 A Yes, there was one of those doors
20 in the maintenance shed up there for a long
21 time. It disappeared. I don't know where it
22 got to.
23 Q Let's talk about that. How is it
24 that a door was separate from the egg-shaped
25 object that it was a part of?

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1 A Well, it wasn't in -- it was with
2 the -- it was with the egg, but it wasn't in --
3 it wasn't bolted in. It was laying separate.
4 This one particular one that got dumped into
5 the hole. One of the doors didn't roll all the
6 way down. And I found out that it didn't get
7 all covered. And I got somehow -- or I put it
8 in a bucket and put it in the maintenance
9 building to look at it closer.
10 Q Let me see if I have this right.
11 The eggs had 16 doors each,
12 correct?
13 A I think it was 16, yes.
14 Q And on at least one of those
15 occasions one of those doors was not properly
16 bolted in; is that what you're telling us?
17 A That's correct.
18 Q Did that happen more than once or
19 was there only one door like that?
20 A There was two doors like that.
21 This one particular egg had a door kind of
22 across where I could see in, the light come in
23 the one door and I could see in the center.
24 Those two doors were just laying in the bed of
25 the truck.

1 Q. So there were two doors missing
 2 from one of the objects?
 3 A. Yes.
 4 Q. Which one was that? Was it the
 5 first, second or third?
 6 A. The first one.
 7 Q. The first one came in with missing
 8 doors?
 9 A. Yes.
 10 Q. But the doors when you looked
 11 inside the truck were in the truck, is that
 12 right?
 13 A. They were in the truck, yes.
 14 Q. What did the doors look like, the
 15 whole door now?
 16 A. The whole door?
 17 Q. Yes.
 18 A. They were about that thick through.
 19 Q. About how thick, meaning about how
 20 many inches?
 21 A. About eight inches, 12 inches in
 22 diameter. They were stepped down in sizes.
 23 Three, maybe four step-downs to about four
 24 inches. These doors fit into the shell. The
 25 shell was cut out so they matched up perfect.

1 A. Just a core about this big around
 2 went through the whole thing.
 3 Q. About how many inches is that?
 4 A. I don't know, about 12 to 14
 5 inches.
 6 Q. There was a core inside of it about
 7 12 to 14 inches in diameter, is that what
 8 you're saying?
 9 A. Yes.
 10 Q. Where was that located in the
 11 egg-shaped object?
 12 A. It was right in the center. It
 13 went from the long end to the rounder, flatter
 14 end of the egg.
 15 Q. In between that core and the wall
 16 that the door fit into, what did you see?
 17 A. Nothing but shiny metal.
 18 Q. So there was an empty space inside,
 19 is that what you're saying?
 20 A. Yes, between the core and the side
 21 walls, yes.
 22 Q. How thick were the side walls?
 23 A. I would guess about eight inches
 24 thick.
 25 Q. Did they appear to be solid to you?

1 There was O-rings around each one of the
 2 flanges of the doors.
 3 Q. O-rings on the interior part of the
 4 doors?
 5 A. On the door itself, on each flange;
 6 had a couple of O-rings on each flange.
 7 Q. Were there holes on the inside
 8 surface of the door, the four-inch across
 9 surface?
 10 A. No. I didn't recall any holes on
 11 the inside of the door. I just recall the
 12 wires coming through the outside.
 13 Q. Were there any wires visible on the
 14 inside of the door at all?
 15 A. No.
 16 Q. But the door you saw that was -- at
 17 least one of the doors that you saw that was
 18 separate from the egg-shaped object had wires
 19 coming out of it?
 20 A. It had wires coming out the
 21 outside, yes.
 22 Q. If the doors were missing, were you
 23 able to look inside the egg-shaped object?
 24 A. Yes.
 25 Q. What did you see inside there?

1 A. Yes.
 2 Q. So you didn't -- the circular door
 3 edges that you saw that were on the main object
 4 did not have any kind of voids in it, is that
 5 right?
 6 A. Just a little ring around where the
 7 metal come together.
 8 Q. Could you see any seams on the
 9 outside of the eggs?
 10 A. No.
 11 Q. Not anywhere?
 12 A. No.
 13 Q. Was there any kind of residue
 14 visible on the inside of the eggs?
 15 A. No.
 16 Q. Nothing at all?
 17 A. I didn't see anything on them.
 18 Q. What color was the core inside?
 19 A. It was shiny, just like the
 20 outside, stainless.
 21 Q. Appeared to be made of the same
 22 material to you?
 23 A. Yes.
 24 Q. You said it was a cylinder about 16
 25 inches across. How long was it?

94

1 A. Eight-foot.
 2 Q. It ran from one end of the object
 3 to the other?
 4 A. Yes.
 5 Q. Was there anything inside
 6 supporting it?
 7 A. No.
 8 Q. Were there any markings on the core
 9 that you saw?
 10 A. No, I didn't -- if there was, I
 11 couldn't see any.
 12 Q. Did you see any kind of access into
 13 the inside of the core, any kind of door or a
 14 handle, anything like that?
 15 A. No.
 16 Q. It was just a smooth piece of
 17 metal?
 18 A. (Nodding head.)
 19 Q. You have to answer orally.
 20 A. Pardon?
 21 Q. You have to speak up.
 22 A. No, I didn't see anything that
 23 would gain access to the center of that core.
 24 It looked like just a solid core is what it
 25 looked like.

95

1 Q. Did the hollow space inside look
 2 like it had ever been filled with anything?
 3 A. No, it looked clean.
 4 Q. Were there any dials, levers or
 5 handles at all inside the object?
 6 A. No.
 7 Q. Let's talk about the doors that
 8 fell off. Were their surfaces also continuous
 9 so that it appeared to be a solid object?
 10 A. They were pretty -- the ones that
 11 was still on the egg was pretty flesh with the
 12 surface of it. It was pretty smooth.
 13 Q. Let me rephrase my question because
 14 I think I didn't do it very well.
 15 There were two doors that were not
 16 attached, right?
 17 A. Yes.
 18 Q. Did they look like solid objects or
 19 did they appear to have spaces in them that you
 20 could tell?
 21 A. No, they looked solid. They looked
 22 solid except for the wires coming out of the
 23 outside of them.
 24 Q. Did they appear to be made of the
 25 same material that the rest of the object was

96

1 made out of?
 2 A. Yes.
 3 Q. You believe that was stainless
 4 steel or some kind of steel?
 5 A. Stainless steel, yes.
 6 Q. Shiny and silvery, right?
 7 A. Yes.
 8 Q. So when this first load arrived and
 9 the two doors were off, are you saying that the
 10 dump truck dumped up and the doors fell off
 11 along with the egg; is that right?
 12 A. Yes. One of them -- one of them
 13 rolled down with the egg and the other just
 14 kind of fell off the back of the truck. I
 15 covered up the egg with fly ash I remember. I
 16 loaded that other door up and brought it up to
 17 the shop to look at it a little closer.
 18 Q. Did the people who were making the
 19 delivery notice that one of the doors hadn't
 20 gone all the way down into the hole?
 21 A. I don't believe so.
 22 Q. Did they look?
 23 A. If they did, they didn't catch it.
 24 Q. So when you -- when you buried the
 25 object, they were watching you bury it. You

97

1 buried the egg, you buried one door, but one
 2 door remained unburied; is that right?
 3 A. Yes.
 4 Q. And where was that located between
 5 the truck and the object that you buried?
 6 A. Somewhere between the truck and
 7 where the rest rolled down into the hole.
 8 Q. On the slope?
 9 A. I think after the driver dumped the
 10 stuff off he just pulled out and kept on going.
 11 I don't think he even looked back.
 12 Q. Where were the other guys, the guys
 13 who came in the escort cars?
 14 A. They were still down around the
 15 office.
 16 Q. So they didn't come back out on the
 17 fill?
 18 A. They may have. I don't recall if
 19 they did or not. If they would have, they
 20 would have called my attention to the one
 21 laying up on top.
 22 Q. If the driver just dumped the load
 23 and took off, who watched you fill the hole and
 24 cover them up?
 25 A. Seems like someone was standing

90

1 Q. So there were two doors missing
2 from one of the objects?
3 A. Yes.
4 Q. Which one was that? Was it the
5 first, second or third?
6 A. The first one.
7 Q. The first one came in with missing
8 doors?
9 A. Yes.
10 Q. But the doors when you looked
11 inside the truck were in the truck, is that
12 right?
13 A. They were in the truck, yes.
14 Q. What did the doors look like, the
15 whole door now?
16 A. The whole door?
17 Q. Yes.
18 A. They were about that thick through.
19 Q. About how thick, meaning about how
20 many inches?
21 A. About eight inches, 12 inches in
22 diameter. They were stepped down in sizes.
23 Three, maybe four step-downs to about four
24 inches. These doors fit into the shell. The
25 shell was cut out so they matched up perfect.

91

1 There was O-rings around each one of the
2 flanges of the doors.
3 Q. O-rings on the interior part of the
4 doors?
5 A. On the door itself, on each flange;
6 had a couple of O-rings on each flange.
7 Q. Were there holes on the inside
8 surface of the door, the four-inch across
9 surface?
10 A. No. I didn't recall any holes on
11 the inside of the door. I just recall the
12 wires coming through the outside.
13 Q. Were there any wires visible on the
14 inside of the door at all?
15 A. No.
16 Q. But the door you saw that was -- at
17 least one of the doors that you saw that was
18 separate from the egg-shaped object had wires
19 coming out of it?
20 A. It had wires coming out the
21 outside, yes.
22 Q. If the doors were missing, were you
23 able to look inside the egg-shaped object?
24 A. Yes.
25 Q. What did you see inside there?

92

1 A. Just a core about this big around
2 went through the whole thing.
3 Q. About how many inches is that?
4 A. I don't know, about 12 to 14
5 inches.
6 Q. There was a core inside of it about
7 12 to 14 inches in diameter, is that what
8 you're saying?
9 A. Yes.
10 Q. Where was that located in the
11 egg-shaped object?
12 A. It was right in the center. It
13 went from the long end to the rounder, flatter
14 end of the egg.
15 Q. In between that core and the wall
16 that the door fit into, what did you see?
17 A. Nothing but shiny metal.
18 Q. So there was an empty space inside,
19 is that what you're saying?
20 A. Yes, between the core and the side
21 walls, yes.
22 Q. How thick were the side walls?
23 A. I would guess about eight inches
24 thick.
25 Q. Did they appear to be solid to you?

93

1 A. Yes.
2 Q. So you didn't -- the circular door
3 edges that you saw that were on the main object
4 did not have any kind of voids in it, is that
5 right?
6 A. Just a little ring around where the
7 metal come together.
8 Q. Could you see any seams on the
9 outside of the eggs?
10 A. No.
11 Q. Not anywhere?
12 A. No.
13 Q. Was there any kind of residue
14 visible on the inside of the eggs?
15 A. No.
16 Q. Nothing at all?
17 A. I didn't see anything on them.
18 Q. What color was the core inside?
19 A. It was shiny, just like the
20 outside, stainless.
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22 material to you?
23 A. Yes.
24 Q. You said it was a cylinder about 16
25 inches across. How long was it?

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1 A. Eight-foot.
 2 Q. It ran from one end of the object
 3 to the other?
 4 A. Yes.
 5 Q. Was there anything inside
 6 supporting it?
 7 A. No.
 8 Q. Were there any markings on the core
 9 that you saw?
 10 A. No, I didn't -- if there was, I
 11 couldn't see any.
 12 Q. Did you see any kind of access into
 13 the inside of the core, any kind of door or a
 14 handle, anything like that?
 15 A. No.
 16 Q. It was just a smooth piece of
 17 metal?
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 19 Q. You have to answer orally.
 20 A. Pardon?
 21 Q. You have to speak up.
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 23 would gain access to the center of that core.
 24 It looked like just a solid core is what it
 25 looked like.

95

1 Q. Did the hollow space inside look
 2 like it had ever been filled with anything?
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 4 Q. Were there any dials, levers or
 5 handles at all inside the object?
 6 A. No.
 7 Q. Let's talk about the doors that
 8 fell off. Were their surfaces also continuous
 9 so that it appeared to be a solid object?
 10 A. They were pretty -- the ones that
 11 was still on the egg was pretty flesh with the
 12 surface of it. It was pretty smooth.
 13 Q. Let me rephrase my question because
 14 I think I didn't do it very well.
 15 There were two doors that were not
 16 attached, right?
 17 A. Yes.
 18 Q. Did they look like solid objects or
 19 did they appear to have spaces in them that you
 20 could tell?
 21 A. No, they looked solid. They looked
 22 solid except for the wires coming out of the
 23 outside of them.
 24 Q. Did they appear to be made of the
 25 same material that the rest of the object was

96

1 made out of?
 2 A. Yes.
 3 Q. You believe that was stainless
 4 steel or some kind of steel?
 5 A. Stainless steel, yes.
 6 Q. Shiny and silvery, right?
 7 A. Yes.
 8 Q. So when this first load arrived and
 9 the two doors were off, are you saying that the
 10 dump truck dumped up and the doors fell off
 11 along with the egg; is that right?
 12 A. Yes. One of them -- one of them
 13 rolled down with the egg and the other just
 14 kind of fell off the back of the truck. I
 15 covered up the egg with fly ash I remember. I
 16 loaded that other door up and brought it up to
 17 the shop to look at it a little closer.
 18 Q. Did the people who were making the
 19 delivery notice that one of the doors hadn't
 20 gone all the way down into the hole?
 21 A. I don't believe so.
 22 Q. Did they look?
 23 A. If they did, they didn't catch it.
 24 Q. So when you -- when you buried the
 25 object, they were watching you bury it. You

97

1 buried the egg, you buried one door, but one
 2 door remained unburied; is that right?
 3 A. Yes.
 4 Q. And where was that located between
 5 the truck and the object that you buried?
 6 A. Somewhere between the truck and
 7 where the rest rolled down into the hole.
 8 Q. On the slope?
 9 A. I think after the driver dumped the
 10 stuff off he just pulled out and kept on going.
 11 I don't think he even looked back.
 12 Q. Where were the other guys, the guys
 13 who came in the escort cars?
 14 A. They were still down around the
 15 office.
 16 Q. So they didn't come back out on the
 17 fill?
 18 A. They may have. I don't recall if
 19 they did or not. If they would have, they
 20 would have called my attention to the one
 21 laying up on top.
 22 Q. If the driver just dumped the load
 23 and took off, who watched you fill the hole and
 24 cover them up?
 25 A. Seems like someone was standing

1 there watching me cover them. I think the same
 2 ones that come in in the car. How this one
 3 door got astray from the rest of it, I don't
 4 recall the details of that.
 5 Q. But it did?
 6 A. It did. I ended up with one of the
 7 doors up at the shop.
 8 Q. How did you pick it up?
 9 A. I think I just rolled it in the
 10 bucket of the loader, brought the loader up,
 11 dumped it off by the building.
 12 Q. You dumped it outside the garage?
 13 A. Yes.
 14 Q. And then what happened to it?
 15 A. Laid around there for a long time
 16 and then it disappeared.
 17 Q. It laid around outside the garage,
 18 is that what you're saying?
 19 A. No, it was inside.
 20 Q. How did it get inside the garage?
 21 A. I think we carried it in.
 22 Q. Who did?
 23 A. I did. And I probably had
 24 someone -- no, I probably carried it in with a
 25 cart. I had -- I had a four-wheel dolly. But

1 two hands?
 2 A. I probably did then. I could pick
 3 up some weight back then.
 4 Q. Do you remember how much it
 5 weighed?
 6 A. Probably 200 pounds.
 7 Q. You were able to lift that?
 8 A. Yeah, when I was your age.
 9 Q. How far did you carry it?
 10 A. Oh, I don't know, five, ten feet.
 11 Q. What did you do with it?
 12 A. Set it on the floor of the garage
 13 and it just sat there for a long time.
 14 Q. Why didn't you scrap it? 200
 15 pounds of stainless steel is worth a lot, isn't
 16 it?
 17 A. It might have gotten scrapped, I
 18 don't know.
 19 Q. But you didn't scrap it, right?
 20 A. No.
 21 Q. You just left it there in the
 22 garage?
 23 A. Yes.
 24 Q. Why didn't you go and dig out the
 25 other one?

1 some of this is starting to come back on me
 2 now.
 3 I remember the driver seeing the
 4 door when he come in with the next one laying
 5 there by the building. He says you can scrap
 6 that piece out. But he said don't ever cut
 7 into the rest of it. I do recall that.
 8 Q. So the driver -- scratch that. Let
 9 me start over.
 10 In between the first delivery and
 11 the second delivery you brought the door over
 12 to the outside of the garage.
 13 A. Yes.
 14 Q. And when the driver came back with
 15 the second delivery, he saw and noticed --
 16 A. He saw it laying there. He said --
 17 yeah, he says you can scrap that out, but don't
 18 ever cut into the rest of it. But I -- it laid
 19 around there for a long time. And, I don't
 20 know, it disappeared then. Maybe it was still
 21 in the garage when I left there. I don't know.
 22 Q. After he saw it, did you then move
 23 the door inside the garage?
 24 A. I think so, yes.
 25 Q. Did you pick it up with your own

1 A. Because I was told not to.
 2 Q. The driver told you not to dig out
 3 the other door?
 4 A. Oh, not the other door. I
 5 didn't -- it was buried. I didn't want to fool
 6 with it. I thought you meant the eggs.
 7 Q. Who had access to the garage?
 8 A. All the help that was working
 9 around there, the drivers.
 10 Q. Did anybody --
 11 A. The bulldozer operators.
 12 Q. I'm sorry. Are you done? I didn't
 13 mean to cut you off.
 14 A. Bulldozer operators and the drivers
 15 had access to the garage.
 16 Q. Did anybody ever ask about the door
 17 ever?
 18 A. I don't recall -- I don't think so.
 19 Q. Did you ever tell anybody where
 20 that object came from?
 21 A. I don't recall if I did or not.
 22 Q. Did you ever discuss that door with
 23 Mr. Budoff?
 24 A. Seems like I did, but I don't
 25 recall what the conversation, how it led to

102

1 that.

2 Q. Well, let's think about it. Can
3 you recall about when you had that
4 conversation?

5 A. I think it was sometime when he was
6 out, we was settling the monthly statements. I
7 think I told him about the stainless steel. He
8 mentioned something about how they cut
9 stainless down at their yard, their scrap iron
10 yard. They use a regular torch, and then they
11 take steel rod and inject it into the flame.
12 It will cut stainless. I didn't know that.

13 Q. Did you and he discuss salvaging
14 the steel for value out of that door?

15 A. We briefly touched on the subject.
16 I don't know if he was interested in salvage,
17 but he saw the door, he told me how you could
18 cut it up if you had to.

19 Q. Did you ever cut it up?

20 A. No.

21 Q. Do you know if he ever cut it up or
22 anybody else?

23 A. I don't know. I don't recall.

24 Q. So as far as you know when you left
25 the landfill that door was still sitting in the

104

1 come from or not. I might have discussed it
2 with him, but I don't really recall.

3 Q. Let's go back to burying the eggs
4 for just a minute. How much material did you
5 put on top of the first egg in order to bury
6 it?

7 A. I think I just put a couple buckets
8 of fly ash on it, probably eight yards, maybe a
9 little more.

10 Q. So how deep did that cover the egg?

11 A. Well, it would just barely cover
12 over it is all. By the time the fly ash would
13 run down along the sides, it didn't have that
14 much cover on it.

15 Q. So there was kind -- kind of a
16 little mound around the bottom of this hole
17 covering up this egg, is that what you're
18 saying? Is that what it looked like?

19 A. I imagine it did, yes.

20 Q. Then what happened to the second
21 egg, where did it go?

22 A. Right beside it.

23 Q. Next to it, not on top of it?

24 A. Yes.

25 Q. What about the third egg?

103

1 garage, is that right?

2 A. That's correct.

3 Q. Do you recall seeing it there at
4 about the time you left the landfill?

5 A. No.

6 Q. When was the last time you saw it?

7 A. I don't know. It seemed like it
8 was around there maybe a year before it
9 disappeared.

10 Q. So you think that it was about a
11 year while it stayed there and then one day you
12 just sort of noticed it wasn't there anymore,
13 is that what you're saying?

14 A. Yes.

15 Q. Did you ever tell Mr. Budoff about
16 where the door came from?

17 A. No.

18 Q. Never mentioned the eggs to Mr.
19 Budoff?

20 A. No, I don't recall if I did. I

21 don't think I did.

22 Q. Didn't he ask you when you showed
23 him this large piece of stainless steel how you
24 came by it?

25 A. I don't recall if he asked where it

105

1 A. It seems like they were laying like
2 a triangle. There was one here and one out
3 here and one here.

4 Q. But each of them was just kind of
5 dumped over the side and they ended up coming
6 to rest where they came to rest?

7 A. Where they stopped at, yes. Didn't
8 move them after that.

9 Q. Did they make some kind of an
10 indentation in the sand when they landed?

11 A. I didn't go down under and look.

12 Q. How heavy did they seem when they
13 landed?

14 A. Heavy.

15 Q. Did you try to pick one up with
16 your bucket?

17 A. No.

18 Q. For how long was this in the
19 condition it was just kind of an egg shallowly
20 covered up by a mound of fly ash?

21 A. Not very long.

22 Q. How long is not very long?

23 A. Maybe a day or two until we put
24 more stuff over them.

25 Q. What kind of stuff did you put over

27 (Pages 102 to 105)

1 them after a day or two?
 2 A. Seemed like we got a load of tire
 3 beads from somewhere, we dumped them over the
 4 top of them.
 5 Q. A load of tire beads. How many?
 6 A. There was a couple loads of them.
 7 Q. What volume would that be?
 8 A. Probably 80 yards.
 9 Q. So you just happened to get a
 10 couple of loads of tire beads in and you
 11 directed the drivers of those loads, instead of
 12 going to their usual place over by the
 13 northwest corner where the fill was, to dump
 14 them over the side of the ramp over these
 15 little mounds; is that right?
 16 A. Yes, I think that's what we did
 17 with them.
 18 Q. Did you put anything else on top of
 19 the eggs?
 20 A. No. More fly ash, I believe.
 21 Q. How much?
 22 A. Probably a couple feet deep.
 23 Q. When did that happen?
 24 A. I think that weekend, same weekend,
 25 same week they were brought in.

1 Q. So within a few days, is that what
 2 you're saying?
 3 A. Yes.
 4 Q. Who did that, you or Mr. Laston?
 5 A. I did that.
 6 Q. You did that yourself?
 7 A. Yes.
 8 Q. With the dozer or the front-end
 9 loader?
 10 A. The front-end loader.
 11 Q. Did the dozer run over this
 12 material at any time?
 13 A. Just when he lowered the tire
 14 beads.
 15 Q. And Mr. Laston did that?
 16 A. Yes.
 17 Q. How big in all when you were done
 18 leveling it out and covering it again with more
 19 fly ash was the area that was covered up?
 20 Strike that. Let me start the question over.
 21 When all three of these objects
 22 were down there and they were covered and you
 23 were done with them, how big of a mound above
 24 the bottom of that hole did they create?
 25 A. Well, when we finished, when I was

1 finished with them, it was almost level with
 2 the terrain around it.
 3 Q. So within a few days after these
 4 eggs were delivered, you had put so much stuff
 5 on top that instead of being at the bottom of
 6 an 18 to 25 foot hole, they were almost level
 7 with the top of that hole. Is that what you're
 8 saying? I want to make sure I understand it.
 9 A. Pretty much, yes.
 10 Q. How big of an area did that
 11 material you put on top of the eggs cover?
 12 A. About the size of this room, a
 13 little bit bigger.
 14 Q. I don't have a clue what the size
 15 of this room is. Do you want to give us an
 16 estimate in feet or acres or something?
 17 A. It would probably take about five
 18 good dump truck loads to fill this room.
 19 Q. And where did the material come
 20 from that you used to cover the eggs?
 21 A. Firestone.
 22 Q. You're talking about the tire beads
 23 now?
 24 A. No, the tire beads come from one of
 25 the other rubber companies.

1 Q. What Firestone material did you put
 2 on top?
 3 A. Fly ash.
 4 Q. Fly ash, okay, got it.
 5 A. It's possible the tire beads come
 6 from Firestone, too. I'm not sure.
 7 Q. I want to go back now to the eggs
 8 coming in and the conversation that these
 9 people bringing them in had with you.
 10 Can you recall exactly what you
 11 were told about what these eggs were?
 12 A. Well, I was just told that they
 13 shouldn't be bothered, that they could lay
 14 there for the next 10,000 years and they would
 15 be harmless if no one bothered them. It would
 16 be my advantage not to even mention them to
 17 anybody, which I didn't all these years. And
 18 they didn't tell me they were nuclear bombs
 19 when they brought them in. But over the years
 20 I figured that out.
 21 Q. Did somebody -- were those the
 22 exact words, "to your advantage not to tell
 23 anyone"?
 24 A. Something similar to that. That
 25 might not have been the exact words, but it

110

1 was --
2 Q. Were you physically threatened?
3 A. No. More mentally threatened. I
4 wasn't physically threatened.
5 Q. But you took what you were told as
6 a threat that something bad would happen to you
7 if you told about this, is that what you're
8 saying?
9 A. Yes.
10 Q. From words that it would be to your
11 advantage not to tell anyone?
12 A. Yes.
13 Q. Or was something else said?
14 A. That was basically what was said.
15 Just to keep my mouth shut.
16 Q. Was that the person in the kaki
17 uniform that said that or someone not in
18 uniform, or the driver of the truck?
19 A. Now, that I don't recall, which one
20 said that.
21 Q. Were you told that if you tried to
22 salvage these things or cut into them, they
23 might explode?
24 A. They didn't say they would explode.
25 They just said it would be dangerous.

111

1 Q. Were you told what was inside the
2 core?
3 A. Not at that time. Somewhere along
4 the line someone mentioned plutonium 238 in one
5 of the conversations. And I don't know where
6 that come from.
7 Q. Now, that's -- that's an
8 interesting statement. Somewhere someone along
9 the line --
10 A. I don't know if it was the driver
11 or one of the military personnel or who said
12 that.
13 Q. So somebody associated with one of
14 these shipments used words plutonium 238?
15 A. 238.
16 Q. Is that what you remember?
17 A. I remember that.
18 Q. So it didn't happen sometime later,
19 it happened at some point during the day or
20 several days when these shipments --
21 A. The days when we had the shipment
22 in there it happened.
23 Q. The same person didn't come back
24 after you had buried the eggs, did he?
25 A. I don't recall him coming back, no.

112

1 Q. They never came back to check to
2 see that the eggs were properly buried?
3 A. No, just the driver is all.
4 Q. He came back with other loads.
5 A. Yes.
6 Q. But somewhere in this three-day
7 period you remember someone saying something
8 about plutonium 238?
9 A. Yes.
10 Q. You're sure it's plutonium and not
11 uranium?
12 A. Yes, it's plutonium because it's
13 been in my mind all these years.
14 Q. You're certain it's 238 and not
15 239?
16 A. No, it was 238.
17 Q. I think you said that they also
18 said that they were live cores, is that what
19 you recall?
20 A. Someone told me they was live
21 cores, but they're safe, they wouldn't harm
22 anything or anybody if it just wasn't bothered.
23 Q. Again, when you say someone told
24 you, you mean someone associated with one of
25 these three shipments?

113

1 A. One of the people that was there.
2 Q. Did you ask what they meant by a
3 live core?
4 A. No, I just -- I figured they had
5 more knowledge of what was going on than me.
6 They had to surely know whether the stuff was
7 safe to put there or not.
8 Q. So you just believed them?
9 A. Yes.
10 Q. Did you believe at that time that
11 there was plutonium 238 in those objects?
12 A. No, I didn't believe it because I
13 thought they probably said that to keep me from
14 salvaging them because they would have been
15 worth a lot of money salvaged back then.
16 Q. Did you similarly not believe that
17 the cores were not, quote, live at this time?
18 A. No, I didn't think there was live
19 cores in them.
20 Q. So you thought you were being told
21 a story to prevent you from salvaging them?
22 A. Yes.
23 Q. Do you still think that?
24 A. No.
25 Q. What has changed your mind is what

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1 you have seen on TV recently?
 2 A. It's changed my mind a little bit.
 3 Q. Anything else?
 4 A. No, that's basically what's changed
 5 my mind, current events.
 6 Q. Weren't you curious, didn't you ask
 7 them any questions about what they meant by a
 8 live core?
 9 A. No.
 10 Q. Did you do anything to check up on
 11 it, to verify what they had told you?
 12 A. No, not for several years later I
 13 started doing a little research on what those
 14 objects were.
 15 Q. You said a couple times that you
 16 did some research. I would really like to pin
 17 down when you did that.
 18 A. It was probably 20 years ago when I
 19 did that.
 20 Q. What made you do that 20 years ago?
 21 1980?
 22 A. I don't know. It was just when
 23 everything in the landfill started bubbling.
 24 Q. You weren't even involved in the
 25 landfill then?

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1 A. No, but I had depositions about it
 2 before that.
 3 Q. At the time that you left the
 4 landfill, had the filling operations expanded
 5 beyond the northwest corner?
 6 A. Yes.
 7 Q. How far?
 8 A. You mean before I left or after I
 9 left?
 10 Q. Let me try to -- let me rephrase
 11 the question.
 12 When you started filling you were
 13 filling in the northwest corner?
 14 A. Yes.
 15 Q. By the time you left, were you
 16 still filling in the northwest corner or had
 17 you expanded at that time?
 18 A. It was still in the northwest
 19 corner.
 20 Q. Okay. So the area where you buried
 21 these eggs, was that part of the active fill at
 22 the time you left the landfill?
 23 A. No.
 24 Q. So it was still, I take it then, in
 25 the same condition as it was when you finished

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1 burying the eggs a few days after they arrived
 2 at the time that you left, is that right?
 3 A. Except we had put harder materials,
 4 dirt and material, we parked equipment over top
 5 of that area.
 6 Q. So you sort of expanded in effect
 7 the surface ramp area with dirt, with hard
 8 packed dirt so you could park equipment there?
 9 A. We leveled the area up to the
 10 garage level.
 11 Q. But you never filled the area above
 12 the eggs with general type rubble of the same
 13 type that went in the rest of the landfill, is
 14 that correct?
 15 A. It was just the tire beads and then
 16 we put gravel over top of the fly ash, made a
 17 parking lot in that area.
 18 Q. Do you know if that area was filled
 19 after you stopped running the landfill?
 20 A. I believe it was filled many, many
 21 feet over top of that because the area where
 22 the garage sat was filled over top of.
 23 Q. So even when you reached the top of
 24 this hole that the eggs were originally dumped
 25 in, that was below the ultimate top surface of

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1 the landfill by quite a distance, is that what
 2 you're saying?
 3 A. Oh, yes, yes.
 4 Q. If these objects are still there
 5 now, how many feet of material are they
 6 underneath?
 7 A. 45 or 50.
 8 Q. Did anybody ever bring these
 9 objects up with you again after you had stopped
 10 being involved with the landfill but before
 11 this lawsuit?
 12 A. No. When I was over in Killian
 13 Road at the plant over there, someone come in
 14 with an aerial photograph with some kind of
 15 infrared. It seemed like he was from the
 16 military. I don't know what branch.
 17 But he had these pictures of the
 18 landfill that showed different objects under
 19 the surface. It showed where the automobiles,
 20 the old trucks and stuff were buried. It
 21 showed where the eggs were still laying.
 22 The only thing he wanted me to
 23 verify was what the other materials were around
 24 them. I told him, well, this is that car, this
 25 was that old truck. And he left. That was the

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1 only contact I ever had with that.
 2 Q. Let's --
 3 A. Whoever he was he seemed to know
 4 what was there.
 5 Q. Let's take that answer in parts.
 6 You say this happened when you were
 7 over at Killian Road. Killian Road was a
 8 facility that you were involved in after you
 9 stopped operating the landfill?
 10 A. Yes.
 11 Q. And how long after you stopped
 12 operating the landfill did you start up at
 13 Killian Road?
 14 A. Let's see. I think I purchased
 15 that plant in 1976. This must have been in
 16 probably 76 or 77.
 17 Q. So it was within a year or two
 18 after you started up at Killian Road that this
 19 happened?
 20 A. Yes.
 21 Q. You're sure of that?
 22 A. Well, I'm not sure, but somewhere
 23 in that ballpark.
 24 Q. When did you leave Killian Road?
 25 A. In 1981.

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1 Q. So one way or another it was
 2 sometime in the period while you were at
 3 Killian Road that this happened?
 4 A. Yes.
 5 Q. Do you remember what time of year
 6 it was when you got this visit?
 7 A. No.
 8 Q. Did the person come to visit you at
 9 Killian Road or at your house?
 10 A. At the office on Killian Road.
 11 Q. What time of day was it?
 12 A. I don't know, sometime after lunch.
 13 Q. Just one man came to visit you?
 14 A. Yes.
 15 Q. Was he white or black?
 16 A. White.
 17 Q. Was he wearing a uniform?
 18 A. No.
 19 Q. Did he identify himself?
 20 A. He did, but I don't know what
 21 identity he gave me now.
 22 Q. Did he tell you his name?
 23 A. Yes.
 24 Q. You don't remember what it was?
 25 A. No.

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1 Q. Did he tell you who he worked for?
 2 A. No.
 3 Q. Some guy just showed up, said hi,
 4 I'm so and so, I have some pictures that I want
 5 to ask you some questions about, is that how it
 6 happened?
 7 A. Right.
 8 Q. And what did he say to you?
 9 A. He just wanted me to identify those
 10 other objects that was underneath the ground
 11 there, which I did. He was satisfied with my
 12 answer. He said, well, that's all I need to
 13 know and left.
 14 Q. So the whole interaction took about
 15 how long?
 16 A. 15 minutes.
 17 Q. You said he brought some pictures.
 18 How many pictures?
 19 A. Just one that I saw.
 20 Q. It was an aerial photograph?
 21 A. It was an aerial photograph, but it
 22 was a funny looking picture. It wasn't like a
 23 regular picture.
 24 Q. What did it look like; was it in
 25 color or black and white?

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1 A. I think it was black and white.
 2 Q. Did the structures on the surface
 3 show?
 4 A. Not near as much as the stuff
 5 underneath the ground showed.
 6 Q. But could you see where buildings
 7 and roads were, for example?
 8 A. No.
 9 Q. And what did the stuff underneath
 10 the ground look like on the picture?
 11 A. Like your thumb print. If you took
 12 your thumb print and stuck it on a picture
 13 and --
 14 Q. Were the underground objects light
 15 or dark in color?
 16 A. There was different -- they was
 17 darker than what the paper was that had them
 18 on.
 19 Q. What I'm trying to get a handle on
 20 is what was the basic background color of the
 21 aerial photo. Was it a light color with
 22 objects highlighted in dark or was it dark
 23 highlighted in white?
 24 A. I'm not sure now. But I could see
 25 the objects and I could identify what they

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1 were. That's pretty much all it was to it.
 2 Q. So you saw and recognized these egg
 3 like objects on the photo that you were shown?
 4 A. Yes.
 5 Q. Were they distinctly visible as egg
 6 shapes, or not?
 7 A. No, they were just like I said,
 8 they was like a blot.
 9 Q. How big was the photograph?
 10 A. Probably the size of that sheet
 11 right there.
 12 Q. 11 by 17 sheet of paper, about this
 13 size?
 14 A. Yes.
 15 Q. Did it occupy all of the sheet?
 16 A. I think it did, yes.
 17 Q. And how big on the photograph did
 18 the eggs look?
 19 A. Well, as I say, they seemed like
 20 they were about the size of my thumb.
 21 Q. They were about that size?
 22 A. Yes.
 23 Q. As well as looking like a thumb
 24 print?
 25 A. The cars and everything looked

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1 similar in size and shape. Nothing really had
 2 a shape. But you could just see there was a
 3 difference there.
 4 Q. Okay. Did you ask this person
 5 whether he had talked to Hy Budoff about this?
 6 A. No.
 7 Q. Did he say whether he had been to
 8 talk to anyone else about it?
 9 A. I don't recall too much
 10 conversation with him because I was busy
 11 working and I just give him his information and
 12 he left.
 13 Q. But you weren't at the landfill
 14 then at all, right?
 15 A. No, this was many years later.
 16 Q. So if somebody wanted to find out
 17 about something buried at the landfill, their
 18 first stop probably would have been the
 19 landfill, right?
 20 A. I would think so.
 21 Q. Did you ever ask Hy if this guy
 22 came to visit him?
 23 A. No.
 24 Q. Did you tell anybody about this
 25 visit?

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1 A. Not since I give my last deposition
 2 I told the attorneys about it.
 3 Q. You never, for instance, reported
 4 this to the police that this strange guy was
 5 snooping around about your landfill?
 6 A. No. Well, it wasn't my landfill at
 7 the time. He wasn't trespassing. He probably
 8 had a plane take the pictures or helicopter.
 9 MR. GOLD: Why don't we mark this
 10 as Exhibit 2, please.
 11 - - - - -
 12 (Thereupon, Plaintiff's Exhibit 2
 13 was marked for purposes of
 14 identification.)
 15 - - - - -
 16 Q. Mr. Kittinger, I'm showing you a
 17 copy of a drawing that's been marked as Exhibit
 18 2. My first question is, have you seen this
 19 before?
 20 A. Yes.
 21 Q. In fact you provided a copy of this
 22 to me and some other attorneys on February 5th,
 23 didn't you?
 24 A. Yes.
 25 Q. Do you know how this drawing came

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1 into existence?
 2 A. My grandson was taking art. He was
 3 pretty handy with a pencil. I knew I should
 4 make some kind of notation of this to keep it
 5 in my memory banks. I described it to him and
 6 he sat down with the pencil and sketched it
 7 out.
 8 Q. When did that happen?
 9 A. We was trying to determine. It was
 10 probably in 96 or 97.
 11 Q. 96 or 97 this happened.
 12 A. Yes.
 13 Q. So not within the last six months?
 14 A. No. The last six years.
 15 Q. Where was your grandson at the
 16 time?
 17 A. He was -- he just graduated from
 18 high school and he started to go to the
 19 Pittsburgh Institute of Art. I think he was
 20 staying with us for a short period of time.
 21 Q. And you asked him to draw this?
 22 A. Yes.
 23 Q. Did you sit at his shoulder and
 24 instruct him about what to draw, is that how it
 25 worked?

1 A. Well, I -- yes, you could say that.
 2 Q. Was there anybody else there while
 3 he was drawing it?
 4 A. I don't believe so.
 5 Q. Did he make any drafts or sketches
 6 or did he just draw one final picture at your
 7 instruction?
 8 A. I think he might have made a couple
 9 sketches of it, but I'm not sure. Couple other
 10 he might have just -- he's pretty handy with a
 11 pencil.
 12 Q. How long did it take for you to
 13 tell him what to draw and for him to draw it?
 14 A. I don't know, maybe a half-hour.
 15 This is the original sketch.
 16 Q. That's great. I'm not sure if we
 17 should mark it or not. Why don't we think
 18 about that afterwards.
 19 A. That's why I made copies. I like
 20 these. I might want to frame that someday.
 21 Q. I could see why.
 22 And you tell us that you decided to
 23 do this about three or four years ago because
 24 you wanted to make sure you kept this in your
 25 memory banks?

1 Q. Did he ask you why you wanted him
 2 to draw this object?
 3 A. No.
 4 Q. How did it come up?
 5 A. Pardon?
 6 Q. How did it come up?
 7 A. I don't know what triggered me to
 8 do this, but I just decided I should have some
 9 knowledge of it recorded.
 10 Q. How did you mention it to him?
 11 What did you say?
 12 A. Well, I just asked him if he could
 13 draw me a sketch if I described it to him. He
 14 said sure, describe away.
 15 Q. And you never told him what it was
 16 a sketch of?
 17 A. No.
 18 Q. Did he ask you?
 19 A. Well, I think he was only probably
 20 19 at the time. I don't think he cared.
 21 Q. Had you ever drawn a picture of
 22 these objects before in any way?
 23 A. No.
 24 Q. Is the picture that you're looking
 25 at an accurate depiction of the objects that

1 A. Well, I wanted that and if
 2 something ever happened to me, it's recorded.
 3 Q. But you never gave it to anybody or
 4 told anybody about it, did you?
 5 A. No.
 6 Q. Did anybody else know about it
 7 including your family members or just you and
 8 your grandson?
 9 A. Just our family members knew about
 10 it, but --
 11 Q. Who would that be? Would Merle
 12 know about it?
 13 A. Not until recently.
 14 Q. So when you --
 15 A. We don't talk about that.
 16 Q. So when he drew this, she didn't
 17 know about it?
 18 A. I don't think so, unless he told
 19 her.
 20 Q. Was anybody else there while he
 21 drew it?
 22 A. No, I don't believe.
 23 Q. Where did he draw it?
 24 A. In the office of the old trucking
 25 company on Triplett Boulevard.

1 we've talked about?
 2 A. It's pretty accurate of what we're
 3 talking about.
 4 Q. Is there any way that you can tell
 5 that it's not accurate?
 6 A. No, not really.
 7 Q. Whose handwriting is on this
 8 drawing?
 9 A. His.
 10 Q. Did you tell him to write the words
 11 core plutonium 238?
 12 A. Yes.
 13 Q. Did he ask you what that meant or
 14 why he was writing them?
 15 A. He might have at the time, but I
 16 don't think anything ever come of it. In fact
 17 when he wrote it he spelled it wrong. When I
 18 made the copies I corrected it. It was an A.
 19 Q. What was an A?
 20 A. He had plutonium.
 21 Q. Got it.
 22 So when you asked him to draw this
 23 picture, had you by then come to the conclusion
 24 that there was really plutonium 238 inside
 25 these eggs?

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1 A. No, I was just transcribing the
 2 knowledge that I had from before on the paper
 3 so I could remember sometime along the line.
 4 Q. But at that time you wanted to make
 5 sure you remembered it, but you didn't think to
 6 tell any of the attorneys involved in this case
 7 about it?
 8 A. No.
 9 Q. Why did you tell us about it now?
 10 A. Well, I just told you before
 11 there's evidence of leakage on the landfill,
 12 there's dangerous material, and I think it
 13 needs to be brought up.
 14 Q. Let's get the timing straight
 15 because I want to make sure we have it right.
 16 The first time you told anybody outside perhaps
 17 your immediate family about this was in a phone
 18 call you made to Mr. Haynam, correct?
 19 A. That's correct.
 20 Q. If my memory serves, that was on
 21 Tuesday, January 30th. Does that sound right
 22 to you?
 23 A. Sounds about right.
 24 Q. And a couple of days went by, and
 25 that Friday, the first of February I think

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1 Mr. Haynam and I called you and talked to you
 2 about this a little bit. Is that right?
 3 A. Correct.
 4 Q. The following Monday you came down
 5 to Akron and met with a number of attorneys at
 6 the U.S. Attorney's Office in Akron and told us
 7 about this, right?
 8 A. That's correct.
 9 Q. Prior to that you had never told
 10 any of the attorneys in this case or any of the
 11 other lawsuits about the landfill, anything
 12 about this, correct?
 13 A. No.
 14 Q. And you've not told anybody in the
 15 news media about this at all?
 16 A. Definitely not.
 17 Q. You've been coming to conferences
 18 in this lawsuit from time to time ever since
 19 1989, right; whenever there's a conference, you
 20 come to court?
 21 A. That's correct.
 22 Q. Do you recall that around the early
 23 90s there was a significant controversy
 24 involving the landfill and radiation around the
 25 landfill?

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1 A. Yes
 2 Q. You remember that Judge Manos asked
 3 a lot of questions of the EPA about that at
 4 that time and what was being done about it?
 5 A. Yes.
 6 Q. Why did you never speak up during
 7 all of those conferences and say what you knew?
 8 A. I didn't think this had anything to
 9 do with the rest of the materials dumped there.
 10 I don't know about the other stuff. There's
 11 nothing ever mentioned about plutonium 238
 12 until recently. The stuff that's supposedly
 13 hearsay that was hauled in there was just
 14 radioactive material that could have been
 15 anything. It could have been x-ray treatment
 16 or any kind of stuff.
 17 Q. So you never made the connection
 18 between radioactive material and plutonium 238
 19 and that's why you never told us, is that what
 20 you're saying?
 21 A. That's correct.
 22 Q. Even though you had read your book
 23 about the Tennessee Valley Authority and all
 24 that, right?
 25 A. Yes.

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1 Q. Have you ever been in touch with
 2 anybody in the larger community about this
 3 outside of the attorneys in the lawsuit?
 4 A. No.
 5 Q. Never told anybody about it?
 6 A. No.
 7 Q. Has anybody else suggested to you
 8 that there's plutonium in the lawsuit - excuse
 9 me, in the landfill; or is all you know about
 10 it is what you heard on the TV?
 11 A. That's all I know.
 12 Q. When did you hear it on TV?
 13 A. It was either right prior or right
 14 after I talked to Doug the first time. It was
 15 around the same time frame. It was either that
 16 same day or the day before or the day after.
 17 Q. Did you see it on a program or on
 18 an advertisement?
 19 A. I saw it on TV.
 20 Q. Do you know whether it was a news
 21 show or an ad or some other kind of program?
 22 A. On Channel 3.
 23 Q. Do you remember anything else about
 24 the program?
 25 A. I remember this person named Jimmy

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1 Shover said he worked for me at the time, but I
 2 don't know him being there at the time this
 3 stuff happened or if he was ever there.
 4 Q. Why did you call Doug, Mr. Haynam?
 5 A. Well, I just -- this stuff has been
 6 bothering me all these years. I had to
 7 eventually get it off my mind.
 8 Q. So you've remembered this all these
 9 years, you've never forgotten about it, have
 10 you?
 11 A. No.
 12 Q. But this is not the first time that
 13 you've been asked to testify about material
 14 that the Army brought to the landfill, is it?
 15 A. No.
 16 Q. In fact, you were asked questions
 17 about the Army in your recent deposition in
 18 this case that we held in December and then
 19 again in January, right?
 20 A. Yes.
 21 Q. Do you recall what answers you gave
 22 about what the Army brought in at that time?
 23 A. Some of them, yes.
 24 Q. What did you tell us then?
 25 A. Well, I -- I remembered some of the

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1 canisters they brought in. That was another
 2 case where I think we had to cover the things
 3 right away. I'm not -- I'm not sure.
 4 Q. Let me read to you from your
 5 deposition transcript and after we read it I'll
 6 mark it and I have copies for counsel and for
 7 the court.
 8 But I'm reading first from page 176
 9 of your transcript on December 4.
 10 Question, was the United States
 11 Army also a customer of the landfill?
 12 Answer, they brought some stuff in,
 13 but I don't recall exactly what they brought
 14 in.
 15 Question, and you said you don't
 16 recall what sorts of materials they hauled into
 17 the landfill?
 18 Answer, the Army?
 19 Question, yes, the Army.
 20 Answer, no, I don't recall what
 21 they hauled in now.
 22 Do you recall giving those answers
 23 to those questions?
 24 A. I probably did, yes.
 25 Q. I'll try reading from the second

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1 day of your deposition which was the 3rd of
 2 January. Now I'm reading from page 232.
 3 Question, what do you recall about
 4 the waste from the U.S. Army?
 5 Answer, they had some kind of an
 6 open truck and I really don't recall what all
 7 they hauled in.
 8 Answer, do you recall how big the
 9 truck was -- excuse me. Question, do you
 10 recall how big the truck was?
 11 Answer, probably eight by ten.
 12 Question, okay. Do you recall how
 13 often that truck was at the landfill?
 14 Answer, not very often. I don't
 15 recall them being there but maybe three or four
 16 times.
 17 Question, and you said you don't
 18 recall what was on that truck?
 19 Answer, no.
 20 Do you recall giving those answers
 21 at your deposition?
 22 A. M-hm.
 23 Q. You have to answer yes or no.
 24 A. Yes, I recall giving them.
 25 Q. Today you're telling us that you

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1 recall in quite a lot of detail what was on
 2 those Army trucks, at least some of the time;
 3 isn't that right?
 4 A. As time goes by with this I'm
 5 recalling more things every day.
 6 Q. So your testimony today is that you
 7 didn't remember in December and January about
 8 these eggs but you remember now, is that what
 9 you're saying?
 10 A. I remembered about the eggs all the
 11 time. It's the other stuff, the material they
 12 were bringing in I wasn't too sure what they
 13 was bringing in.
 14 Q. So at the time you testified in
 15 December and January, you remembered about the
 16 eggs that the Army had brought in, is that
 17 right?
 18 A. Yes.
 19 Q. So when you said I don't remember
 20 what the Army brought in, that was not true?
 21 A. About the eggs or the --
 22 Q. You were asked what the Army
 23 brought in. And you said you don't recall.
 24 What I'm trying to get a handle on is when you
 25 said that were you telling the truth?

1 A. I was probably covering up for the
 2 Army. Let's put it that way.
 3 MR. GOLD: I don't think I have
 4 anything further.
 5 THE COURT: Gentlemen, I adjourn at
 6 4:00. If you don't finish, you'll have to
 7 continue this tomorrow. We're not staying here
 8 until 8:00 tonight.
 9 MR. GOLD: Your Honor, I have a
 10 commitment in Chicago tomorrow. Would it be
 11 acceptable if someone else continued the
 12 deposition or if we agreed on another time to
 13 continue?
 14 THE COURT: Any way you want I'll
 15 cooperate with you. But I have you, I don't
 16 care about Chicago.
 17 MR. GOLD: I'm sure, Judge.
 18 THE COURT: But we can arrange --
 19 we can make arrangements.
 20 MR. GOLD: Thank you.
 21 THE COURT: State of Ohio?
 22 MR. KERN: Yes, Your Honor.
 23 THE COURT: Do you have any
 24 questions?
 25 MR. KERN: I have just a few

1 A. The day they brought it in?
 2 Q. Correct.
 3 A. (Nodding head.)
 4 Q. What do you remember about the
 5 people that were there that day that brought
 6 the delivery in? How many people were there?
 7 A. At least four.
 8 Q. Do you know what sex they were?
 9 A. All males, white.
 10 Q. Speak up.
 11 A. All white Caucasians.
 12 Q. And I think you've already
 13 testified about the driver. The driver did not
 14 have a uniform on, is that correct?
 15 A. I don't recall a uniform on the
 16 driver.
 17 Q. The other people that were there
 18 besides the driver, could you describe what
 19 they were wearing?
 20 A. Like I said, the one had a kaki
 21 uniform on with like a police hat. Two of them
 22 had just little different colored uniforms on.
 23 There was one person with a suit.
 24 Q. The person that had a kaki uniform
 25 on, do you know what color it was?

1 questions, Your Honor.
 2 MR. PAFFILAS: If we run out of
 3 time, can we maybe go upstairs so we can finish
 4 this?
 5 THE COURT: No. I'm going to be
 6 here. You're not going anywhere. We're
 7 finishing at 4:00 and we're coming back.
 8 Do you have any objection?
 9 MR. TOSI: No, Your Honor.
 10 THE COURT: Steve?
 11 MR. GOLD: No, sir, that's fine.
 12 MR. THURLOW: No, Your Honor.
 13 EXAMINATION OF CHARLES M. KITTINGER
 14 BY MR. KERN:
 15 Q. Mr. Kittinger, we've met before.
 16 My name is Tim Kern. I'm an assistant attorney
 17 general. I'm an attorney for the State of
 18 Ohio that's one of the parties in this case.
 19 I'm just going to ask you a few follow-up
 20 questions --
 21 A. Okay.
 22 Q. -- about your testimony.
 23 Focus on the day of the first
 24 delivery by the Army of the egg. Do you
 25 remember that day?

1 A. About the color of these chairs.
 2 Q. So it was a beige color?
 3 A. Yes.
 4 Q. What did his hat look like?
 5 A. His cap?
 6 Q. Yes. You said he had a cap on.
 7 A. It was -- I don't know, it looked
 8 like a cap that a policeman wears.
 9 Q. Was it a flat cap or was it like a
 10 policeman's cap?
 11 A. It was flat on top I recall.
 12 Q. Would you say it was an officer's
 13 cap?
 14 A. Well, I would imagine he was some
 15 kind of an officer. He was the one that did
 16 some of the talking. And the person -- he did
 17 some of the talking. And the person in the
 18 suit did some of the talking.
 19 I don't know which carried on which
 20 conversation, but they were the ones that
 21 contacted -- made contact with me.
 22 Q. Now, who seemed to be in charge?
 23 Was there anybody that seemed to be like in
 24 charge of the disposal? I mean was it the
 25 person in the suit versus the person in the

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1 uniform?
 2 A. I think the person in the suit and
 3 the person in the uniform with the hat, they
 4 were more or less in charge. The other two
 5 people was just -- I don't recall any
 6 conversations from them.
 7 Q. They didn't say anything, the other
 8 two did?
 9 A. No.
 10 Q. What were they wearing, the other
 11 two people that were there?
 12 A. It was a uniform, but it was a
 13 different type. I'm not even sure they had
 14 hats on.
 15 Q. And what color were their uniforms,
 16 if you can recall?
 17 A. It seemed like it was -- well, it
 18 wasn't quite this green, but the color similar
 19 to that.
 20 Q. So one person had a kaki uniform on
 21 that was like a beige or tan color, is that
 22 correct?
 23 A. Yes.
 24 Q. And the two other people that were
 25 there, they had uniforms on, but the color of

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1 those uniforms were green?
 2 A. Well, I'm not sure it was really
 3 green, but they weren't kaki. It was a
 4 different shade.
 5 Q. And those two people did not have
 6 any type of hats on, if you can recall?
 7 A. Seemed like one had a hat on and
 8 they took it off and the other -- seems like I
 9 seen a hat, but it didn't seem like they was
 10 wearing them.
 11 Q. Can you remember what kind of hat
 12 it was?
 13 A. No, it was just kind of a little
 14 beanie type hat.
 15 Q. It wasn't a flat hat like --
 16 A. No.
 17 Q. -- the other person had on?
 18 A. No.
 19 Q. Did you know -- now, focusing in on
 20 the egg, how did you know that there was
 21 something inside the egg?
 22 A. Well, I -- like I told Mr. Gold, I
 23 crawled up in the truck and I looked inside. I
 24 stood on the rails of the truck to see inside
 25 the egg.

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1 Q. What did you see when you looked
 2 inside the egg?
 3 A. I saw this core down through the
 4 center of it.
 5 Q. Did you know if the core was filled
 6 with anything?
 7 A. No, I didn't know anything about
 8 them when they brought them in there. I
 9 just -- just what I looked and observed.
 10 Q. What did you make -- what made you
 11 suspect that there was something inside the
 12 core? And I think you've already testified to
 13 that.
 14 A. Well, I don't really know if there
 15 was anything inside of them or not. They might
 16 have just been all stainless steel. I just
 17 know from the conversation that was passed on
 18 to me that there was a possibility it was
 19 plutonium 238 in it, in the core.
 20 Q. Which person, if you can recall,
 21 told you that?
 22 A. Now this I can't pinpoint the
 23 person who did that. I thought it might have
 24 been the driver. But it's possible it was one
 25 of the other personnel that told me that.

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1 Q. Focusing on the first day when the
 2 first egg was dumped at the landfill, what can
 3 you recall about how the egg was dumped into
 4 the fill area? If you could just tell me in
 5 your own words.
 6 I take it the truck pulled up to
 7 the edge of the fill?
 8 A. The edge of the already excavated
 9 area. And it just, when they run the bed up,
 10 it just rolled down into the hole.
 11 Q. What do you mean they run the bed
 12 up?
 13 A. It was a truck that had a bed on
 14 it, a dump flatbed, it went up.
 15 Q. Had you seen trucks like that
 16 before?
 17 A. Yes.
 18 Q. That was a common type dump truck?
 19 A. There was other trucks that hauled
 20 into the fill that had that type of bed on it.
 21 It was a stake bed, picked up rubbish.
 22 Q. There was like a device that would
 23 make the bed tilt?
 24 A. Yes, hydraulics under it.
 25 Q. That was a common type of truck?

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1 A. M-hm.
 2 Q. Is your answer yes?
 3 A. Yes.
 4 Q. You're saying this was the U.S.
 5 Army?
 6 A. I think it was the U.S. Army.
 7 Q. How did they pay for the disposal
 8 of the eggs?
 9 A. They always paid in cash.
 10 Q. They didn't have any type of
 11 credit?
 12 A. No.
 13 Q. Do you recall how much the tipping
 14 fee was?
 15 A. It was four or four and a half.
 16 Q. What, dollars?
 17 A. \$4.00, four and a half dollars.
 18 Q. For the whole disposal of the egg?
 19 A. Yes.
 20 Q. Now, you've testified that there
 21 was a couple of loose doors on the first
 22 delivery; is that correct?
 23 A. Yes.
 24 Q. Do you recall any conversation you
 25 may have had about those two doors at the time

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1 of the disposal?
 2 A. No, there was no conversation at
 3 the time. When they was dumping them off, I
 4 thought everything was going into the hole.
 5 But like I said, the one door didn't fall all
 6 the way down into the hole and I scooped it up
 7 and brought it up to the shop, the repair shop.
 8 Q. Do you know if the people that were
 9 there were aware that the doors were loose?
 10 A. Yes, they knew the doors were off.
 11 Q. How do you know that they knew that
 12 the doors were off?
 13 A. Well, someone must have informed me
 14 I could crawl up in there and look inside them,
 15 which I did, you could see inside because the
 16 light shined in where the one door was off and
 17 you could see in the other one.
 18 Q. The four people that were there,
 19 you believe there was four people, did you have
 20 any conversations with them about the doors
 21 being loose?
 22 A. No. It was just the driver.
 23 Q. You did discuss it with the driver?
 24 A. Yes.
 25 Q. And what do you remember about that

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1 discussion with the driver about the doors
 2 being loose?
 3 A. I didn't ask him why they was
 4 loose. It just wasn't -- two of them just
 5 wasn't bolted in.
 6 Q. Do you recall exactly what he may
 7 have said about the doors being loose?
 8 A. No.
 9 Q. But you do recall you had a
 10 conversation with him about the doors?
 11 A. Yes, and I had one later when he
 12 come back in. And the one door I had up at the
 13 shop, he told me that at this time not to try
 14 to cut into the mainframe of them or there
 15 would be problems.
 16 Q. Did you have any concern about the
 17 egg that had the two doors off that there could
 18 be some -- some of the material could leak out
 19 or somehow get outside the egg?
 20 A. No.
 21 Q. Why didn't you?
 22 A. Well, one of those persons told me
 23 that they could lay there for 10,000 years and
 24 nothing would happen with them. They could
 25 just be there forever.

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1 Q. Now, based on questions asked by
 2 Mr. Gold and I think you've answered them,
 3 you've been aware of the radiation issues for
 4 about how long?
 5 A. I don't know, maybe seven, eight
 6 years.
 7 Q. And do you know that the citizen
 8 group has been concerned about this issue?
 9 When I talk about the citizen group, that's the
 10 Concerned Citizens of Lake Township?
 11 A. Yes, I know they're stirring up
 12 problems about it.
 13 Q. Have you ever had any conversations
 14 with them about any type of radiation issues at
 15 the landfill?
 16 A. No.
 17 Q. Have you ever had any conversations
 18 with them about any issues regarding the
 19 landfill?
 20 A. Not for 20-some years.
 21 Q. So you never raised your concerns
 22 about these eggs or about the doors being off
 23 with any of the citizen groups?
 24 A. No.
 25 Q. Your answer was no to that?

1 A. No.
 2 Q. This may be hard to do, but I want
 3 you to focus on when was the first time you
 4 heard about plutonium 238?
 5 A. 20 years ago or 30.
 6 Q. So you had known about that
 7 material 20 years ago?
 8 A. Well, I heard about it when I
 9 was -- heard the conversation about the eggs.
 10 That was -- that was it.
 11 Q. You remember people that disposed
 12 the egg saying that it was plutonium 238?
 13 A. Yes.
 14 Q. And when did you -- I think you
 15 said you heard about it recently on the news,
 16 is that correct?
 17 A. There was Channel 3 News, the media
 18 released a program about radiation leaking from
 19 the landfill and plutonium 238 was one of them.
 20 Q. So you heard that --
 21 A. When I saw the program, I think I
 22 called Doug then, informed him about what might
 23 be buried there. It seemed like it was a day
 24 after they had another program, and they said
 25 it was plutonium 238 leaking.

1 Q. So you heard it on the news, the TV
 2 news, about leaking plutonium 238, and it was
 3 after that -- after you heard it on the news,
 4 that's when you called Mr. Haynam; is that
 5 correct?
 6 A. I think I called him before I knew
 7 that the plutonium was being released. I
 8 called him when I heard there was this
 9 radiation being released in large amounts.
 10 Q. Okay. So the first thing you heard
 11 on the news just --
 12 A. I think Doug was the first one I
 13 told that it's possible 238 is in the core of
 14 them, if I recall.
 15 Q. If I can clarify your testimony,
 16 you first heard on the news account or on TV
 17 that there was just generally radiation leaking
 18 from the landfill?
 19 A. Yes.
 20 Q. After you heard that account,
 21 that's when you called Mr. Haynam?
 22 A. Yes.
 23 Q. What did you tell Mr. Haynam about
 24 what was in the eggs?
 25 A. Well, I told him I thought there

1 was 238 cores in those eggs.
 2 And it was a day or two later it
 3 come out in the news that this citizens group
 4 analyzed 238 and they pinpointed it with
 5 cameras right in the spot where they're laying.
 6 Q. Now, focusing on let's say the day
 7 of the first egg that was dumped at the
 8 landfill, was there anybody else that helped
 9 you put material on top of the egg?
 10 A. No.
 11 Q. Where was Gene Laston at the time?
 12 A. He was down over the ramp at the
 13 end of the fill. He was down over the ramp
 14 with the dozer leveling off materials coming
 15 in.
 16 Q. So Mr. Laston didn't help you put
 17 cover or fill on top of eggs?
 18 A. Not when they first come in, no.
 19 Q. Did he ever help you at any other
 20 time?
 21 A. Well, later on when he didn't know
 22 what was there. I don't think he ever knew of
 23 what was there.
 24 Q. But later on --
 25 A. He helped cover it over and make it

1 a parking area, yes.
 2 Q. So later on he did assist you with
 3 covering those eggs?
 4 A. I put cover over them, yes.
 5 Q. But you don't believe he ever knew
 6 that those eggs were there, Mr. Laston?
 7 A. It's a possibility he knew about
 8 the doors because he was in and out of the shop
 9 there. And the door laid there for -- I don't
 10 recall if he knew about them or not. I just --
 11 I can't really say.
 12 Q. So you didn't have a conversation
 13 with Mr. Laston about the eggs that were
 14 disposed in the landfill?
 15 A. No, I don't recall if I did.
 16 Q. Do you recall any conversation you
 17 may have had about the door that was up in the
 18 garage with Mr. Laston?
 19 A. Well, the door was common talk with
 20 everybody there, but no one knew where it come
 21 from. It was just a piece of stainless steel.
 22 Q. And you never told anybody where
 23 the door came from?
 24 A. No.
 25 MR. KERN: I don't have any further

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1 questions, Mr. Kittinger. Thank you
 2 THE COURT: Lou, we have 15
 3 minutes.
 4 MR. TOSI: Let me see how far I can
 5 get. I might be able to finish.
 6 THE COURT: We can go a little
 7 over. I'm not encouraging you to go over.
 8 MR. TOSI: I understand.
 9 THE COURT: Proceed.
 10 We're going to have to come back
 11 because I guess you've got two other witnesses
 12 you wish to depose.
 13 MR. TOSI: Yes. Let me start in,
 14 see where we get.
 15 EXAMINATION OF CHARLES M. KITTINGER
 16 BY MR. TOSI:
 17 Q. Mr. Kittinger, you've been
 18 testifying for about three hours. How do you
 19 feel right now?
 20 A. Tired.
 21 Q. A little tired?
 22 We're getting near the end. I have
 23 a couple questions. If you could bear with me,
 24 I would appreciate that.
 25 A. Okay.

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1 Q. Because you understand the
 2 importance of being as accurate as possible,
 3 correct?
 4 A. Yes, I understand it. I understand
 5 this should be one of the most important
 6 meetings that's been had on this subject.
 7 Q. You understand since this is being
 8 transcribed, a record is being made of these
 9 questions?
 10 A. Yes.
 11 Q. So with that in mind, I want to ask
 12 you some questions about certain facts. And if
 13 you really don't know the answer or you don't
 14 recall, just tell me that. I don't want you to
 15 hedge anything. It's important that we get at
 16 what you know and what you have impressions of.
 17 You understand the difference between knowledge
 18 and an impression, don't you?
 19 A. Yes.
 20 Q. Now, you were asked about a call
 21 you made to Doug Haynam, who is my partner,
 22 towards the end of January where you disclosed
 23 these so-called Army deliveries to Mr. Haynam.
 24 A. Yes.
 25 Q. You recall that conversation?

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1 A. Yes.
 2 Q. Do you recall that you told him
 3 that the reason you called him is that
 4 reporters were calling you?
 5 A. Yes.
 6 Q. And that reporters were telling you
 7 something about this story about nuclear
 8 material in the landfill?
 9 A. No, they didn't tell me -- the
 10 reporters -- I didn't talk to any of them.
 11 Q. What did the reporters tell you?
 12 A. They didn't tell me anything. I
 13 didn't talk to them. My wife filtered the
 14 calls and hung up on them.
 15 Q. I want to go back in time to when
 16 you operated the landfill. You operated the
 17 landfill through a company called Industrial
 18 Excess Landfill, Inc., is that correct?
 19 A. Yes.
 20 Q. And when you operated the landfill,
 21 did you previously testify that the Stark
 22 County Health Department was often at the site
 23 and advised you on the operations?
 24 A. Yes.
 25 Q. And did you testify that in fact

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1 Mr. Dopler suggested to you that you begin
 2 using the site for a disposal ground for
 3 liquids?
 4 A. Yes.
 5 Q. And did you not testify that
 6 Mr. Dopler had suggested customers to you?
 7 A. Yes.
 8 Q. And that in fact some of your
 9 customers came to you because Mr. Dopler had
 10 suggested that?
 11 A. Yes.
 12 Q. Now, during the time of these
 13 deliveries of these eggs, did anyone who
 14 brought these materials to you suggest that
 15 they had approval to bring you these materials?
 16 A. No.
 17 Q. You don't recollect --
 18 A. I don't recollect anybody having
 19 approval to bring them in.
 20 THE COURT: Louder.
 21 A. No, I don't recollect them being
 22 approved to bring the materials, those eggs in.
 23 Q. Did you get the impression that
 24 they had approval?
 25 A. I had the impression that someone

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1 knew about this material long before it come
 2 in, but I never did find out who it was.
 3 Q Did you have the impression that
 4 Mr. Dopler had told someone from the Army that
 5 it was acceptable to bring the materials to
 6 your landfill?
 7 A. I had the impression of that, but I
 8 never had anything to verify it.
 9 Q Now, you recollect that there was
 10 an event at the landfill that was pretty
 11 noticeable, there was a lagoon fire. Correct?
 12 A. Yes.
 13 Q. And that lagoon fire happened
 14 shortly before you transferred your shares in
 15 the business to Hy Budoff. Correct?
 16 A. I think that was after I
 17 transferred the shares.
 18 Q. Well, do you recollect whether
 19 these stainless steel eggs were delivered
 20 before or after that lagoon fire?
 21 A. I think they were there before the
 22 fire.
 23 Q. And could you give us your best
 24 understanding of how soon they were? And if
 25 you're estimating, tell me that you're

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1 estimating.
 2 A. I would estimate six months.
 3 Q. Do you recall where these eggs were
 4 disposed of?
 5 A. Yes.
 6 Q. Could you identify their location
 7 today?
 8 A. Yes.
 9 Q. If I were to show you an aerial
 10 photograph of the landfill as of 1972, would
 11 you be willing to point to where they were
 12 disposed of?
 13 A. Yes.
 14 Q. Now, I'm going to show you what's
 15 been marked as Defendant's Exhibit 17 that was
 16 an exhibit in your deposition of January 3rd,
 17 2001. I'm going to hand that to you, sir.
 18 We're going to use this in this deposition.
 19 MR. GOLD: Would anyone like
 20 colored copies?
 21 Q. I believe you testified, Mr.
 22 Kittinger, that these shells were dumped so
 23 many feet from a building. I think you said 70
 24 feet west of the garage. Is that correct?
 25 A. Yes.

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1 Q. Now, don't draw on that yet.
 2 A. Okay. I'm just figuring feet here.
 3 Q. Were you -- is it true that the
 4 garage you're referring to is circled in a blue
 5 highlight?
 6 A. Yes.
 7 Q. Okay. And unclip your pen so you
 8 don't make a stray mark on this.
 9 A. All right.
 10 Q. Just with reference to this exhibit
 11 which is in front of you, could you point to me
 12 approximately where those eggs are buried?
 13 A. (Indicating.)
 14 MR. TOSI: Your Honor, would you
 15 like to come over?
 16 Q. With the permission of the court
 17 and counsel, I would like you to mark an X on
 18 that spot.
 19 MR. GOLD: Is that the original
 20 exhibit from --
 21 MR. TOSI: I believe that's the
 22 original exhibit.
 23 THE COURT: I think maybe I have
 24 it.
 25 MR. TOSI: You have a colored copy

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1 of it.
 2 MR. GOLD: Why don't we use, if
 3 we're going to mark something, why don't we use
 4 a copy rather than the original exhibit from
 5 January.
 6 MR. TOSI: That's fine with me.
 7 Q. I'm going to hand you what's a
 8 colored copy of that exhibit, which Mr. Gold
 9 was fine enough to bring us today. And on that
 10 color copy, would you mark with an X the area
 11 where these eggs were disposed of?
 12 A. (Indicating.)
 13 Q. I see you circled it. You didn't
 14 put an X.
 15 Now, I'm going to give you a
 16 heavier pen, if you want to circle that or mark
 17 it a little better.
 18 A. I put an X through it.
 19 Q. Will you just in the margin on the
 20 north draw a line down to it? Starting up here
 21 just draw a little line so that --
 22 A. Right in here.
 23 Q. A line that shows where that X is.
 24 A. (Indicating.)
 25 Q. Above would you mark the words

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1 shells?
 2 MR. TOSI: Now, Your Honor, would
 3 you like to see where he marked it?
 4 THE COURT: Yes.
 5 MR. TOSI: Let's have the court
 6 reporter mark this as Kittinger Exhibit 3 and
 7 denote today's deposition.
 8 MR. GOLD: I'm sorry, before you do
 9 that, would you mind if we marked as three his
 10 prior transcript and then just mark the photo
 11 as four? I asked him about it. I neglected to
 12 mark it earlier. May I do that?
 13 MR. HAYNAM: Yes.
 14 MR. TOSI: Yes. How would like it
 15 marked?
 16 MR. GOLD: Mark it as four.
 17 - - - - -
 18 (Thereupon, Plaintiff's Exhibits 3
 19 and 4 were marked for purposes of
 20 identification.)
 21 - - - - -
 22 Q. Let me ask you this question.
 23 We've talked about these shells and plutonium.
 24 You indicated today that in your original
 25 deposition you had recollections of what the

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1 Army delivered but you didn't disclose them.
 2 Correct?
 3 A. Yes.
 4 Q. Now, I want to ask you today, was
 5 there any other material that the Army to your
 6 knowledge disposed of at the landfill that
 7 could have been related to weapons or dangerous
 8 material that you recollect?
 9 A. No, only what I disclosed about the
 10 canisters. That's the --
 11 Q. And what was your impression as to
 12 what was in those canisters?
 13 A. They were empty.
 14 Q. Now, you said those canisters were
 15 empty. Do you know what they may have
 16 contained at one time?
 17 A. No. I saw one canister that had
 18 the name arzine or something like that on it.
 19 And that was it.
 20 Q. Could you spell that?
 21 A. I think it was A R Z I N E.
 22 Q. Could it have been arsine,
 23 A R S I N E?
 24 A. It's possible.
 25 Q. But you don't recollect one way or

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1 the other?
 2 A. No.
 3 I suppose it would make a lot of
 4 difference, too.
 5 Q. Mr. Kittinger, you had a file with
 6 you that you -- in your notebook there. Is
 7 there anything else in that file except the
 8 original picture of the shell with the egg?
 9 A. No, that's all that's in here.
 10 I've got a --
 11 Q. Would you mind if I could see your
 12 file?
 13 A. Yes. This is the stuff about
 14 other -- so I could remember where I was coming
 15 today.
 16 MR. GOLD: These are notices of
 17 hearings.
 18 May we go off the record for just a
 19 second?
 20 (Discussion off the record.)
 21 Q. Mr. Kittinger, would you be opposed
 22 if -- or would you have a concern if we were to
 23 make your original picture here an exhibit to
 24 this deposition which would you maintained
 25 under the court's order?

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1 A. That's all right, as long as I get
 2 a copy or something of it. If I can get it
 3 back eventually, I'll put it in a frame.
 4 MR. GOLD: We would like to have
 5 this marked as Kittinger Exhibit 5.
 6 MR. HAYNAM: Mark it on the back.
 7 - - - - -
 8 (Thereupon, Plaintiff's Exhibit 5
 9 was marked for purposes of
 10 identification.)
 11 - - - - -
 12 Q. Now I'm going to hand you what's
 13 been marked as Kittinger Exhibit 5 on the back.
 14 I want you to verify this is the original
 15 picture of Kittinger Exhibit 2. Is that
 16 correct?
 17 A. Yes, that's correct.
 18 Q. And this Kittinger Exhibit 5 you
 19 brought here today?
 20 A. Yes.
 21 Q. Of your own volition, correct?
 22 A. Yes.
 23 Q. And this Kittinger Exhibit 5 is
 24 the original picture that was drawn by your
 25 grandson as you described the plutonium eggs to

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1 him, correct?
 2 A. That's correct.
 3 Q. And I notice that it is larger in
 4 size than Kittinger Exhibit 2. I assume that's
 5 just an artifact of the copying. Would you say
 6 that's correct?
 7 A. I shrunk it down so I could use
 8 regular copy paper when I made copies.
 9 Q. I have one further question. I
 10 think when you talked about the drawing you
 11 said other family members knew about the
 12 drawing. Do you know if it was anyone other
 13 than your son and grandson at that time?
 14 A. At that time that was all.
 15 Q. Who else knows about this story of
 16 the plutonium eggs?
 17 A. Merle knows about it now.
 18 Q. That's your wife?
 19 A. Yes.
 20 Q. Okay. Now, when you testified at
 21 the beginning of January, you identified
 22 several banker boxes of trip tickets at the
 23 records of the Industrial Excess Landfill site?
 24 A. Yes.
 25 Q. Were you able to confirm whether

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1 the records that you looked at were indeed all
 2 of the trip tickets or you were not -- or were
 3 you able to confirm it -- strike that.
 4 The question I have for you is were
 5 you able to confirm whether the trip tickets
 6 you looked at were all of the official trip
 7 tickets which existed at the site?
 8 A. No, I could not.
 9 MR. TOSI: Your Honor, I don't have
 10 any further questions at this time. And it is
 11 only five minutes past 4:00.
 12 THE COURT: We have two more
 13 witnesses?
 14 MR. TOSI: Well, I don't know if
 15 anyone else wants to ask questions. We do have
 16 two more witnesses, his son and grandson. I
 17 would expect they would be quick.
 18 THE COURT: Any more questions?
 19 MR. GOLD: I think maybe just a few
 20 based on what we've heard.
 21 THE COURT: Go ahead.
 22 MR. YACKSHAW: I have some
 23 questions. I can wait.
 24 THE COURT: You're going to wait.
 25 MR. GOLD: Thank you, Judge.

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1 FURTHER EXAMINATION OF CHARLES M. KITTINGER
 2 BY MR. GOLD:
 3 Q. I guess it's my turn again.
 4 Mr. Kittinger. I'll try to be quick
 5 First of all, could I ask you to
 6 take a look at Exhibit 1, the set of trip
 7 tickets that we brought with us today? It
 8 should be in front of you.
 9 Mr. Tosi asked you if when you
 10 looked at the boxes of tickets whether you
 11 could confirm whether they were all of them.
 12 You said you could not confirm that.
 13 Do you know that any are missing?
 14 A. No, I don't know that there's any
 15 missing.
 16 Q. You can't just tell either way,
 17 they might be all of the tickets, they might
 18 not be?
 19 A. It's possible.
 20 Q. Thanks.
 21 We looked at one of these tickets
 22 and it was -- it had a three-line customer
 23 name, number 6448 near the back. Let me speed
 24 it up by directing you to it. It's this one
 25 here, 6448.

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1 I think you said that you thought
 2 that that last word was Twinsburg.
 3 Did you have an opportunity to look
 4 at that again on the break?
 5 A. It looks more like Greensburg.
 6 Q. Is Greensburg a location in the
 7 Akron area?
 8 A. Yes.
 9 Q. Where is it?
 10 A. It's a township in Summit County.
 11 It's down close to the airport, Akron/Canton
 12 Airport.
 13 Q. The first time you told Mr. Haynam
 14 about this episode you didn't say anything
 15 about any escort cars, did you?
 16 A. Any what?
 17 Q. Any cars escorting the trucks?
 18 A. I don't believe so, no.
 19 Q. Did you remember that since then or
 20 did you just forget to mention it, or what?
 21 A. I just remembered it since then.
 22 Q. When we met with you in Akron on
 23 February 5th, you mentioned one escort car.
 24 Today you mentioned two. Did you remember
 25 another one since then?

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1 A. Well, it seems like there was, as I
 2 said, two vehicles and four people, plus the
 3 driver that showed up.
 4 Q. Do you recall telling us back then
 5 that there was only one car?
 6 A. I don't recall. I might have, yes.
 7 It's possible.
 8 Q. Do you recall telling us then that
 9 your son was afraid of the Army trucks?
 10 A. Did I tell you that? I might have.
 11 Q. But that's not your testimony
 12 today, is it?
 13 A. He probably still is afraid of
 14 them. He's an old man now.
 15 THE COURT: Listen carefully to the
 16 question and make your answer responsive to it.
 17 Don't volunteer information not asked for by
 18 the question.
 19 Q. Today you told us that he didn't
 20 look at the truck because he was preoccupied.
 21 When we met with you in Akron, my recollection
 22 is that you told us that he was afraid of the
 23 trucks.
 24 Which is your testimony today? Why
 25 did your son not look inside the truck?

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1 A. It wasn't his job to look at the
 2 trucks. I mean he was just there. He wasn't
 3 specifically looking for anything or anybody.
 4 Q. You also told us, and I think you
 5 told Mr. Haynam, that this picture was drawn
 6 about six months ago. But you told us it was
 7 drawn between 1996 or 1997.
 8 A. Well, my grandson refreshed my
 9 memory on it.
 10 Q. You spoke to him about it and he
 11 reminded you when he actually drew it?
 12 A. Yes.
 13 Q. Finally, in response to Mr. Kern, I
 14 think you said that this year you made the
 15 connection between radiation and plutonium. Is
 16 that right? So when you heard about radiation
 17 and you thought about plutonium, you made that
 18 link? Do you recall saying something like
 19 that?
 20 A. Yes, I think I did.
 21 Q. Earlier when I asked you why you
 22 had not talked to us about this back in the
 23 early 1990s, you told us that you had not
 24 connected radiation and plutonium. Do you
 25 recall that?

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1 A. I don't recall it, but I probably
 2 did say that
 3 Q. What did you learn in the meantime
 4 that made you make that connection and where
 5 did you learn it?
 6 A. Well, the connection with this is
 7 the media brought all this stuff up. I just
 8 got concerned.
 9 Q. Do you recall when you learned that
 10 radiation and plutonium had something to do
 11 with each other?
 12 A. I don't recall when I learned that.
 13 I'm not sure they were both relative to each
 14 other. They're different materials, aren't
 15 they?
 16 Q. But you don't recall - can you
 17 even approximate when you learned that there
 18 was some kind of connection between radiation
 19 and plutonium?
 20 A. Well, probably a couple weeks ago
 21 when I saw this on the media.
 22 Q. Not before then?
 23 A. No.
 24 Q. Did you ever ask any of the guys
 25 who brought these eggs in the simple question

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1 what are those things?
 2 A. No.
 3 MR. GOLD: I don't have anything
 4 else.
 5 MR. DOYLE: I have a few questions.
 6 THE COURT: Are you finished?
 7 MR. GOLD: Yes, Judge. Sorry.
 8 MR. TOSI: Yes, Your Honor.
 9 THE COURT: Give the court reporter
 10 your name.
 11 MR. DOYLE: Sure. Andrew Doyle,
 12 Department of Justice.
 13 EXAMINATION OF CHARLES M. KITTINGER
 14 BY MR. DOYLE:
 15 Q. Mr. Kittinger, just a few
 16 questions.
 17 THE COURT: Speak louder now.
 18 MR. DOYLE: Yes, sir.
 19 Q. I believe you testified that the
 20 U.S. Army brought these eggs?
 21 A. Yes, I thought that they brought
 22 them, yes.
 23 Q. How do you know it was the Army?
 24 A. I don't for sure.
 25 Q. What are you basing it on?

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1 A. Well, the truck that brought them
2 in really didn't have any markings on.
3 Q. So how did that lead you to believe
4 it was the Army?
5 A. It was Army personnel that followed
6 the truck.
7 Q. How do you know those people were
8 with the Army?
9 A. I don't. I thought they were.
10 They filled out a ticket for the Army, so I
11 figured it was Army.
12 Q. So the source of your information
13 is the tickets?
14 A. Yes.
15 Q. Your son that was at the office
16 that you talked about, what was he doing at the
17 office that day?
18 A. I think he was just there. I don't
19 think he had any function. He was just there
20 helping my wife with payroll or something.
21 Q. Was he on summer break from school?
22 A. Yes. Maybe being babysat. I don't
23 know.
24 Q. In the late 70s I believe you said
25 someone came to the Killian Road?

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1 A. Yes.
2 Q. You said they seemed like a
3 military person?
4 A. I thought it was military because
5 of what equipment they showed me and what they
6 were doing taking aerial photography.
7 Q. What equipment did they show you?
8 A. No equipment. But this picture
9 they showed me, you know, looked like an
10 infrared picture, but it wasn't -- it wasn't a
11 picture like this. (Indicating.)
12 Q. It was a black and white picture I
13 believe you said?
14 A. Yes.
15 Q. And you took that to be a military
16 picture?
17 A. Well, do civilians go around taking
18 infrared pictures?
19 Q. That's your own --
20 A. That was my assumption of it, yes.
21 Q. You didn't ask the person who he
22 was with?
23 A. No, I didn't have him identify
24 himself. This was just one of the things that
25 popped up as time went by.

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1 Q. The canisters that you talked
2 about, do you recall testifying about that in a
3 deposition before today?
4 A. Yes.
5 Q. Do you recall who you attributed
6 those canisters to?
7 A. I thought it was the National Guard
8 who brought them in.
9 Q. Not the Army?
10 A. Yes.
11 Q. I believe you in response to Mr.
12 Kern's question said that there was a light
13 shining on the egg when you were looking inside
14 it?
15 A. Just light from the day.
16 Q. Oh, okay. Because --
17 A. Sunlight was shining on it.
18 Q. You weren't using another separate
19 light to look inside?
20 A. No.
21 Q. You're on medication for Hytrin?
22 A. Hytrin, yes.
23 Q. Why are you taking that?
24 A. It's high blood pressure and
25 prostrate medicine.

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1 Q. Your doctor prescribed it?
2 A. Yes.
3 Q. How long ago did you first start
4 taking it?
5 A. Five years, maybe more.
6 Q. Do you know of any side effects
7 that the drug has?
8 A. It's not supposed to have too many
9 side effects. It's just supposed to level off
10 everything.
11 Q. Do you know whether it's supposed
12 to have any effect on your memory?
13 A. It's not supposed to.
14 Q. Do you feel like it's had any such
15 effect?
16 A. It might have. It seems like in
17 the past three or four years my memory has
18 gotten a little sharper. I can remember things
19 I couldn't remember before.
20 Q. Did your memory get sharper as you
21 just said after you had your grandson draw the
22 picture?
23 A. No, it faded out for a while after
24 that. I can tell you the story on this. I had
25 problems remembering where I was at and where I

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1 was going for a period of time.
 2 Q. When was that?
 3 A. About the time he drew this
 4 picture, that's why I thought I should get it
 5 documented.
 6 Q. Are you confident that the picture
 7 is accurate if your memory was bad at that
 8 time?
 9 A. Well, it's as accurate as I can
 10 remember it. It's probably not detailed
 11 accurate, but it's basically accurate.
 12 Q. Are there any changes you would
 13 make to the picture today to make it more
 14 accurate?
 15 A. No, I don't think.
 16 Q. Well, the reason I'm asking,
 17 perhaps if it is as accurate as it is possible
 18 it's possible to check it against people that
 19 might remember from the Army or wherever else
 20 this thing came from so it's very important,
 21 that's why I'm asking.
 22 A. You need to find out where it come
 23 from, where the source was.
 24 Q. But to help with that, are there
 25 any changes to the drawing in terms of detail?

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1 A. No, I couldn't change -- that's the
 2 most I could remember. It's still clear in my
 3 mind of what I told him then.
 4 Q. These media persons that contacted
 5 your wife, did your wife take any notes,
 6 handwritten notes about what they told her on
 7 the phone?
 8 A. No, they just wanted to talk to me.
 9 She just told them I wasn't available.
 10 Q. Did she tell you what they wanted
 11 to know about?
 12 A. Yeah, they wanted to know about the
 13 landfill. She told me that.
 14 Q. What about radiation, did --
 15 A. No, they didn't discuss anything.
 16 They just told her they wanted to talk to me
 17 about the landfill and she just kept telling
 18 them I wasn't there.
 19 MR. DOYLE: That's all I have.
 20 THE COURT: Mr. Yackshaw?
 21 MR. YACKSHAW: Thank you, Judge.
 22 THE COURT: You don't have that
 23 many questions?
 24 MR. YACKSHAW: I hope not.
 25 THE COURT: I hope not, too.

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1 Go ahead.
 2 EXAMINATION OF CHARLES M. KITTINGER
 3 BY MR. YACKSHAW:
 4 Q. Mr. Kittinger, my name is Matthew
 5 Yackshaw. I'm representing the defendants
 6 Hybud Equipment Corporation, Hyman Budoff and
 7 Industrial Excess Landfill, Inc.
 8 When you had your meeting earlier
 9 this month, which you said occurred with a
 10 group of attorneys, would you tell us for the
 11 record, please, who you actually met with when
 12 you met at the U.S. Attorney's Office?
 13 A. Almost everybody in the room except
 14 the Judge and you I think was present.
 15 Q. All right. So I was not present
 16 during that interview session?
 17 A. No, you weren't present.
 18 Was she present?
 19 MR. STRANG: Carter Strang for the
 20 record. I was not present.
 21 Q. To your knowledge, Mr. Kittinger,
 22 was I invited to be present at that meeting?
 23 A. I don't know if you were invited or
 24 not.
 25 Q. Have you and I had any opportunity

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1 to discuss your testimony here today in any
 2 way?
 3 A. No.
 4 Q. You mentioned that you believe that
 5 when the Army people came with the eggs that
 6 the normal procedure of filling out a ticket
 7 was followed. Is that right?
 8 A. Pardon, Matt, what was that again?
 9 Was --
 10 Q. That the normal procedure of
 11 filling out a delivery ticket was followed when
 12 those eggs came in.
 13 A. Yes, it was just normal procedure,
 14 yes.
 15 Q. Is it possible that through the
 16 passage of time given that these events
 17 happened 30 or more years ago that those
 18 tickets may -- may no longer be able to be
 19 found at this point?
 20 A. That's possible.
 21 Q. But that does not mean that the
 22 process of filling the delivery tickets out was
 23 not followed?
 24 A. It was followed at the time.
 25 Q. You mentioned that you believed

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1 that there had been some advance approval by
 2 Joe Dopler representing the Stark County Board
 3 of Health at the time that these eggs came in?
 4 A. I'm not sure Dopler approved of
 5 them or disapproved. But like I stated before,
 6 he had knowledge of stuff coming in before I
 7 did, different companies and stuff. So I
 8 believe he was in contact with other people
 9 when he was in charge of inspection of the
 10 landfill.
 11 Q. Did you believe at the time that
 12 these eggs were brought to the landfill that it
 13 was permissible to accept those eggs and put
 14 them into the landfill?
 15 A. Well, it was permissible as long as
 16 they was harmless. And I was informed they
 17 were harmless at the time.
 18 Q. By the people that were bringing
 19 you the eggs?
 20 A. Yes.
 21 Q. Did you discuss the egg incident
 22 with either Joe Dopler or Harold Parr, the
 23 normal, usual government inspectors?
 24 A. I don't believe so.
 25 Q. Is there any particular reason why

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1 you did not specifically discuss it with them?
 2 A. Well, there's a reason. I was not
 3 supposed to discuss it with anybody. That was
 4 the reason.
 5 Q. You believe it is possible that Mr.
 6 Dopler or Mr. Parr was present during the time
 7 period when any of these eggs came to the
 8 landfill?
 9 A. I don't believe that they were
 10 there. It's possible they might have been, but
 11 I didn't see them.
 12 Q. When they would come to the
 13 landfill, they didn't preannounce their coming;
 14 they came on a sporadic basis to spot check
 15 activities, didn't they?
 16 A. Yes.
 17 Q. To your knowledge did either one of
 18 them notice the stainless steel door which you
 19 said had formerly been part of one of the eggs?
 20 A. No, I don't believe they saw them.
 21 Q. Had you ever discussed the
 22 stainless steel door with either of those
 23 gentlemen?
 24 A. With who?
 25 Q. Either of those gentlemen, the

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1 government inspectors.
 2 A. No.
 3 Q. I believe you said that you just
 4 made a normal \$4 or 4.50 charge for the
 5 acceptance of these eggs?
 6 A. Yes.
 7 Q. Was there any discussion about
 8 whether there should be an additional fee paid
 9 for these eggs?
 10 A. No.
 11 Q. Earlier in your testimony you said,
 12 though I'm not sure exactly what you said,
 13 because I'm only going from my handwritten
 14 notes, you said that you believed -- I think
 15 the words you used was it seems that you
 16 discussed the door that was over by the shed
 17 with Mr. Hyman Budoff.
 18 A. I believe I -- I believe I did
 19 mention it to him, yes.
 20 Q. Just so I'm clear on the record
 21 here, you did not discuss with him the
 22 acceptance of these eggs that had been buried
 23 in the landfill?
 24 A. No.
 25 Q. Because of course you weren't

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1 supposed to talk about that with anybody?
 2 A. Yes.
 3 Q. And you were trying until recently
 4 to follow the instructions that you had
 5 received from what you believed to be U.S. Army
 6 personnel?
 7 A. Mr. Budoff shouldn't have any
 8 knowledge of the eggs that's there.
 9 Q. And with respect to the door, that
 10 was simply a conversation about stainless steel
 11 in general?
 12 A. Yes.
 13 Q. Or what you could do with stainless
 14 steel?
 15 A. Yes.
 16 Q. Is that right?
 17 A. That's correct.
 18 Q. How far away did you say that pile
 19 of fly ash was that you went to to go and
 20 obtain some material to cover the egg each time
 21 one was brought?
 22 A. We kept a pile. It might have been
 23 50 feet from where the eggs was buried. It was
 24 somewhere between the end of the fill where we
 25 was making the regular fill and where the eggs

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1 were buried.

2 Q. And I believe you said that while

3 you did the burial, Mr. Laston was off working

4 in the normal fill area?

5 A. Yes, that's correct.

6 Q. Does that then mean that there were

7 two pieces of heavy equipment at the landfill

8 with which one could move cover?

9 A. Yes, there was three or four pieces

10 of heavy equipment we used.

11 Q. So you just grabbed the handiest

12 one and brought it over to use for this

13 immediate covering?

14 A. M-hm.

15 THE COURT: Answer by voice.

16 A. I said yes.

17 Q. As a normal process, did the

18 landfill personnel try to get everything

19 covered by the end of the day?

20 A. Yes, that's correct.

21 Q. So during the course of a day,

22 things may be uncovered for a period of time?

23 A. Yeah, in the general part of the

24 fill, that's correct. The stuff would be

25 exposed until the end of the day.

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1 Q. But what you believed to be the

2 Army personnel said that this is something that

3 they wanted you to address right then and not

4 wait until the end of the day when normal cover

5 would be applied?

6 A. That's correct.

7 Q. Earlier in your testimony you

8 mentioned something about a transfer of shares

9 to Hyman Budoff. I believe it had been your

10 earlier testimony at one of your earlier

11 sessions of your deposition that you were in

12 agreement that whatever the settlement

13 documents were between you and Mr. Budoff, that

14 is when the matter of the parting of the ways

15 occurred, correct?

16 A. Yes.

17 MR. YACKSHAW: I have no further

18 questions of the witness.

19 THE COURT: Anything further?

20 MR. STRANG: I have got three very

21 quick questions.

22 THE COURT: Who are you?

23 MR. STRANG: Carter Strang

24 representing Morgan.

25 THE COURT: Representing who?

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1 MR. STRANG: Morgan.

2 EXAMINATION OF CHARLES M. KITTINGER

3 BY MR. STRANG:

4 Q. First question, when the people

5 that you've identified as being with the Army

6 came out to the landfill with the eggs, did

7 they have you sign anything, did they bring any

8 paperwork of any type?

9 A. No.

10 Q. Second question, did Dopler or

11 anyone else with any local government agency

12 approve in advance your use of the area where

13 you buried the eggs?

14 A. No.

15 Q. At any point did you have any

16 discussions with them about the use of that

17 area for any type of disposal?

18 A. Previously I had discussion with

19 them for putting metal there, metal parts, auto

20 bodies, cars and stuff.

21 Q. No discussion then after the eggs

22 were buried about any use of area for the use

23 of disposal?

24 A. No.

25 Q. The last question, the gentlemen

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1 that came to the site that were wearing

2 uniforms, at any point did those uniforms have

3 any marking on any of them?

4 A. They did, but I don't recall.

5 Q. Some type of insignia indicating

6 possibly some type of rank or something of that

7 nature?

8 A. Yes.

9 Q. That's what made you believe it was

10 an Army uniform?

11 A. Yes.

12 MR. STRANG: I don't have any other

13 questions.

14 THE COURT: Now, ma'am, you'll

15 prepare this transcript. You will distribute

16 it to only persons I allow you to distribute

17 it. Do you understand? You'll give me a list

18 of names of people who want it and I'll let you

19 know to whom it should be given.

20 Those of you who are here

21 understand that there's a protective order,

22 you're not to discuss this with anyone without

23 the court's approval.

24 What yet has to be done here? Who

25 yet has to be noticed for a deposition? Steve?

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1 MR. GOLD: Certainly Mr.
 2 Kittinger's son and grandson who have been
 3 patiently waiting outside. And if we can find
 4 her, I think Lou Bonaphant who Mr. Kittinger
 5 talked about.
 6 THE COURT: The two who are waiting
 7 out here, would the examination take a long
 8 time?
 9 MR. GOLD: No, Judge.
 10 THE COURT: If it will take a long
 11 time, I'm going to stop you.
 12 MR. GOLD: Of course.
 13 THE COURT: You have to go to
 14 Chicago, do you have a plane to catch?
 15 MR. GOLD: Tomorrow morning.
 16 THE COURT: I won't worry about it.
 17 All right. Is it the wish of everybody here
 18 that we proceed with the other two witnesses?
 19 MR. TOSI: Yes, Your Honor.
 20 THE COURT: Okay. Call them in.
 21
 22 (Deposition concluded.)
 23 -----
 24
 25

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1 CERTIFICATE
 2 The State of Ohio,)
 3 SS:
 4 County of Cuyahoga.)
 5
 6 I, Michele Eddy, a Notary Public
 7 within and for the State of Ohio, duly
 8 commissioned and qualified, do hereby certify
 9 that the within named witness, CHARLES M.
 10 KITTINGER, was by me first duly sworn to
 11 testify the truth, the whole truth and nothing
 12 but the truth in the cause aforesaid; that the
 13 testimony then given by the above-referenced
 14 witness was by me reduced to stenotypy in the
 15 presence of said witness; afterwards
 16 transcribed, and that the foregoing is a true
 17 and correct transcription of the testimony so
 18 given by the above-referenced witness.
 19 I do further certify that this
 20 deposition was taken at the time and place in
 21 the foregoing caption specified and was
 22 completed without adjournment.
 23
 24
 25

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1 I do further certify that I am not
 2 a relative, counsel or attorney for either
 3 party, or otherwise interested in the event of
 4 this action.
 5 IN WITNESS WHEREOF, I have hereunto
 6 set my hand and affixed my seal of office at
 7 Cleveland, Ohio, on this day of
 8 , 2001.
 9
 10
 11
 12
 13
 14 Michele Eddy, Notary Public
 15 within and for the State of Ohio
 16
 17 My commission expires May 22, 2005.
 18
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 25

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1 SIGNATURE OF WITNESS

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The deposition of CHARLES M. KITTINGER, taken in the matter, on the date, and at the time and place set out on the title page hereof.

It was requested that the deposition be taken by the reporter and that same be reduced to typewritten form.

It was agreed by and between counsel and the parties that the Deponent will read and sign the transcript of said deposition.

1 DEPOSITION ERRATA SHEET

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RE: UNITED STATES OF AMERICA VS. INDUSTRIAL EXCESS LANDFILL, INC., ETC., ET AL.

RRS File No.: 4355
Deponent: CHARLES M. KITTINGER
Deposition Date: FEBRUARY 21, 2001

To the Reporter:
I have read the entire transcript of my Deposition taken in the captioned matter or the same has been read to me. I request that the following changes be entered upon the record for the reasons indicated. I have signed my name to the Errata Sheet and the appropriate Certificate and authorize you to attach both to the original transcript.

1 AFFIDAVIT

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The State of Ohio,)
) SS:
County of Cuyahoga)

Before me, a Notary Public in and for said County and State, personally appeared CHARLES M. KITTINGER, who acknowledged that he/she did read his/her transcript in the above-captioned matter, listed any necessary corrections on the accompanying errata sheet, and did sign the foregoing sworn statement and that the same is his/her free act and deed.

In the TESTIMONY WHEREOF, I have hereunto affixed my name and official seal at this day of A.D 2001.

Notary Public

My Commission Expires:

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