

1 harsh remedy of shutting him down immediately is  
2 just not called for under the facts and  
3 circumstances herein.

4 THE COURT: The order of this Court will  
5 be as follows:

6 I don't think that I can exceed the  
7 eloquence that has previously been expressed by  
8 our United States Supreme Court in the case of  
9 Aberdeen and Rock Fish Railroad versus Scrap, the  
10 case at 409 U.S. 1207.

11 Unquestionably, these are matters  
12 where you must balance the public interests  
13 against the private interests of the business  
14 person, corporation or entrepreneur who is  
15 operating a business.

16 That is unquestionably a difficult  
17 balance; and as the Supreme Court said, it is a  
18 most difficult task.

19 Whatever balance the Court strikes  
20 is going to be one that is not going to be  
21 acceptable to one of the competing influences  
22 involved because there is no such thing as an  
23 equitable balance.

24 The estimates that have been brought

1 to the Court's attention through the City's  
2 testimony stand un rebutted, and they serve a very  
3 important purpose because they indicate, as far as  
4 the City is concerned, that there is a large --  
5 extremely large amount of material on this site  
6 which serves two purposes.

7           It first indicates the magnitude of  
8 the accumulation that the defendant has attained  
9 at the site in question, and it serves the  
10 secondary purpose of placing this City on notice  
11 of the magnitude of what the cleanup of this site  
12 was going to be.

13           I think it would be a very narrow  
14 process on the part of this Court to take a very  
15 short-sighted and overruly-aggressive attitude  
16 toward this cleanup because I believe that the  
17 purpose of this Court should be to accomplish a  
18 result rather than to come up with a judgment that  
19 looks good and appears to be very strict at this  
20 moment which would be nothing more than giving  
21 somebody a chocolate-covered aspirin. It will  
22 taste sweet but be sour going down.

23           Accordingly, I must take into  
24 consideration the magnitude of what this cleanup

1 is going to be; and I think the sensible approach  
2 is for this Court to accept a period of time which  
3 may seem somewhat extensive but yet will be a  
4 period of time within which the Court believes  
5 that a reasonable, aggressive and continuous  
6 operation will bring to a conclusion and a total  
7 accomplishment of the cleanup.

8 The City and the public's interest  
9 here is to accomplish the cleanup. If it is  
10 accomplished within a period of time which the  
11 Court feels is reasonable, the public interest is  
12 served.

13 If the Court takes an  
14 overruly-aggressive attitude and the cleanup  
15 cannot be accomplished in that period of time, the  
16 Court has engaged in an idle effort. This should  
17 be a result-oriented decision.

18 Accordingly, having taken into  
19 consideration the quantity of material that is  
20 conceded as being on this site -- and I only call  
21 to the attention of those present -- by the City's  
22 own estimate at the Kildare site we are talking  
23 about 31,425 truckloads.

24 Stop and think of what a line would

1 look like with 31,425 trucks lined up. That  
2 perhaps would be a line that would take a road  
3 from one end of the City to the other. We are  
4 talking about an accomplishment of what I consider  
5 to be a gigantic task.

6 The defendant will have 30 months  
7 within which to remove from this site. I believe  
8 that that is a reasonable length of time. I think  
9 that it is a length of time that takes into  
10 consideration the magnitude of the number of  
11 truckloads that we're talking about.

12 It takes into consideration the  
13 number of trucks, considerable down time, problems  
14 with regard to mechanical difficulties, weather  
15 conditions and the fact that this material must be  
16 removed either to a site distant from the site at  
17 which the property is currently located and  
18 perhaps the fact that this material may have to be  
19 removed to a site beyond the corporate limits of  
20 the City of Chicago.

21 It would be an idle folly on the  
22 part of this Court to attempt to accomplish or  
23 have the defendant accomplish this cleanup in what  
24 somebody might loosely think in terms of an

1 overnight operation. That cannot be done. It is  
2 not reasonable, it is not practical, and it just  
3 isn't a possibility.

4 The order will further provide that  
5 no additional material of a type similar to that  
6 which is currently on the site is to be brought  
7 onto the site. It serves no purpose to enter an  
8 order for removal of this waste and at the same  
9 time allow additional waste to come onto the  
10 premises.

11 Considering the magnitude of the  
12 amount of material on this site currently, it is  
13 the considered opinion of this Court that the  
14 defendant has a more than sufficient amount of  
15 material currently in stock by way of inventory to  
16 continue a profitable operation.

17 Under this ruling, and inasmuch as  
18 the defendant is allowed 30 months to remove from  
19 the site, the defendant will be allowed to  
20 continue the processing of materials currently on  
21 the site for a period of 12 months.

22 To recapitulate, the defendant is to  
23 accomplish a total cleanup from this site  
24 constituting a complete removal of all material

1 from this site within 30 months from this date.  
2 During that 30-month period, this defendant will  
3 be allowed to continue processing material which  
4 presently exists on the site for a period of 12  
5 months. No additional material of the type which  
6 is currently on this site is to be brought onto  
7 the site.

8 With regard to Kostner, the estimate  
9 of the City is that there are 2500 truckloads on  
10 the site. Considering the ratio of 2500  
11 truckloads against the 31,000 truckloads and the  
12 fact that the Court has allowed 30 months to  
13 reduce the 31,000 truckloads, by proportion, the  
14 defendant will have 6 months within which to  
15 remove the material which is currently on the  
16 Kostner site.

17 Is there anything further?

18 MS. HERDINA: Your Honor, if I may, I was  
19 wondering if we could have the opportunity to  
20 present to you a plan that would assure that the  
21 removal of the material was being done on a  
22 regular basis; for example, ask that there be  
23 periodic inspections be made or ask that tickets  
24 be provided to us showing that materials have left