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1 HEARING OFFICER MATOESIAN: Let the record show
2 this is a public hearing being held before the Illinois
3 Environmental Protection Agency in the matter of the
4 proposed issuance of a Clean Air Act Permit Program permit
5 for Midwest Generation's Crawford Generation Station in
6 Chicago.

7 Good evening, ladies and gentlemen.
8 Welcome to this hearing. My name is Charles Matoesian,
9 and I will be the hearing officer for these proceedings.

10 At this time I would like to mention that
11 we do have a Spanish translator available. If you need
12 such assistance, please go to the registration desk and
13 someone can help you.

14 I will introduce the other members of the
15 Illinois Environmental Protection Agency staff at the
16 conclusion of this statement.

17 This hearing is being held by the Illinois
18 EPA's Bureau of Air Permit Section for the purpose of
19 providing an opportunity for the public to understand and
20 comment on the issuance of a Clean Air Act Permit Program
21 permit to Midwest Generation for its electricity
22 generation facility located at 3501 South Pulaski Road in
23 Chicago.

24 This hearing is being held under the

1 provisions of the Illinois EPA's "Procedures for Permit
2 and Closure Plan Hearings," regulations found at
3 35 Illinois Administrative Code, part 166. Copies of
4 these regulations can be obtained from me upon request.

5 After the presentation by the Illinois
6 EPA's Bureau of Air staff, who will describe the permit
7 and make a presentation, and there will be a presentation
8 by Midwest Generation, any person who wishes to make oral
9 comments or testify may do so as long as the statements
10 are relevant to the issues which are being addressed at
11 the hearing and they have indicated that they wish to
12 comment on their registration card. If you would like to
13 make oral comments and need a Spanish translator, please
14 talk to the Agency staff at the registration desk.

15 Persons asking questions or making comments
16 will initially be limited to five minutes until everyone
17 who wishes to ask questions or make comments has had a
18 chance to speak. If you have a lengthy comments to make,
19 please submit them in writing before the close of the
20 comment period.

21 Those persons asking questions or making
22 comments will, first, please state their name and spell
23 it, note any association or organization they represent
24 for the hearing record. If you are representing yourself

1 only, you can state you are an interested citizen or area
2 resident.

3 Questions asked of speakers must, firstly,
4 be framed as a question, second, be relevant to the
5 subject presented and, third, not be repetitions. Arguing
6 or dialogue with any speaker will not be allowed.
7 Questions must be directed to the hearing officer, that
8 is, myself; and I will then direct the speaker to respond
9 as necessary.

10 The Illinois EPA will listen to all
11 relevant comments, accept all relevant documents or data
12 as exhibits into the hearing record. Once the hearing is
13 adjourned today, I will hold the hearing record open until
14 September 28, 2003. During this time, all relevant
15 comments, documents, or data will be accepted and entered
16 into the hearing record as exhibits.

17 Please send all written comments,
18 documents, or data to myself, Charles Matoesian, addressed
19 to the hearing officer, Illinois Environmental Protection
20 Agency, Bureau of Air, Division of Air Pollution Control
21 Permit Section, 1021 North Grand Avenue East, Post Office
22 Box 19276, Springfield, Illinois, 62794-9276. My phone
23 number is area code 217-782-5544. All this information is
24 available in the documents you pick up at the registration

1 desk.

2 Written comments need not be notarized to
3 the facts asserted, but they must be postmarked on or
4 before midnight September 28, 2003.

5 Anyone who fills out a registration card
6 will receive a copy of the Responsiveness Summary, that is
7 the Agency's response to public comments and final
8 decision when this document becomes available.

9 If you wish to make oral comments but have
10 a time constraint, please let the Agency staff at the
11 registration table know; and I will endeavor to call upon
12 you to testify as early as possible.

13 If you require any further information
14 after this hearing is over, please contact me at
15 217-782-5544 or Brad Frost at 217-782-2113.
16 The telephone number for anyone who is hearing impaired,
17 that's the TTD number, is area code 217-782-9143 and
18 someone will assist you.

19 Because a verbatim record of this hearing
20 is being made, I would request that you keep conversation
21 and noise levels to a minimum so that the court reporter
22 can hear and can transcribe the proceedings.
23 If you have a foreign-sounding name or hard to pronounce
24 name, please spell it for the court reporter. And please

1 don't take offense if the court reporter asks you to
2 repeat something that you have said. We are trying to get
3 an accurate record here, and her job is to make and
4 produce a good transcript that will accurately portray
5 what you say.

6 On behalf of Director Renee Cipriano, the
7 Illinois Bureau of Air staff, and myself, I wish to thank
8 you for attending and your participation at this hearing.
9 As I have said, my name is Charles Matoesian; and I am the
10 hearing officer.

11 The Agency staff will now make their
12 presentation in the order of the handouts distributed at
13 the registration desk, and Spanish language versions are
14 available as well. First will be Mr. John Cashman, he's
15 in the Bureau of Air Permit Section, permit reviewer for
16 this application. Jim Ross is the Acting Manager of the
17 Bureau of Air Permit Section. Finally, Mr. Chris Romaine
18 is the Bureau of Air Permit Section, Manager of the
19 Utilities Unit. Other Agency staff in attendance tonight
20 are Mr. Mark Gerberding, Community Relations officer, and
21 Nilda Esparza to help with translation as needed.

22 At this time I'm going to ask Mr. Cashman
23 to make his presentation regarding the permit.

24 MR. CASHMAN: Good evening, ladies and

1 gentlemen. My name is John Cashman. I'm an engineer with
2 the Illinois Environmental Protection Agency. My duties
3 include reviewing the air pollution permit applications
4 for various types of stationary emission sources.

5 I would like to thank everybody for coming
6 here today to express your interest in the draft Clean Air
7 Act permit that the Illinois EPA has prepared for Midwest
8 Generation's Crawford Generation Station.

9 The Crawford Generation Station is an
10 existing electric power plant. The principal emission
11 units are two coal-fired boilers. The emissions of the
12 boilers are controlled by a combination of operating
13 practices, boiler features, and add-on control equipment.
14 Midwest Generation complies with the requirements for
15 sulfur dioxide by burning low-sulfur coal. Nitrogen oxide
16 emissions are minimized by the burner system in the
17 boilers. Particulate matter emissions are controlled by
18 add-on electrostatic precipitators, which use electrical
19 attraction to remove dust from the exhaust.

20 The Crawford Generation Station is required
21 to obtain a Clean Air Act permit because it is a major
22 source of emissions. The Clean Air Act permit specifies
23 applicable state and federal regulations that apply to the
24 plant including emission limitations, monitoring

1 requirements, and recordkeeping requirements.
2 This includes requirements for the new regional trading
3 program that becomes effective in 2004.

4 One of the key requirements applying to
5 this plant is that Midwest Generation Station must operate
6 and maintain continuous emission monitors to measure the
7 nitrogen oxide and sulfur dioxide emissions of the coal-
8 fired boilers and the opacity from their stacks. Midwest
9 Generation must operate these systems in accordance with
10 the protocols under the federal Acid Rain Program. These
11 monitors provide very reliable information to verify
12 compliance with the control requirements for emissions.

13 MR. ROSS: Thank you, John. Good evening,
14 everyone. As mentioned, my name is Jim Ross. I am the
15 Acting Manager of the Bureau of Air Permit Section. I
16 have been with the Illinois EPA for over 15 years, all
17 that time being spent in the field of air pollution
18 control.

19 We are here tonight to listen to your
20 comments and concerns on this draft permit and to,
21 hopefully, provide answers on any questions that you may
22 have regarding the permit. Since this hearing is focused
23 on the permit, we feel it's important that you understand
24 the purpose of the permit and the permit program from

1 which it originates. Therefore, I will start by giving
2 you a brief history of the Title V permit program itself
3 and then provide you with some information on the permit.

4 So first some background information on the
5 permit program. The 1990 Clean Air Act Amendment created
6 the federal operating permit program known nationally as
7 the Title V Permit Program. This permit program known in
8 Illinois as the Clean Air Act Permit Program, the acronym
9 is CAAPP, pronounced cap, focuses on the industrial
10 sources of air pollution of greatest concern, that is, the
11 major sources. The term CAAPP and Title V are synonymous
12 in Illinois. We often use both terms when referring to
13 the same program. For example, we refer to the permits
14 that are issued under this program as either Title V
15 permits or CAAPP permits.

16 The CAAPP requires that a single, all
17 encompassing operating permit be issued to each major
18 source. This single permit covers all emission units and
19 activities at the source. Before the CAAPP, a source
20 could have several individual operating permits, up to 100
21 separate permits for some sources. This often caused
22 confusion and permitting conflicts. So the single permit
23 for a single source concept implemented with the CAAPP was
24 considered a dramatic change from business as usual. It

1 is widely accepted that this single, all inclusive permit
2 strategy simplified the compliance process in that there
3 is now only one document or permit to review as opposed to
4 many. As an inherent result of all requirements now being
5 put into one permit, these CAAPP permits are very detailed
6 in scope and range in size from 50 to 1,000 pages. The
7 typical size of an operating permit before the CAAPP was
8 only one to five pages.

9 Now, it's important, and pay close
10 attention, for what follows is very important information
11 on this permit that we are here for tonight. Getting
12 sources permitted and operating under a CAAPP permit
13 provides many benefits to the environment which, of
14 course, is one of our most important overall goals. We
15 feel it is extremely important that the public understand
16 that these permits are meant to provide environmental
17 benefits. They are not meant to allow or permit
18 additional air pollution. These permits seek to assist
19 all persons in providing clarity and awareness on
20 applicable regulations and the mechanisms by which a
21 source must comply with these regulations. These permits
22 add to, not subtract from, the compliance checks and
23 balances put on a source, thereby providing an additional
24 layer of protection of our air quality. As I will

1 hopefully clarify further, the public has reason to
2 wholeheartedly endorse the issuance of these permits,
3 especially for sources with which they have concerns about
4 air emissions and the associated impacts on their health
5 and well-being. The environment is better protected if
6 major sources are made to operate under these permits. I
7 will say this again because it is the crux of the matter
8 at hand here tonight. The environment is better protected
9 if this source and all major sources are issued and made
10 to operate in accordance with a CAAPP permit. The
11 issuance of this permit is good for the environment.

12 Now, I will go on to some of the major
13 benefits of this permit, so please pay attention as these
14 are the reasons this permit is good for the air and so
15 needed.

16 First, all requirements of this source are
17 consolidated into this single, enforceable permit as
18 opposed to being found piecemeal throughout several
19 permits.

20 Second, inspectors use these detailed
21 permits as a guide to improve their efficiency and
22 thoroughness as they visit sources and evaluate
23 compliance.

24 Third, all conditions in the permit with

1 the exception of those for fees are federally enforceable,
2 state enforceable and enforceable by the public.
3 Currently the public is not directly able to enforce
4 permit requirements. Only after the issuance of this
5 permit can this be done.

6 Fourth, this permit fills any gaps in
7 emissions monitoring, testing, and recordkeeping that were
8 discovered during the review of the application, thereby
9 adding additional mechanisms for compliance assurance.

10 Fifth, this permit requires more reporting
11 on compliance issues than what is currently required. The
12 additional reporting requirements that come with the
13 permit are typically a point of interest, so I will
14 briefly elaborate on them.

15 There are four big reporting requirements
16 for major sources. First is the reporting of deviations,
17 which is also known as the reporting of possible
18 violations at the source.

19 Second is the semi-annual monitoring
20 reports, and you can refer to condition 8.6 in the permit
21 for this requirement.

22 Third is the annual compliance
23 certification. This is a very important tool for
24 assurance of source compliance. These reports require a

1 source to do a source-wide compliance check or inventory
2 of compliance and submit a report on the findings to
3 environmental agencies, refer to condition 9.8 in the
4 permit for this requirement.

5 And fourth is the annual emissions report.

6 Both the semi-annual reporting and the
7 annual compliance certification only become required after
8 the issuance of this permit. Simply put, if this permit
9 is not issued, these reports are not required. This would
10 prevent us from utilizing these important compliance tools
11 to assure environmental protection.

12 I want to share with you what the USEPA
13 says about CAAPP permits. And I quote, The purpose of
14 Title V permits is to reduce violations of air pollution
15 laws and improve enforcement of those laws, unquote.

16 Now, I spent the majority of my time going
17 over what the permit does. But equally important is what
18 the permit does not do. This permit does not allow any
19 increase in emissions above those currently or previously
20 allowed, and this permit does not allow the construction
21 of any new equipment or the modification of any existing
22 equipment.

23 And now some comments on tonight's hearing.
24 We are here to provide you with information and perhaps,

1 most importantly, to listen to your comments and concerns.
2 Your comments can and often do affect the content of the
3 permit or even the final action that is to be taken on the
4 application, so please make your concerns known to us.

5 It is also important that you make your
6 concerns known in order to retain your rights should you
7 wish to object to the permit. In explanation, the issues
8 you may raise in a petition to object to the permit may be
9 limited to those issues that you have previously raised.
10 Therefore, again, it is important that you identify and
11 raise any concerns that you may have either here tonight;
12 or alternatively, let us know in writing prior to the
13 close of the hearing record.

14 And finally, I want to give you some
15 information on what comes next after tonight's hearing.
16 The hearing record typically closes around 30 days from
17 the hearing. However, the hearing record for this permit
18 has been extended such that it will close on Sunday,
19 September 28, 2003. We will then generate a proposed
20 permit and send this to the USEPA for their 45-day review
21 period. This proposed permit will also show up on our web
22 site when we send it to the USEPA and you will, therefore,
23 have access to it.

24 The public has 60 days from the close of

1 the USEPA 45-day review period in which to petition the
2 USEPA to object to the permit. After the USEPA review
3 period expires, we will take final action on the permit.
4 Roughly around the time we take final action on the
5 permit, we will mail out the Hearing Responsiveness
6 Summary. This document will also appear on our web site;
7 and again, you will have access to it.

8 That concludes my opening remarks. Thank
9 you for listening. And I would now like to turn it over
10 to our next speaker, Chris Romaine.

11 HEARING OFFICER MATOESIAN: Before we go on, I
12 just want to repeat once again that there is a Spanish
13 language version of these presentations at the
14 registration table for all people who wish to use them.

15 (Whereupon statements were made in
16 Spanish by Ms. Esparza, which are
17 not made a part of this record.)

18 MR. ROMAINE: Good evening. Thank you again for
19 coming to tonight's hearing.

20 As Mr. Ross has explained, issuance of the
21 Clean Air Act permit to this power plant is a good thing.
22 This permit will help assure that this source fully
23 complies with existing limits and other regulatory
24 requirements that restrict its emissions. This permit

1 will do this by summarizing emission control requirements
2 in a single, comprehensive permit, clarifying the
3 provisions of certain rules, and filling in certain gaps
4 of compliance procedures in existing rules. We are
5 certainly interested in any suggestions that would improve
6 the permit in this regard. However, it should be
7 understood that coal-fired power plants like this source
8 are already some of the most closely monitored sources in
9 the state with continuous emission monitoring already in
10 place for sulfur dioxide, nitrogen oxide, and opacity.

11 At the same time, the proposed permit for
12 this power plant is not a means to generally set new
13 requirements to control emissions from this source. We do
14 not have broad legal authority in the Clean Air Act
15 permits to establish new requirements to further control
16 emissions from existing sources. Instead, the development
17 of control requirements for existing sources like this
18 power plant generally occurs with the adoption of new laws
19 and rules. This ensures that all sources in a particular
20 category are considered and treated fairly and that
21 overall environmental goals are efficiently achieved. For
22 coal-fired power plants this big picture approach is very
23 important. This is because an individual power plant by
24 itself generally has a small effect on the air quality in

1 the immediate surroundings where it's located given the
2 emission control requirements that currently apply to
3 coal-fired power plants. However, the effect of a single
4 plant extends over a large area so that power plants as a
5 group do contribute significantly to background levels of
6 pollution throughout the state. In other words, to
7 effectively further reduce the impacts of coal-fired power
8 plants on air quality many power plants must be further
9 controlled ideally on a regional or national basis. This
10 is what has occurred and should continue to occur for
11 coal-powered power plants in Illinois separate from the
12 Clean Air Act permit proposed for this particular power
13 plant.

14 In particular, in 1995, the national Acid
15 Rain Program began requiring reductions in annual
16 emissions of sulfur dioxide and nitrogen oxides from
17 coal-fired power plants. In May of this year, a state-
18 based rule became effective in Illinois, which requires
19 electrical generating units to reduce nitrogen oxide
20 emissions during the summer months. This rule will
21 further reduce nitrogen oxide emissions from electric
22 generating units by approximately 56 percent during the
23 summer. In 2004, next year, the Regional Trading Program
24 will begin requiring further reductions of nitrogen oxide

1 emissions at power plants during summer months from over
2 20 eastern states including Illinois. These regulatory
3 programs have and can substantially reduce the emissions
4 of two key pollutants emitted from the existing coal-fired
5 power plants.

6 Additional reductions beyond these adopted
7 programs are also planned. At the national level,
8 President Bush, with support from the United States EPA,
9 is recommending that Congress adopt a law called Clear
10 Skies to further control emissions of sulfur dioxide and
11 nitrogen oxide from coal-fired power plants and to also
12 begin control of emissions of mercury on a national basis.
13 The future levels of power plant emissions under the Clear
14 Skies program and the form and schedule for the reductions
15 on emissions are subjects that are currently being debated
16 at the national level. At the state level, the Illinois
17 legislature has already adopted a law requiring the
18 Illinois EPA to evaluate further emission controls to
19 power plants in Illinois. The Illinois EPA must submit
20 its report back to the legislature by September 2004 and
21 may then proceed to propose rules for further control of
22 emissions consistent with our findings. As with the
23 national proposal for a Clear Skies program, the Illinois
24 EPA expects support and subsequent rule making to be the

1 subject of much public debate. In any event, when the
2 next new program is adopted to control emissions from
3 existing power plants, the Clean Air Act permit will again
4 be one of the tools that is used to assure that this
5 source complies with the newly adopted requirements.

6 As a final point, please recognize that
7 coal-fired power plants are not the only source of
8 emissions. In particular, cars, trucks, and buses
9 represent the largest source of nitrogen oxide emissions
10 and volatile organic compound emissions and manufacturing
11 plants also contribute significantly to air quality.
12 Regulatory programs are in place and continue to be
13 developed to reduce the emissions from sources other than
14 power plants. These emission reductions also contribute
15 to steady year-by-year improvements in air quality in
16 Illinois especially in urban areas like Chicago. Thank
17 you very much.

18 HEARING OFFICER MATOESIAN: Thank you,
19 Mr. Romaine. And now before we go on to the public
20 comments, I would just like to note there are several
21 officials from Midwest Generation here. And if they could
22 introduce themselves now, and then they will make a brief
23 statement after the public comments.

24 MR. MC CLUSKEY: Good evening. My name is Fred

1 McCluskey. I'm Vice President of Technical Services for
2 Midwest Generation. I have oversight responsibilities for
3 environmental compliance within the company.

4 I appreciate concerned citizens of the
5 community coming out this evening. We are here to listen
6 to your concerns. We are here to address your questions
7 if we can. We fully support this process and the
8 implementation of the Title V process as a means to
9 further improve air quality within our community and
10 provide additional community as well as regulatory
11 oversight of our operations.

12 There are over 900 different regulatory
13 requirements in a typical Midwest Generation Title V
14 permit. The public has legitimate concerns about air
15 pollution. And the Title V process should assure everyone
16 that regulators and citizens are able to closely monitor
17 our operations.

18 In tonight's opening remarks, Mr. Ross did
19 a great job of explaining the purpose of Title V when he
20 said these permits add to, not subtract from, the
21 compliance checks and balances put on a source thereby
22 providing an additional layer of protection of our air
23 quality. Midwest Generation operates our power generation
24 facilities in compliance with all state and federal

1 regulatory requirements. Those regulations have gotten
2 tougher over the last 30 years with the initial
3 implementation of the Clean Air Act. They got tougher
4 this year with implementation of regional NOx controls
5 within the state of Illinois. They get tougher next year
6 with a broader regional implementation of NOx standards.
7 And the federal EPA is working towards the adoption of the
8 first- ever regulations on mercury emissions from power
9 plants over the next few years.

10 We fully support these efforts. We support
11 the Clear Skies policies of the USEPA. We strongly feel
12 that the adoption of more stricter national standards is
13 appropriate. The fact is our plants are cleaner and safer
14 than at any time in their history, and they will continue
15 to get cleaner. Our air emissions that contribute to smog
16 have been reduced by well over 50 percent. Our Chicago
17 plants already comply with new regulations that will take
18 effect next year, regulations designed to further reduce
19 ozone and protect the public health.

20 Midwest Generation's improvements and the
21 regulation of our plants help meet clean air goals while
22 making sure that we have reliable and affordable supplies
23 of electricity. We at Midwest Generation understand that
24 power plants have an impact on the environment. Our

1 proactive record demonstrates that we are committed to
2 environmental responsibility.

3 We respect the concerns the people have
4 about asthma and other respiratory illnesses. These are
5 very serious issues that require serious attention. There
6 are simply many factors that contribute to these problems.
7 Indoor air pollution from sources such as pollen, dust,
8 animal dander, and tobacco smoke, even stress is thought
9 to be a factor. It is also well-known that vehicle
10 emissions especially from diesel trucks and buses are the
11 biggest single source of air pollution. During the period
12 when asthma has been on the rise both on a local level and
13 on a national level, pollution from power plants,
14 particularly pollution from coal plants, has been falling
15 dramatically. We support further research in all of these
16 areas.

17 In Cook County, our two plants account for
18 only two percent of the nitrogen oxide emissions that
19 contribute to smog. Vehicles account for 63 percent.
20 Emissions from residential heating accounts for
21 22 percent, while the remaining 13 percent comes mainly
22 from manufacturing facilities and airports.
23 These figures come directly from the USEPA, the most
24 recent reporting period being 1999 for the Cook County

1 area. We support cleaner air. We support a cleaner
2 environment. Every source of pollution must cut back. We
3 have done that, and we will continue to do that. And the
4 Title V permit gives the EPA and the citizens more tools
5 to monitor our operations and protect the public. We
6 fully support and endorse the Title V process. We welcome
7 and appreciate everyone's opportunity to express their
8 concerns and thoughts tonight. Thank you.

9 HEARING OFFICER MATOESIAN: Thank you, sir.

10 We are going to try to have those comments
11 translated to Spanish and both send it out with the
12 Responsiveness Summary, post it on the web site, and also
13 we are going to try to get copies to the Little Village
14 Environmental Justice Center so that they can give copies
15 to anyone who wishes to have comments from Midwest
16 Generation.

17 (Whereupon statements were made in
18 Spanish by Ms. Esparza, which are
19 not made a part of this record.)

20 HEARING OFFICER MATOESIAN: Thank you. And now
21 we will go to the public speakers.

22 The first is Faith Bugel.

23 MS. BUGEL: My name is Faith Bugel. I am here
24 representing Environmental Law and Policy Center.

1 available to the public through the registry where the
2 application is available?

3 MR. CASHMAN: Yes, it has.

4 MS. BUGEL: Okay. Well, then to start with, I
5 would like to address the provisions in Fisk's draft
6 title -- I'm sorry -- Crawford's draft Title V permit that
7 fail to comply with the pertinent provisions of the
8 Illinois Administrative Code, the Act, the Code of Federal
9 Regulations, and the Clean Air Act. Specifically several
10 of these fail to provide monitoring sufficient to meet the
11 requirements of the Code of Federal Regulations, and they
12 fail to meet the Credible Evidence Rule. In particular,
13 condition 7.7.5 is a concern in regards to 35 IAC 216.121.
14 The permit had identified that the turbines for the
15 peakers are not fuel combustion units meeting that
16 definition, and I was wondering what was the basis of that
17 conclusion.

18 MR. ROMAINE: The definition of fuel combustion
19 unit is a regulatory definition. A fuel combustion unit
20 is defined as a boiler or a heater. Engines and turbines
21 by definition are not considered fuel combustion emission
22 units under the regulatory scheme in Illinois.

23 MS. BUGEL: I have got the definition as any
24 furnace boiler or similar equipment used for the primary

1 purpose of producing heat or power by indirect heat
2 transfer. Is that the correct definition?

3 MR. ROMAINE: That is correct. And if you
4 notice in that definition, the term indirect heat transfer
5 is used. Engines and turbines do not generate heat by
6 indirect heat transfer, they generate power by direct heat
7 transfer.

8 MS. BUGEL: Okay.

9 MR. ROMAINE: It's a subtle but relevant aspect
10 of the applicable rules. And it's one of those things
11 that the Title V permit helps clarify for this particular
12 facility.

13 MS. BUGEL: Okay. Thank you for your
14 clarification.

15 The second concern we have -- I'm sorry.
16 Did you have --

17 MR. CASHMAN: I just wanted to add in section
18 7.7.1 at the beginning description it talks about that
19 where the turbines are defined as a process emission unit
20 there as well being in 7.6.

21 MS. BUGEL: The next concern that we had was in
22 regards to monitoring. And the Code of Federal
23 Regulations has very stringent requirements regarding the
24 necessary monitoring. In summary, each permit shall

1 contain the following requirements with respect to
2 monitoring, one of which is periodic monitoring sufficient
3 to yield reliable data from the relevant time period that
4 a representative of the source in compliance with the
5 permit.

6 It goes on to say that all part 70 permits
7 shall contain testing, monitoring, reporting, and
8 recordkeeping requirements sufficient to assure compliance
9 with the terms and conditions of the permit. We are
10 concerned that condition 7.6.4 and 7.7.4 do not meet those
11 requirements because, while they include emissions limits,
12 they do not include monitoring or recordkeeping to
13 document that those emission limits are being met.

14 Our third concern is in regards to Credible
15 Evidence. 42 USC 74.13 gives the EPA authority to bring
16 an enforcement action on the basis of any information
17 available, this has been interpreted to mean any credible
18 evidence. Any credible evidence can be used to show a
19 violation or, conversely, demonstrate compliance with
20 emissions limits. Current language may not specify that
21 only certain types of data may be used to determine
22 compliance. Conditions 5.2.2(a), 7.1.8(b), 7.1.12(d), and
23 the compliance procedures do not comply with the Credible
24 Evidence Rule.

1 MR. ROMAINE: I am going to in terms of
2 efficiency of explanation respond. I certainly appreciate
3 the comments on improving the clarity of the permit. With
4 respect to Credible Evidence, another relevant provision
5 of this permit is condition 9.1.3, which says that
6 Notwithstanding the conditions of this permit specifying
7 compliance procedures for applicable requirements, any
8 person including the permittee may also use other credible
9 evidence to establish compliance or noncompliance with
10 applicable requirements. In that regard we do not
11 consider that the specific procedures that have been set
12 by this permit are by any means the only means by which
13 compliance may be determined.

14 At the same time, we would certainly be
15 interested in any specific suggestions to improve the
16 procedures that have been specified.

17 MS. BUGEL: Thank you.

18 Next I would like to move on to startup,
19 malfunction, and breakdown. We believe that the permit
20 needs to include more stringent requirements regarding
21 violations that take place during startup, malfunction,
22 and breakdown. These requirements need to be consistent
23 with USEPA's guidance in this regard. These are
24 specifically memorandums from Kathleen Bennett of

1 September 1982 and Steve Herman of September 1999.
2 Automatic exemptions for excess emissions at startup,
3 shutdown, and malfunction are prohibited. State
4 discretion in this regard is limited to refraining from
5 taking enforcement action or providing an affirmative
6 defense. However, the state provides an affirmative
7 defense, there are several specific requirements that it
8 must meet, and states may not excuse or authorize
9 emissions.

10 Some of these requirements that it must
11 meet are the excess emissions must be unavoidable. The
12 facility must be operated in a manner consistent with good
13 practice for minimizing emissions. All steps must be
14 taken to minimize the impact of excess emissions on air
15 quality. Emissions monitoring systems must be kept in
16 operation if at all possible.

17 The permittee also must promptly notify the
18 Agency of excess emissions. The permittee must also
19 demonstrate that periods of excess emissions during
20 startup and shutdown were short and frequent and could not
21 have been prevented. Excess emissions were not part of a
22 recurring pattern indicative of inadequate design,
23 operation, and maintenance. Those are the requirements
24 related to startup.

1 The requirements related to malfunction
2 must be that the air pollution control equipment and
3 processes must be maintained and operated in a manner
4 consistent with good practice for minimizing emissions.
5 Repairs must be expeditious. The amount and duration of
6 excess emissions must be minimized to the extent
7 practicable. All possible steps must be taken to minimize
8 the impact of excess emissions on ambient air quality, and
9 emissions monitoring systems must be kept in operation
10 when possible. In addition, the permittee must
11 demonstrate that excess emissions were caused by a sudden
12 unavoidable breakdown of technology beyond the control of
13 the operator, the excess emissions did not stem from any
14 activity or event that could have been foreseen or
15 avoided, or the excess emissions in the excess emissions
16 were not part of a recurring pattern.

17 So we have some concerns with the
18 provisions that authorize excess emissions during startup
19 and malfunction.

20 MR. ROMAINE: I think I would like to respond
21 while going through these item by item. Notwithstanding
22 U.S. policy there are specific provisions under Illinois'
23 rules that are currently in effect that require a source
24 to obtain authorizations for excess emissions during

1 startup or malfunction in advance as this permit allows.
2 We certainly share your concerns that there be other
3 provisions in place to assure that these other safeguards
4 are carried out.

5 This is one of the things that we are
6 working with in this permit to address legal obligation to
7 address in advance startup and malfunction events while at
8 the same time assuring that Midwest Generation takes
9 appropriate steps to minimize those events and minimize
10 the emissions that occur during the events. And we
11 appreciate the specific comments you have on that area.

12 MS. BUGEL: Thank you. We have some concerns
13 regarding practicable enforceability. I realize that my
14 time is running short, so I will be brief, and just say
15 that our concerns are related to procedures and documents
16 that have not been adequately defined, imprecise time
17 frames that do not set an outer time limit as required by
18 USEPA policy; concerns regarding the term reasonable,
19 which is subjective and, therefore, not practically
20 enforceable; concerns regarding provisions that allow
21 Agency discretion and, therefore, limit the ability of
22 citizens to enforce the permit; and other vague language
23 such as, for instance, condition 5.2.3, which requires the
24 operating program to significantly reduce fugitive

1 particulate matter emissions. Because the terminology
2 significant is subjective, that, again, is not practically
3 enforceable.

4 MR. ROMAINE: Again, we appreciate those
5 comments. The things you point out are things that we
6 are, in fact, struggling with in this permit. The
7 language that you point to, for example, in terms of
8 significantly reducing emissions is the actual language of
9 the regulation that we are enforcing.

10 MS. BUGEL: In closing, I would just like to
11 emphasize the health effects that this facility causes,
12 specifically severe negative health impacts. Crawford is
13 located in a residential neighborhood of Little Village
14 where we are tonight. Its two coal-fired boilers were
15 installed in 1958 and 1961. According to Midwest
16 Generation, the New Source Review Rules do not apply to
17 those boilers, which makes them grandfathered, and Midwest
18 Generation claims that those boilers have never been
19 modified.

20 Crawford emits twice as much sulfur dioxide
21 as a newer plant and 50 times more pollution than a
22 natural gas plant. In the year 2000, it was estimated
23 that pollution from Crawford was responsible for
24 38 deaths, 340 emergency room visits, 1800 asthma attacks,

1 62,000 cases of upper respiratory illnesses.
2 Approximately two thirds of all of these cases could be
3 avoided with modern emission limits on these plants.
4 Modern emission limits would reduce the number of deaths
5 per year resulting from these plants by 68 percent.
6 These are all from a study from Harvard School of Public
7 Health. This study also estimated that the deaths for
8 Crawford, 65 percent of these occur within 50 kilometers
9 of the plant, that is in the City of Chicago.

10 I thank you for your time tonight and for
11 your consideration of these comments.

12 HEARING OFFICER MATOESIAN: Thank you,
13 Ms. Bugel.

14 The next speaker is Keith Harley.

15 MR. HARLEY: Good evening, my name is Keith
16 Harley. I'm a lawyer. I'm a lawyer for an organization
17 called the Chicago Legal Clinic. I'm here tonight
18 representing the American Lung Association of Metropolitan
19 Chicago. Now, there may be other people here from the
20 American Lung Association who may also be testifying. And
21 I will be submitting detailed written comments.

22 Tonight, though, I wanted to address four
23 issues relating to the draft Title V permit. The first
24 issue is the issue of environmental justice. The Illinois

1 Environmental Protection Agency is in the process of
2 evaluating Title V permits for all coal plants in the
3 state, 20 or more; but Crawford is in a very unique
4 situation. Crawford is one of the very few plants that is
5 operating in a community that has a substantially higher
6 minority population than the state average. Crawford is
7 also one of the very few plants operating in an area with
8 a very high population density suggesting many more people
9 are affected by its operations than other plants located
10 in less populated places.

11 There is also evidence that the community
12 around this facility is vulnerable, is susceptible. The
13 Chicago Department of Public Health evaluated community
14 health data for 77 different community areas in Chicago.
15 Residents of the community area comprising much of the
16 area near this plant exhibited some of the highest rates
17 of death by heart disease, pulmonary disease, and also
18 exhibited low birth rates. Because it receives federal
19 funds, it's implementing a federal permitting program,
20 Illinois must assure, must take affirmative steps through
21 this permitting process to ensure members of this
22 community receive equal environmental protection under
23 Title VI of the Civil Rights Act of 1964.

24 Yesterday I sent a letter to Illinois EPA

1 Director Renee Cipriano on behalf of the Lung Association
2 requesting that as part of its deliberations the IEPA
3 conduct an environmental justice analysis to identify the
4 population affected by this facility's emissions, how
5 these people are affected by these emissions, and how the
6 Illinois EPA can exercise its discretion to assure its
7 deliberations will fully protect the health and safety of
8 the people who live near this facility.

9 If you drive by the facility, you realize
10 there are people living directly across the fence line
11 from this plant. Simply, whenever IEPA has a judgment
12 call, the Lung Association is requesting it exercise its
13 judgment to protect the people who live in this community.

14 Mr. Hearing Officer, at this time I would
15 ask to have this letter entered as an exhibit in these
16 proceedings. May I approach.

17 HEARING OFFICER MATOESIAN: Yes, you may.

18 Thank you. I'm going to enter this as an
19 exhibit. First, however, I'm going to enter a copy of the
20 Clean Air Act Permit Program proposed permit as Exhibit
21 No. 1.

22 (Document marked as Exhibit No. 1.)

23 And then I will admit this letter as
24 Exhibit No. 2.

1 (Document marked as Exhibit No. 2.)

2 MR. HARLEY: The second issue I wish to address
3 tonight is the issue of compliance. The law requires that
4 in order to obtain a permit, Title V permit, the applicant
5 must either certify it is in compliance with performance
6 standards or enter into a scheduled compliance and meet
7 these standards. As part of these proceedings, the
8 American Lung Association of Metropolitan Chicago wants
9 Illinois EPA to disclose all information in its files
10 about any excess emissions from this facility since
11 Midwest Generation took over in 1999.

12 To this end, yesterday I sent a Freedom of
13 Information Act to Illinois EPA asking for information in
14 its possession about excess emissions from the Crawford
15 facility, be it opacity, carbon monoxide, sulfur dioxide,
16 particulate matter, whatever those excess emissions are.

17 Mr. Hearing Officer, I would request that a
18 copy of this letter be entered as an exhibit in these
19 proceedings. I further make a specific request that when
20 Illinois EPA responds to this request giving information
21 about excess information, excess emissions from the
22 Crawford facility, that this information be placed in a
23 repository of information for community residents also to
24 have access to.

1 May I approach?

2 HEARING OFFICER MATOESIAN: Yes, you may.

3 I'm going to admit this as Exhibit No. 3.

4 (Document marked as Exhibit No. 3.)

5 MR. HARLEY: Third issue, at the hearing last
6 night about the Fisk plant, many people, including me, the
7 Attorney General's representative, commented on the
8 importance of determining if major modifications have
9 occurred at the Crawford facility. If these modifications
10 have occurred, these would trigger New Source Review and
11 New Source standards tightening the emissions standards
12 that this source must meet and directly relevant to its
13 compliance with disclosure and permitting requirements
14 that are germane to these proceedings. In fact, in your
15 permit, you explicitly indicate that this permit is
16 contingent on the fact that this is not a source subject
17 to New Source permit standards. This is fundamental to
18 the inquiry you must conduct.

19 As part of these proceedings, I wish to
20 ensure that the Illinois EPA is aware that on February 21,
21 2003, Midwest Generation received a request for
22 information regarding past operations, maintenance, and
23 physical changes at all of its coal plants from the United
24 States Environmental Protection Agency as part of an

1 inquiry as to whether or not these plants should be
2 subject to New Source Review.

3 I specifically request tonight on behalf of
4 the Lung Association that as part of its deliberations on
5 this permit the Illinois EPA consult with USEPA
6 investigators and with Midwest Generation regarding this
7 federal investigation to inform its choices in this
8 permitting process. This is not just something that
9 attorneys care about. If modern pollution control
10 equipment were required of the Crawford facility, the
11 Harvard School of Public Health estimates that 25
12 premature deaths could be avoided.

13 In terms of how I am aware of the fact that
14 on February 21 this inquiry was made, it's contained on
15 page 25 of the submittal prepared by Midwest Generation
16 for the United States Security and Exchange Commission.

17 Fourth issue that I wish to address has to
18 do with hazardous air pollutants from this facility. At
19 last night's hearing, Laurel O'Sullivan from the Lake
20 Michigan Federation spoke about the public health and
21 environmental benefits to be achieved if mercury controls
22 could be imposed on this facility as part of this
23 permitting process. I wish to emphasize that mercury is
24 not the only hazardous air pollutant emitted from this

1 facility. According to the company's own toxic release
2 inventory disclosures, the Crawford facility also emitted
3 more than 22 tons per year of hydrochloric acid, more than
4 26 tons per year of hydrogen fluoride, and 9 tons per year
5 of barium, as well as smaller amounts of other hazardous
6 air pollutants like dioxin, lead, manganese, and vanadium.

7 Crawford is not unique among coal plants in
8 being a major source of these hazardous air pollutants.
9 The Illinois EPA has it within its discretionary authority
10 to perform an enormous benefit for residents of this
11 community and for residents throughout the State by
12 using its authority under Illinois law, specifically
13 415 Illinois Compiled Statute 39.5, Section 19(A), to
14 develop standards to control HAPS for coal plants today.
15 Notably under the section, regulated entities like Midwest
16 Generation also have the ability to propose standards to
17 control these highly toxic substances. IEPA could use
18 this provision either unilaterally or as a basis to ask a
19 facility operator like Midwest Generation to develop
20 standards to control hazardous air pollutants and achieve
21 an enormous public health benefit through this permitting
22 process.

23 With that I conclude my remarks. Thank you
24 very much.

1 HEARING OFFICER MATOESIAN: Thank you,
2 Mr. Harley.

3 The next speaker is Verena Owen. And once
4 again, let me emphasize, please state and spell your name
5 for the record. Thank you.

6 MS. OWEN: Good evening. My name is Verena
7 Owen. I am with the Lake County Conservation Alliance.
8 First of all, thank you again for holding this hearing. I
9 do appreciate it and I think everybody here does, too.

10 I have two quick follow-up questions to
11 some of Mr. Romaine's remarks. When you were talking
12 about startup and malfunction, Illinois rules, does it
13 indicate that these are state-only rules?

14 MR. ROMAINE: No. The rules that we are dealing
15 with here, 35 Illinois Administrative Code, part 201, is a
16 state rule adopted by the Illinois Pollution Control Board
17 but has been approved by USEPA as part of Illinois'
18 State Implementation Plan.

19 MS. OWEN: Good. Your other comment was that
20 you struggle with some of the language in the existing
21 regulations. And I think it is not only -- It is your
22 responsibility if you run across something like that to
23 make your own definition, and I will elaborate on this
24 point a little bit later.

1 I do appreciate all the comments you made
2 at the beginning. And one of the things that I thought
3 was interesting was the compliance issue. It is, of
4 course, important. But if you look at the permit, this
5 source doesn't always have to be in compliance. For
6 instance, the permit specifically allows the boiler, I'm
7 just talking about Section 7.1, the boiler, to be in
8 violation during startup for 20 hours if reasonable
9 efforts were made to reduce the emissions.

10 First of all, "reasonable efforts" is
11 nowhere defined. Okay, we will talk about enforceability.
12 The fact is that any term that is used in the permit needs
13 to be defined somewhere. We do not understand what
14 "reasonable efforts" would be.

15 Number two, the permit also allows --
16 Well, actually has no requirements to report any excess
17 emission during shutdown. And I would like to get an
18 answer what the statement of basis for this condition is.
19 And you can owe me that.

20 Number three, the permit also allows for
21 malfunctions. And again, no definition exists for
22 malfunction. Again no definition is given anywhere in the
23 permit what IEPA understands to be a malfunction. Not
24 only this, but only after two hours of malfunctioning does

1 it need to be reported and an estimate of the magnitude of
2 the excess emission have to be given. So they get two
3 hours for free, I don't understand that.

4 Not only does the malfunction, 7.1, deal
5 with a boiler, it also says these, these -- that also is
6 for the pulverizer, the ash remover system or the ESP, if
7 essential services are provided. I would like to have a
8 definition what IEPA understands to be essential services
9 in a deregulated electricity market.

10 And these malfunctions, they may run for
11 24 hours, 74 hours or more. Again the permit is not
12 really specific as to who makes the decision if it's 24,
13 74 or more hours.

14 Also, the permit allows continuous emission
15 monitors to malfunction for 5 percent of the time before
16 it needs to be addressed as to why they are malfunctioning
17 and what actions will be taken to fix them.

18 A brief comment on the reporting. There
19 seems to be levels of reporting on this permit. You
20 require prompt reporting only for condition 5.1.2 and
21 7.1.4. There is some form of reporting requirements after
22 every 30 days for condition 7.1.6. And if you read
23 condition 7.1.6, it says none in it. So I don't
24 understand that. However, the generic requires prompt

1 reporting of any deviation from the permit requirements.

2 Faith already talked about compliance
3 procedures. The Title V conditions set the law under
4 which the source is going to be operated. And the
5 Credible Evidence limitation in all your -- in 7.1.12, and
6 all the 12s, is definitely not being taken care of by the
7 generic disclaimer in Section 9. This permit lays down
8 the law as to what the source has to do to be in
9 compliance and very specifically tells them what they have
10 to do. It limits credible evidence in saying 20 pages
11 later, by the way, in any of this, I think this will never
12 hold up in courts. You have to bring some association
13 that this is correct or not.

14 I would like to address operational
15 flexibility; but I guess with so many people here, with
16 your permission, I'm going to sit down, if you allow me
17 later on to continue.

18 HEARING OFFICER MATOESIAN: Yes. That's fine.

19 Thank you, Ms. Owen.

20 The next speaker is Juan Turnil.

21 MR. TURNIL: I'm going to speak in Spanish.

22 (Discussion outside the record.)

23 MS. ESPARZA: He's going to read it first in
24 Spanish, and then I'll read it word for word of what he

1 just said.

2 HEARING OFFICER MATOESIAN: Okay.

3 (Whereupon statements were made in
4 Spanish by Mr. Turnil, which are
5 not made a part of this record.)

6 MS. ESPARZA: Good evening. I'm with the
7 Illinois Environmental Protection Agency, and I will be
8 repeating word for word what the gentleman just stated.

9 So, good evening, my name is Juan Turnil.
10 I'm here this evening as a member of the Little Village
11 Environmental Justice Organization and as a member of the
12 community. As a community organizer for more than four
13 years, I have been able to recognize the needs and the
14 problems my community is facing through a series of
15 community meetings and public hearings. I have come to
16 one conclusion, the contaminated air that we breathe day
17 by is day is definitely harming our children, our senior
18 citizens, and our community as a whole. The amount of
19 contamination that Crawford Generation is emitting into
20 our community is the focus of tonight's hearing. We are
21 aware, however, that there are other factors that
22 contaminate our community, but tonight we are emphasizing
23 on Crawford Generation.

24 All of last month and at last night's

1 hearing the Spanish representative from Midwest Generation
2 has washed her hands in regards to the toxics Midwest
3 Generation is emitting by stating that Crawford and Fisk
4 are the plants that least pollute the air and by making
5 everyone believe that everything is fine. This shows that
6 the company is irresponsible. It does not matter whether
7 the contamination levels are at record lows or at record
8 highs. We are being contaminated.

9 I do understand and appreciate the energy
10 that is produced by Midwest Generation because of the jobs
11 that it creates. However, I don't understand and
12 appreciate the price the community has to pay. I urge the
13 Illinois Environmental Protection Agency to take immediate
14 action in revising the regulations in the permit. The
15 Illinois Environmental Protection Agency needs to focus on
16 the problems our community is facing and, most
17 importantly, concentrate on our community's health. Thank
18 you.

19 HEARING OFFICER MATOESIAN: Thank you,
20 Mr. Turnil.

21 The next speaker is Kim Kuntzman.

22 MS. KUNTZMAN: If it's okay, I'm going to say
23 what I have to say in English; and then I'm just going to
24 briefly say it in Spanish so the people can understand

1 what I'm saying.

2 HEARING OFFICER MATOESIAN: Why don't we have
3 our translator do it.

4 MS. KUNTZMAN: Okay. That's fine.

5 Thank you very much. I am here as a
6 community resident and also as part of the Little Village
7 Environmental Justice Organization. I have two comments.
8 First is thank you very much for actually having a hearing
9 in Little Village and using our organization to bring
10 about, have people come to the area. It's the first time
11 this has happened to us; and we hope it's one of many
12 times this will happen again, not only with Crawford but
13 with all the industries in Little Village.

14 Also, my second comment is I would ask that
15 the EPA in not fixing but in revising the Title V permits
16 really take into consideration the mercury and other
17 hazardous air pollutants in Little Village. While as a
18 individual, I do appreciate the comments made by Midwest
19 Generation in cleaning up their act; but that's one of
20 many pollutants, the nitrogen oxide we talked about,
21 that's one of many pollutants still affecting our
22 community.

23 And the fact that we are so close to the
24 coal-fired power plant is another thing to keep in mind.

1 It's not like we are in the middle of a field and the town
2 is 50 miles away. We are directly right at this power
3 plant. And the fact that we have the fifth largest asthma
4 rate in the City of Chicago is not just because people are
5 in bad health but because of the air quality here. While
6 I do recognize that Crawford is not the only air pollutant
7 facility, they are the biggest polluter.

8 So again I would advise you that you take
9 into consideration all of the health problems that we do
10 have in Little Village when revising and giving your
11 Title V permit.

12 (Whereupon statements were made in
13 Spanish by Ms. Kuntzman, which are
14 not made a part of this record.)

15 HEARING OFFICER MATOESIAN: The next speaker is
16 Mr. Mark Horbaczewski.

17 MR. HORBACZEWSKI: Good evening. My name is
18 Mark Horbaczewski, and I'm concerned citizen. I live
19 south of Little Village on the other side of the Crawford
20 Station. I have been a lifelong resident of Chicago, all
21 my life, 45 years. I grew up on west Humboldt Park and
22 then moved to southwest side of Chicago. I went to
23 University of Illinois at Chicago, so I have lived in the
24 city all my life. And I noticed the pollution --

1 I have three kids. I'm concerned of air
2 quality of the city urban area. I appreciate what the
3 EPA, Illinois EPA, is doing, protecting us from other,
4 other factories. And for my 45 years in this area, I have
5 seen the fossil plants, 80 percent have been gone. There
6 used to be a fossil plant on every corner in the City of
7 Chicago. Our steel companies have been gone. So most of
8 the smoke stack industries have gone away from this area.

9 And my biggest concern is the car pollution
10 and the automotive pollution that you guys don't really
11 control. And I would really be appreciative of you,
12 Illinois EPA, in protecting the environment with other
13 smoke stack industries such as the steel industries and
14 the other ones that do have to be in compliance.

15 So I wish the people that would really
16 focus on with the real or really root cause analysis,
17 because I have been doing root cause analyses for 20 years
18 as an engineer. And we really need to focus on for the
19 health of our kids to find what the root cause is of this
20 asthma and not focus on, you know, we have got covered
21 some industries, we are getting them all out of the city.
22 They are all moving out of the city. It's just what the
23 cause instead of just focusing on certain smoke stack
24 industries that are gone.

1 But the car industry, truck industry,
2 nobody is fighting against the truck industry. And I see
3 the trucks going down my street every day polluting. So
4 that's all I have got to say. Thanks.

5 HEARING OFFICER MATOESIAN: Thank you,
6 Mr. Horbaczewski.

7 The next speaker is Dorian Breuer.

8 MS. BREUER: Hi. My name is my name is Dorian
9 Breuer. I am a member of the Pilsen Southwest Side Local
10 of the Green Party as well as a resident of Pilsen, very
11 near to both these plants.

12 The main point I wanted to make tonight as
13 opposed to last night was to emphasize a point that the
14 company has been arguing. Doug McFarlan of Midwest
15 Generation said in a news article that came out today in
16 the Chicago Tribune, he said that the groups, that means
17 our community, are using this permitting process to
18 advance a different campaign of closing down coal plants.
19 And this has been an argument that the company has been
20 making, and I would like to argue that that is not true.

21 What I think the community and a lot of the
22 groups have been wanting to do is to close down simply the
23 toxic emissions that come from these coal plants, not the
24 plants themselves. As was mentioned earlier, obviously,

1 the electricity is very useful that everyone uses. And as
2 was mentioned in the hearing yesterday that people like to
3 have their refrigerators and their utensils that use
4 electricity, so it's important.

5 However, there are other solutions that are
6 less polluting. Midwest Generation is a subsidiary of the
7 California-based Edison International, one of the largest
8 utility conglomerates in the world. Published reports at
9 the time of Midwest Generation's inception in the late
10 '90s spoke about the purpose of formation of the company
11 as to buying up a series of old grandfathered coal-fired
12 plants throughout the Midwest.

13 The same reports talk about the fact that
14 it's less expensive to run old coal-fired power plants.
15 So the main goal that can be surmised and the purpose of
16 Midwest Generation is to extract shareholder value for the
17 shareholders of Edison International from the old
18 polluting coal plants that are here in Pilsen and Little
19 Village.

20 So my question is for whose interest is
21 Midwest Generation here? It is not for the community's
22 interest. They are not here for the interest of the
23 residents here and in Pilsen despite the fact that, when I
24 talked to them about two or three years ago, they gave me

1 lots of press releases regarding how much money they give
2 to a few schools, a couple of residents' associations.
3 They sponsored the Fiesta del Sol right next to their
4 plant there. Well, does that mean everything is okay?
5 Well, I think in the community's opinion it's not.

6 So the company is there for their
7 shareholders' interest, that's the reason they are there.
8 And that's perfectly legal. In fact, many people argue
9 that that's beneficial. There is that way of doing things
10 that structure is just great. However, as I'm sure you
11 are aware, your Agency, the Illinois EPA, you serve the
12 interests of the public and this community. Of course,
13 you are aware of that. And so one of the reasons for
14 standing up is to emphasize that essentially despite some
15 efforts that the community is doing itself locally, for
16 example, to try and pass a stronger ordinance that would
17 use the home rule power in Illinois law to toughen up the
18 air standards for the interest of the community here in
19 Pilsen and Little Village. However, I would just like to
20 emphasize that the Illinois EPA is really our only Agency
21 and our representatives in regards to the organization
22 Midwest Generation whose interests are being for the
23 shareholders. So this is really about the shareholders of
24 Edison International against the local residents here in

1 Pilsen and Little Village and the Illinois EPA is
2 representing our interests.

3 And so I hope that you are able to use as
4 much leeway that you have in the Illinois regulations as
5 was talked about a little bit earlier, whether it's
6 looking at New Source Review contravenes that might have
7 or leeway with mercury specifically or other contaminants.
8 I would just like to stress that being our representatives
9 and serving our interests, we really want to give you as
10 much positive reinforcement to be a strong representative
11 for us as possible to help us have clean air and a clean
12 environment. Thank you.

13 HEARING OFFICER MATOESIAN: Thank you,
14 Mr. Breuer.

15 The next speaker is Dr. Howard Ehrman.

16 DR. EHRMAN: Good evening, the EPA.

17 (Whereupon statements were made in
18 Spanish by Dr. Ehrman, which are
19 not made a part of this record.)

20 DR. EHRMAN: My name is Dr. Howard Ehrman. I'm
21 assistant professor at the University of Illinois in
22 Chicago in the School of Public Health, Environmental
23 Occupational Health and Sciences, and also in the College
24 of Medicine Department, Department of Medicine.

1 I recently retired from Cook County
2 Hospital in the Department of Family Practice where I
3 practiced, taught both residents and medical students,
4 primarily this area in Pilsen for most of the last
5 30 years.

6 What I would like to do tonight is kind of
7 give you a picture that's of the neighborhood when my
8 family first moved 125 years ago to Pilsen and where I
9 have lived the most of last 35 years and family. I have a
10 wife who basically moved here from Mexico in 1968, who had
11 no respiratory problems when she came here at the age of
12 16, who now has asthma. I have a grandson who is five
13 years old, who has spent about half his life in this
14 community who also now has asthma. This is just a small
15 part of the population of Little Village. The population
16 of Little Village, according to the 2000 census, which is
17 basically the community area under 30 of Chicago is 91,000
18 people.

19 It has certain very important
20 characteristics that are really crucial, as Keith Harley
21 pointed out, to your review under Title V. Number one is
22 this is the largest Mexican-American community outside of
23 Los Angeles in the United States of America.

24 Number two is this is the youngest

1 real people. That means that the population of 91,000
2 people, there are about 17,000 people -- I'm sorry --
3 15 and a half to 16,000 people potentially have asthma in
4 this community.

5 So I guess, I don't know if you can answer
6 this question directly; but I would like to know either
7 now or soon if you are going to do what Keith Harley and
8 other people, including myself, are asking; and that is
9 take environmental justice, which is a national, of
10 course, federal guidelines, federal rules, that were first
11 invoked when President Clinton was elected, and take that
12 into consideration in this permit.

13 MR. ROMAINE: The simple answer is yes.
14 Environmental justice is an evolving program in Illinois.
15 It is a new concern or way of approaching things. I'm not
16 sure what we will do.

17 DR. EHRMAN: Okay.

18 MR. ROMAINE: But we will do what we can to
19 address environmental justice concerns.

20 DR. EHRMAN: Great. Well, I think that we are
21 all happy to hear that.

22 What I would suggest, and I assume probably
23 somebody, maybe not right here but somebody has done this,
24 is you can work with the USEPA. On their web site, they

1 actually have an environmental justice web site, which is
2 done by zip code. It's not done by community area. But
3 like I said, Little Village takes up about 8 percent of
4 zip code 60623. So that's a place to start. You can do
5 comparative data on that zip code with other zip codes in
6 the State of Illinois.

7 One of the things that the Harvard study
8 pointed out that was new -- When I went to the School of
9 Public Health and graduated about 12 years ago, we were
10 always taught that with smoke stack industries and when
11 things went up chimneys that most of the effect was not
12 within the immediate one, two, or three miles for whatever
13 pollutant. The significant thing about the Harvard School
14 of Public Health study shows that in this particular case,
15 this is not just true of the Crawford plant or the Fisk
16 plant, but in particular because of the population density
17 and because of the types of population in terms of
18 particularly the numbers of small children, infants, as
19 well as significant groups of older people not as much in
20 other communities, that the fallout, the primary fallout
21 area is within one or two miles of these plants.

22 That's very different than the way we were
23 all taught in public health school. That's very
24 significant for this titling process and what you are

1 going to be doing. Because it's one thing to say, well,
2 pollutants are sort of spread out over the whole City of
3 Chicago, the whole County of Cook County, the whole
4 eight-county metropolitan area of the Chicago metropolitan
5 area; but in the particular case of the major pollutants
6 outside of the mercury, you know, those pollutants, the
7 soot levels, the fine particulate matter, the sulfur
8 dioxide, nitrogen oxide, those primarily, and the soot
9 that's formed from the combination of sulfur dioxide and
10 nitrogen oxide, primarily fall out within the first mile
11 or two.

12 Now, this is the densest, you know,
13 community area in the City of Chicago outside of
14 previously the Public Housing Authority in the City of
15 Chicago. So we are talking about density, we are talking
16 about the character of the population in terms of its
17 youth, and we are talking about the fact that over
18 90 percent of the people, 95 percent of the people are
19 either Latino or African American in this community area.
20 So I think that's vital to take into consideration.

21 I also would really like to express my
22 thanks and gratitude, both as someone who works for the
23 University as well as someone who lives in this community
24 and worked here, for you coming to this community to hold

1 public hearings I think this is a great model for you to
2 have everywhere in the State of Illinois, not just in the
3 City of Chicago, not just in Little Village, and not just
4 in Pilsen. So I hope this is a beginning or you'll
5 continue to do this all over.

6 The next thing I would like to do is talk
7 about an opportunity that I think three parties here have.
8 And those parties are the Illinois Environmental
9 Protection Agency, the community, all the different
10 sectors of the community, and that includes not just
11 Pilsen and Little Village, because in the case of mercury
12 we are talking about the fact that these coal power plants
13 are probably the greatest point sources, you know, of
14 mercury in the City of Chicago and may be the greatest
15 point sources in any county in the metropolitan area of
16 Chicago that contribute to the fact that Lake Michigan has
17 one of the greatest concentrations, particularly southern
18 Lake Michigan, of mercury anywhere in the world and
19 particularly the western hemisphere.

20 The third party here would be Midwest
21 Generation. I don't know if the people are still here.
22 Are there people still here from Midwest Generation?

23 MR. MC FARLAN: Yes.

24 DR. EHRMAN: Okay. I don't know if it's

1 Mr. McFarlan I'm supposed to ask a question; but I guess I
2 would like to echo what some of the other speakers have
3 said. I'm a member, a board member, of Little Village
4 Environmental Justice Organization and also I'm a member
5 of the Clean Air Campaign. Never in anything that anybody
6 has said, nor in any of the literature, have we talked
7 about closing the plants. We don't think that's realistic
8 at this point. That's not in the interest of people who
9 work in the plants, of your stockholders, particularly
10 Edison International, or probably the City of Chicago at
11 this point is probably not interested in closing the
12 plants.

13 We are interested in dealing with
14 reasonable opportunity, let's be realistic here.
15 Hopefully, in the next generation or two, we are not going
16 to depend on fossil fuel either primarily or at all to
17 generate electricity; but that's not going happen
18 overnight. So we really are in a period of transition
19 here. I think the period of transition can best be done
20 by taking real science. You know, science that's not the
21 only study that's been done which shows the fact that
22 sulfur dioxide, nitrogen oxide, small particulate matter,
23 exacerbates the onslaught of asthma. You know, now there
24 are new studies that have been published in peer-reviewed

1 literature in the last couple years that showed, and this
2 is new, that it exacerbates diabetes, okay, that it --
3 more studies have shown that it exacerbates people who
4 have other diseases, like heart failure. And that's why
5 people are dying, not just because of asthma.

6 So the opportunity here is to take real
7 science. And if you have real science that basically
8 refutes the Harvard Study, then you should really submit
9 that documentation to the Illinois EPA and submit it to
10 the community and to the Department of Environment of the
11 City of Chicago, and show us that the Harvard Study was
12 wrong.

13 Now, you know, every study is not perfect
14 and every study can make mistakes. But so far in the last
15 two and a half to three years, actually it's almost three
16 years now since the study has published, no one has
17 refuted the study in a scientific journal. If you know of
18 a scientist that could do that, we would be happy to meet
19 with them. We could have a public forum and, hopefully,
20 the EPA will be present. But I think the opportunity with
21 this permit process now is to take it and change things so
22 that what we have asked for is the support of Alderman
23 Burke's basically Clean Power proposal to the City Council
24 of Chicago. And that is basically to use, you know, coal

1 gassification process. We are not talking about even
2 eliminating coal from southern Illinois, coal
3 gassification process to reduce the sulfur dioxide,
4 nitrogen oxide, mercury, and the particulate matter by
5 over 90 percent. That's going to save lives. It's going
6 to cost the stockholders of Midwest Generation and Edison
7 International some money initially, but we think you would
8 be a good neighbor. And we would invite you to
9 participate in good neighbor dialogue, not just with our
10 organization but all the members of the Clean Air
11 Campaign.

12 So we look forward to continuing this
13 dialogue. We would ask that you would return to these
14 communities, Pilsen, Little Village, City of Chicago,
15 before the end of the calendar year basically answering
16 all of the issues that have been raised and documentation
17 that's been submitted.

18 I will submit my remarks within the next
19 couple weeks if that's okay in writing. And we think that
20 would be a really positive thing to do, tell us what
21 progress has been made, and how you are answering these
22 issues.

23 Do you want to translate, or do you want me
24 to?

1 (Whereupon statements were made in
2 Spanish by Dr. Ehrman, which are
3 not made a part of this record.)

4 HEARING OFFICER MATOESIAN: Thank you.

5 The next speaker is Gerry Mead.

6 MR. MEAD: I got up here so fast, I didn't have
7 a chance to prepare myself. My name is Gerry Mead. I'm
8 with the Pilsen Southwest Side Local Green Party. Boy,
9 let me gather myself a minute. I didn't expect to get up
10 here so fast.

11 Mainly the reason I got up here is I wanted
12 to both reemphasize something that was said last night
13 and make sure it was said again today and also to respond
14 a little about some of the discussions that have happened
15 since last night's meeting both with people after the
16 meeting and also in the press. One of those things that's
17 been said since in the press I want to clarify, and now
18 Dorian was good enough to also clarify these issues, that
19 it is not the goal of the Green Party campaign to close
20 the plants. It's never been our goal. We have always
21 made that clear, particularly we don't want to see people
22 lose their jobs. But we do believe from what we have
23 seen and people have done it that it is possible for the
24 Fisk and Crawford plants to significantly reduce their

1 emissions through coal gassification, clean coal
2 technologies, as well as possibly moving some of their
3 generation over to natural gas.

4 In terms of some of the things that were
5 said last night after the meeting that I want to clarify,
6 there was some discussion that happened I think with
7 people -- with members of the Illinois EPA as well as the
8 company that try to obfuscate the fact that the effects of
9 these plants is felt significantly within the communities
10 that they surround. This is a very important issue
11 because one of the things we have brought up again and
12 again is the fact that the problem with Fisk and Crawford
13 is they are located in such a heavily residential
14 community.

15 And so that we do believe that there is
16 special consideration that needs to go into the permit
17 process to take -- to acknowledge that. And there was in
18 the discussion I heard last night, again, I think a little
19 bit of the sense, well, we can't be sure that it's really
20 affecting directly the community, that the effects are
21 more widespread and so on. Again, I think the Harvard
22 study and other studies have pointed out that there is a
23 direct effect right in those communities and that needs to
24 be taken into consideration.

1 And that goes back to the point about
2 environmental justice, environmental racism, and about
3 Fisk and Crawford being good neighbors and so on. Given
4 that situation, given the impact that we feel locally, I
5 think we need to make sure that whatever can be done
6 should to toughen up the standards that are in the permit
7 and that have been discussed. There has been a lot of
8 suggestions, particularly last night, a lot of suggestions
9 made by organizations of ways to toughen those standards.
10 Like, for instance, not allowing the plant to go past its
11 limits during accidents or shutdowns or things like that
12 or the discretion the EPA has about mercury and so on.
13 Those certainly can be toughened up, as well as the fact
14 that, again I know this is not directly related to the
15 permit process but since the community is here and the
16 organizations are here, again that we get together and try
17 to pass our ordinance that would allow stricter
18 regulations since they are allowed to use this grandfather
19 loophole in the federal law. So I just want to reiterate
20 that and try to clarify that because of discussions that
21 happened since last night's meeting.

22 And I certainly hope that more of the
23 community residents will come up and speak. We know that
24 from our work in the community over the past two years on

1 the Clean Power ordinance there is a strong feeling in the
2 community. We talked last night about how there was a
3 question on the ballot in Pilsen back in the
4 February elections which was basically almost 90 percent
5 in favor of the passage of the ordinance. We had a
6 similar question here in the Village, and again it was not
7 quite as high but it was only a few percentage points
8 different. I think it was like 86.5 percent or very close
9 to 90 percent again of the residents of Little Village
10 again. We are very concerned about this plant and want to
11 see these passed. We know there is strong feelings in the
12 community. I hope they will come up and speak to that.
13 Thank you very much.

14 HEARING OFFICER MATOESIAN: Thank you, Mr. Mead.

15 The next speaker is Matthew Dunn.

16 MR. DUNN: Good evening, Mr. Hearing Officer.
17 Matthew Dunn. I would like to present a comment tonight
18 on behalf of the people of State of Illinois on behalf of
19 Attorney General Lisa Madigan.

20 First off, I, too, would echo and thank the
21 IEPA for being here tonight and last night we worked
22 together regarding the Fisk plant. Certainly you all
23 coming out to the hearing has been expressed by local
24 members first-hand is an accomplishment for you all, and

1 I'm sure it's appreciated by all of us that haven't
2 traveled as far as you all have to be here.

3 The Illinois Constitution creates the State
4 of Illinois from which we have a State of Illinois and
5 also guarantees the right to a healthful environment for
6 all people. It sets forth that the public policy of the
7 state for each person is to provide and maintain a
8 healthful environmental for the benefit of this and future
9 generations.

10 So it's from that constitutional framework
11 that we kick off today and that we have an Environmental
12 Protection Agency. It's that same constitution that
13 created the Attorney General as a constitutional officer.

14 In the Environmental Protection Act, it's
15 provided in the very second section of the Act, Section 2,
16 that it's the purpose of the act to restore, protect, and
17 enhance the quality of the environment to assure that
18 adverse effects upon the environment are fully considered
19 and borne by those that caused them.

20 And I know that all of us have heard
21 tonight and last night just how deeply people want full
22 consideration under the very complex issues that are
23 presented in this type of permit and so many others that
24 you all are deliberating upon. Specifically in the Clean

1 Air Act Program Section of the Environmental Protection
2 Act, 415 Illinois Compiled Statutes 5/39.5, in
3 subsection 5, it puts upon the applicant the duty to
4 submit a complete application, complete permit
5 application.

6 And the applicant must provide all
7 information sufficient to evaluate the subject source in
8 its application and to determine all applicable
9 requirements under both the Clean Air Act and the Illinois
10 Environmental Protection Act and the inches and inches and
11 inches of regulations under both.

12 The applicant shall submit with his
13 application a compliance plan including a scheduled
14 compliance where one is necessary describing how each
15 emission unit will comply with applicable requirements.
16 IEPA must ensure that this applicant has fully complied by
17 submitting a complete permit application.

18 The applicant must also fully establish
19 what emission limits it's entitled to. Right now the
20 draft permit determines that this site, Crawford, is an
21 existing source per Illinois Pollution Control Board
22 regulations having been constructed or modified before
23 April 14, 1972. These regulations are the least stringent
24 regulations and limits available to this applicant.

1 To make this determination, the applicant
2 must be required to provide the IEPA for its review all
3 information affecting whether the site was ever modified
4 since that Pollution Control Board -- under that Pollution
5 Control Board definition since April 14, 1972. If the
6 site has been modified since April of 1972, it is a new
7 source and the permit should reflect that fact in the code
8 sections and the emission limits should reflect that.

9 Determining what regulations this site must
10 meet is a fundamental first step in the permitting
11 process. After we review with respect to Illinois
12 Pollution Control Board regulations as referred by other
13 speakers tonight, we also look to New Source Review at the
14 federal level. The Attorney General at the request of the
15 Director of IEPA has petitioned the federal government not
16 to go forth with regulations that we make New Source
17 Review less stringent, to relax those regulations.

18 We are happy to partner with IEPA in that
19 regard. But now we are talking about the rules that are
20 there, the rules that we have on the books and the rules
21 that we have to enforce, as equally important that this
22 applicant must fully disclose all modifications of its
23 facility to allow Illinois Environmental Protection Agency
24 to make a New Source Review determination.

1 That determination will trigger, which
2 could be triggered by site modifications, does require the
3 source to meet New Source Performance Standards and to
4 apply Best Available Control Technology to the plant,
5 which are much more stringent in the emission limits
6 contained in the proposed draft permit. These are the
7 emission limits most protective of the environment and of
8 human health. With so many tons of annual emissions at
9 stake, the applicant must be required to fully disclose
10 all relevant information for full IEPA consideration.

11 Lastly, I mentioned 35 Illinois
12 Administrative Code 201.141, that's a section that
13 prohibits air pollution. It states that, quote, No person
14 shall cause or threaten or allow the discharge or emission
15 of any contaminant into the environment in any state so as
16 either alone or in combination with contaminants from
17 other sources to cause or tend to cause air pollution in
18 Illinois.

19 There can be no doubt that this site does
20 in combination with contaminants from other sources cause
21 or tend to cause air pollution in Illinois. The IEPA
22 should review the effects of these emissions on the
23 environment and public health, in light of the numerous
24 health studies and personal accounts being presented

1 tonight regarding the human toll that air pollution causes
2 in the City of Chicago.

3 This site is a significant contributor of
4 contaminants in the third metropolitan area in the United
5 States. It must be fully reviewed and properly controlled
6 to protect public health and the environment.

7 I am confident that through your efforts
8 tonight, from hearing from so many interested people,
9 through your extension of the comment period into
10 September, late September, that you and your staff will
11 fully consider what you have heard tonight when you
12 receive comments, and will come up with an application --
13 excuse me -- will come up with a permit that is protective
14 of the public health and that does apply the rules and
15 regulations as drafted.

16 On behalf of Attorney General Madigan, I
17 appreciate your attention this evening and your hearing
18 these thoughts. Thank you.

19 HEARING OFFICER MATOESIAN: Thank you, Mr. Dunn.

20 That concludes the first round of comments.
21 Ms. Owen, did you wish to make --

22 MS. OWEN: Does anyone who's signed up wish to
23 speak before me? I think that will be appropriate.

24 HEARING OFFICER MATOESIAN: No one else has

1 signed cards. If anyone else would wish to, okay, please
2 state and spell your name for the record.

3 MS. BURCENSKI: My name is Sandy Burcenski. I
4 just have a couple questions. I hadn't planned on
5 speaking tonight, that's why I didn't take a card. But I
6 decided to speak. We have displayed at the back of table
7 this introduction, and I wanted to ask just a couple
8 questions. How did the EPA determine that this would --
9 this permit would not be participating subject to the
10 ERMS? How did that determination occur?

11 And I don't know if you want to answer that
12 or if you want to -- And also, this other statement
13 that's in here, it says, "Because the plant is located in
14 a major metropolitan area, it is subject to state emission
15 standards that are more stringent than those applicable to
16 less-developed areas." I would also like an explanation
17 to that.

18 MR. ROMAINE: With respect to the Emission
19 Reduction Market Systems, Midwest Generation submitted
20 information on its emissions of volatile organic material
21 which demonstrated that the emissions of volatile organic
22 material were below the levels at which they're required
23 to participate in the Emission Reduction Market.

24 MS. BURCENSKI: Even though this is in an ozone

1 nonattainment area, that's still how you make the
2 determination?

3 MR. ROMAINE: Well, the Emission Reduction
4 Markets only applies in ozone nonattainment areas.

5 MS. BURCENSKI: Oh, all right.

6 MR. ROMAINE: Only applies in the Chicago area.
7 It only applies to facilities that emit more than 15 tons
8 of volatile organic material during the summer months.
9 And this facility does not emit more than 15 tons of
10 volatile organic material in the summer months.

11 MS. BURCENSKI: That's how you made the
12 determination?

13 MR. ROMAINE: That's correct.

14 With regard to the other question, Illinois
15 does have separate regulations for sources in the Chicago
16 area. The emission limits that apply to this plant for
17 particulate matter and sulfur dioxide are more stringent
18 than they would be if this were a plant located outside of
19 metropolitan area.

20 MS. BURCENSKI: But that goes against everything
21 in my estimation that the IEPA should stand for. Because,
22 and I understand, I mean it should be stringent but
23 shouldn't they be stringent in all areas? Eventually a
24 lot of this is going to impact a lot of people, not just

1 to say it might be out in the cornfield anywhere but the
2 air doesn't stay there. I mean how can you make a
3 determination and say it's more here, it should be more
4 stringent, or maybe not as less populated but the
5 possibility is there that it will effect it? I mean how
6 are you making this determination?

7 MR. ROMAINE: First off, I guess a couple
8 points, we are not making this determination. This is the
9 historical regulations, the State rules adopted by the
10 Pollution Control Board that apply to power plants in
11 Illinois. When those rules were adopted, the decision was
12 made that it was more important as a matter of public
13 policy to immediately put into effect more stringent
14 limitations in the metropolitan areas where there was a
15 larger population density.

16 In terms of your point that there should be
17 comparable controls in other areas, two things. In fact,
18 at this time, most power plants in Illinois do meet the
19 more stringent limitations of particulate matter that
20 apply in metropolitan areas. It's much greater there.

21 And then in terms of sulfur dioxide, most
22 of the larger power plants in Illinois are burning western
23 coal, which is what is required to comply with the
24 stringent emission limitations that apply, the more

1 stringent limitations that apply in the metropolitan
2 areas.

3 So one of the concerns that coal miners
4 have is that only a few plants in Illinois still burn
5 native coal, and those are the smaller plants.

6 MS. BURCENSKI: Okay. So what would be your
7 definition of metropolitan then? Are there a certain
8 numbers attributed to metropolitan?

9 MR. ROMAINE: Definition of metropolitan?

10 MS. BURCENSKI: Right.

11 MR. ROMAINE: As specified by rule, I think it
12 includes in terms of Chicago six counties, Cook, Du Page,
13 Lake, Will, Kane -- Again, it's a regulatory definition.
14 I don't have my definition with me.

15 MS. BURCENSKI: Okay. Because I understand what
16 the application says. You are coming to our area on the
17 25th, and I believe Will County is in a nonattainment area
18 also, that is inclusive in there also.

19 MR. ROMAINE: Well, this isn't the definition of
20 a nonattainment area.

21 MS. BURCENSKI: But Will County is.

22 MR. ROMAINE: It's the definition of the
23 metropolitan area for the purpose of these rules for coal-
24 fired power plants.

1 MS. BURCENSKI: Okay.

2 MR. ROMAINE: That's a different definition than
3 ozone nonattainment area for purposes of other
4 regulations.

5 MS. BURCENSKI: But do you happen to know is
6 Will County in a nonattainment area?

7 MR. ROMAINE: I guess in what sense are you
8 asking the question?

9 MS. BURCENSKI: In the sense like the
10 Romeoville/Joliet plants?

11 MR. ROMAINE: Will County is in the area that is
12 part of the designated ozone nonattainment area. It's
13 part of the nonattainment area because it distributes
14 emissions that affect attainment status. I believe that
15 the actual air quality in Will County does meet the ozone
16 air quality standards.

17 MS. BURCENSKI: Okay. And you said that this
18 determination that you -- or, rather, this determination
19 was again for historical something through the Illinois
20 Pollution Control Board?

21 MR. ROMAINE: It's the applicable rules that
22 Illinois has adopted for power plants.

23 MS. BURCENSKI: Okay. Thank you very much.

24 HEARING OFFICER MATOESIAN: Thank you,

1 Ms. Burcenski.

2 Is there anyone else that wishes to speak?

3 MR. TURNIL: My name is Juan Miguel Turnil.

4 Just that recommendation to be considered in Title V, the
5 way how the company is going to storage the ash fall. I
6 think if we go to the power, we are going to see this in
7 outdoor. So it should be in a special container, not
8 outdoor, exposed to the community, so everyone who walks
9 around now they can see the ash fall, our storage outside.
10 So take into consideration that, too.

11 MR. ROMAINE: Thank you. I guess would Midwest
12 Generation want to make any comments about the practices
13 that are currently used for handling of coal and ash?

14 MR. HANRAHAN: My name is Hanrahan. As regards
15 the coal pile at Crawford Station, Midwest Generation
16 reduced the coal pile from the back several years ago when
17 it was over 100-days coal supply. It is now down to a
18 30-day coal supply. And we are looking to see if we can
19 reduce it further than that. The coal pile is -- There
20 are things that are done to the coal pile so that the
21 surface of the coal pile is solid and that dusting will
22 not be a problem.

23 As regards ash on the outside, we cannot
24 dump ash on the outside according to the City of Chicago.

1 All ash must be placed inside in a lined dumpster and then
2 moved offsite by a contractor. All other ash is taken off
3 in closed trucks and is used to make concrete in the
4 Chicagoland area.

5 HEARING OFFICER MATOESIAN: Thank you.

6 Ms. Owen, would you like to make some more
7 comments?

8 MS. OWEN: Thank you. First off, Mr. Romaine
9 has me totally confused about the question the lady had
10 about something in this project summary. Which Illinois
11 Pollution Control Board historical regulations were you
12 referring to, and where can I find them?

13 MR. ROMAINE: When I said historical
14 regulations, they are part of the current rules. But they
15 were part of a rulemaking that was adopted I believe in
16 the '70s.

17 MS. OWEN: Okay. I mean I heard but --

18 MR. ROMAINE: If you look at the regulations
19 portion, they have been recodified since then. I'm not
20 sure if the original adopting rulemaking would be these
21 set of rules or not.

22 Kathleen? I see an attorney.

23 MS. BASSI: I'm Kathleen Bassi. It would be in
24 the appendix.

1 HEARING OFFICER MATOESIAN: Thank you.

2 MS. OWEN: I said I have three additional
3 questions. Were there changes made in the Title I permit?

4 MR. CASHMAN: I'm sorry. Would you repeat that,
5 please.

6 MS. OWEN: Certainly. Were there changes made
7 in the Title I permit?

8 MR. CASHMAN: Not that I'm aware of, no.

9 MS. OWEN: Why can't I tell from your permit
10 that there were no changes made?

11 MR. CASHMAN: There is no reference to any
12 changes made.

13 MS. OWEN: It says "may." I don't know how to
14 take "may." This permit may contain terms and conditions
15 which address the applicability in compliance of
16 Title I of the Clean Air Act. I don't know what "may" is.
17 Do I have to ask this question every time I see you? The
18 answer for tonight is no, is that correct?

19 MR. ROSS: If we have made any changes to
20 Title I conditions that were previously established in
21 construction permits and then carried over into the
22 Title V permit we identified them with a T1-R, which
23 stands for Title I revised after the limits. So,
24 therefore, there are no T1-R identifiers in this permit,

1 then there have been no changes to Title I conditions.

2 MS. OWEN: Yes. In theory that should be the
3 case. However, as you know, I have commented on other
4 Title V permits, that is not always the case; but we can
5 leave it at that tonight.

6 Question number two, what are the opacity
7 limitations in this permit? I don't understand 7.1.12 at
8 all. Is it 30 percent? Is it more than 30 percent? Why
9 is there a choice? And maybe that goes beyond the scope
10 of the hearing tonight if you don't have an answer.

11 MR. ROMAINE: Effectively, the opacity limit
12 under this permit is 30 percent. Under the applicable
13 regulations, there are provisions that allow for greater
14 than 30 percent opacity, if those greater than 30 percent
15 opacity emissions do not exceed 60 percent and don't last
16 longer than eight minutes in any one hour period and don't
17 occur at more than one source at a time.

18 What this permit does in Section 7.1.12 is
19 says that if Midwest Generation wants to avail themselves
20 of that exception, they have to keep additional detailed
21 records to support, take advantage of that regulatory
22 exception. They need to keep detailed information on
23 opacity on a minute-by-minute basis. They have to keep
24 the necessary information to be able to determine whether

1 they have greater than 80 percent opacity on a
2 minute-by-minute basis for more than 8 minutes and to
3 assure that none of those minutes have gone over
4 60 percent opacity.

5 Given the current level of particulate
6 matter controls and the level of recordkeeping that is
7 required, I do not believe that Midwest Generation will be
8 taking advantage of that exception which is part of the
9 reason the permit is drafted in this way.

10 MS. OWEN: Okay. So there are two standards of
11 opacity in Illinois that's up to the source of which one
12 they choose? I mean if it's 30 percent, they would
13 obviously have to report if they exceed 30 percent.
14 Unless they choose option No. 2, when they came over
15 60 percent and don't have to report excess emissions.

16 MR. ROMAINE: That's a separate question.
17 The way the permit is structured exceedances of 30 percent
18 opacity have to be reported. Beyond that, the source, if
19 it elected to use the exception, could then provide
20 information to demonstrate that even though emissions in
21 opacity was greater than 30 percent, they qualify for the
22 alternative exemption provision that is currently
23 contained in Illinois' rules.

24 MS. OWEN: So they would have to be report if it

1 was above 30 percent? Was that the short summary of your
2 answer?

3 MR. ROMAIN: I think so.

4 MS. OWEN: Is that somewhere in the permit that
5 they have to do that?

6 MR. ROMAIN: Yes. If it's not, by all means it
7 will.

8 MS. OWEN: Thank you.

9 MR. ROSS: It is. It is according to -- The
10 permit does require the reporting of all deviations from
11 permit conditions. So what you have described is a
12 deviation in which we require reporting.

13 MS. OWEN: Okay. I will think about that.

14 Last point, 7.1.11, operational
15 flexibility, the anticipated operating scenario. The
16 permittee is authorized to make the following operational
17 changes without prior notification to the IEPA or revision
18 of this permit. Okay. I guess that's when there is
19 operation of their facility.

20 However, operation of additional air
21 pollution control equipment, which is addressed by a
22 separate construction ... firing of the following: Okay.
23 (i) coal or a mix of coal from different suppliers. Used
24 oil, boiler cleaning residue. It gives a list of

1 operational flexibility and of alternate fuels Midwest
2 Generation could use in their plant. And I'm trying to do
3 all of them, but I didn't think it necessary. Plus, if
4 you look at iii and iv, this would include fuel quality
5 nonhazardous waste, and so and so on.

6 But it would not -- I mean, excuse me,
7 Midwest Generation would not have to notify the IEPA when
8 they would start using nonhazardous waste in their boiler,
9 although this would probably make it a pollution control
10 facility. So how would IEPA know? I don't understand
11 that.

12 Not only this, No. iii says that it may now
13 contain polyvinyl chloride material. however, this does
14 not come with any kind of monitoring or reporting
15 requirements, so how would you know? I really have a
16 problem with this operational flexibility provision in
17 this permit.

18 And this is more of a statement than a
19 question, and I will rephrase it as a question. I will do
20 that in my comments. I think that's all I had. Thank
21 you.

22 HEARING OFFICER MATOESIAN: Thank you.

23 Now, I believe the officials from Midwest
24 Generation would like to make a brief statement. Okay.

1 They don't want to.

2 Were there any further questions or --

3 MR. CASHMAN: Yes. I would like to make a
4 statement here. I just would like to make a statement in
5 regards to your last comment there in regards to keeping
6 track of fuel use. They are required to keep track of
7 their -- the fuel usages in their boiler. In particular,
8 7.1.9(a)(v). I know how you like all that. I'm sorry,
9 Verena. Amount of each other fuel material consumed,
10 gallons, tons, cubic feet per quarter, as appropriate.

11 MS. OWEN: What is that? What is "as
12 appropriate"?

13 MR. CASHMAN: That would depend on if it's --
14 Okay. You understand.

15 MS. OWEN: No.

16 MR. ROMAINE: That one is readily explained. If
17 it's a gas, it's standard cubic feet. If it's a liquid,
18 it's in gallons. And if it's a solid, it's in tons.

19 MR. ROSS: It's a unit.

20 HEARING OFFICER MATOESIAN: Any additional
21 questions?

22 Please state your name. Thank you.

23 MR. BREUER: Dorian Breuer again from the Pilsen
24 Southwest Side Green Party and a resident from Pilsen,

1 neighbor to the fine people here in Little Village.

2 Very quick question. Considering the
3 recent wave of intentional corporate accounting fraud that
4 we see with companies like Enron, Worldcom, my question
5 for the IEPA is that half of the people who do the work,
6 the measuring devices that monitor the pollution that is
7 then used as the basis for the reporting from the company,
8 my question is are those measuring devices audited in any
9 way to ensure for their accuracy and preset?

10 And then the second part of my question is
11 in terms of the recordkeeping or whatever system is used
12 for keeping ahold of that data to make sure it's in a
13 lockbox, to use Al Gore's terminology, can you ensure that
14 it is safe, that it's not adjustable? And can you please
15 explain how this works a little bit? Thanks.

16 MR. ROMAINE: The primary responsibility for
17 operating monitoring devices is placed on the source, but
18 the operation of monitoring devices is audited. At this
19 time these audits are conducted by the USEPA, and the
20 monitors at the site have demonstrated that they are being
21 properly run.

22 In terms of availability of data, the
23 company is required to electronically submit data on a
24 regular basis. That assures that the data leaves their

1 premises and is accessible, the data gets posted on the
2 USEPA Acid Rain Internet site so it is publicly available.
3 I think that qualifies as a lockbox.

4 In terms of assuring compliance, I can't do
5 that. What I can assure you is that it would be
6 extraordinarily difficult to fabricate the data. And if
7 somebody were caught doing it, the consequences under the
8 Acid Rain Program, one of the programs, would be quite
9 severe. I'm not sure exactly what those would be. But it
10 could mean that the company would be paying to have USEPA
11 or Illinois EPA staff on site 24 hours a day running
12 monitors for others, so it might be a little bit much.

13 But we can't guarantee that somebody will
14 not cheat, but there is some consequences that make it
15 very unwise for someone to eventually cheat their
16 monitoring.

17 MR. BREUER: Can I have a quick follow-up
18 question? Just simply do you know how often those audits
19 are made of the monitoring equipment?

20 MR. ROMAINE: I do not know. I saw a gentleman
21 in the audience raise his hand. Do you want to volunteer?

22 MR. PONDER: What was the question?

23 MR. BREUER: How often the measuring equipment,
24 the emission measuring equipment, is audited by the EPA or

1 checked and to make sure it's accurate and works properly.

2 MR. PONDER: It depends on which method, which
3 of the different things they have to do. With a daily
4 span check, you do quarterly gas audits and they do annual
5 RATAS, which is relative action testing.

6 MR. ROMAINE: This gentleman, by the way -- Can
7 you identify yourself?

8 MR. PONDER: My name is Tom Ponder with
9 TRC Environmental.

10 So they do -- There is a whole series of
11 daily, quarterly, and annual tests, either the state or
12 the federal EPA commonly show up at these tests of those.

13 And I should point out that in this State
14 we have a very good record of what happens to people that
15 cheat. If you would like to go interview Ron Snook, who
16 used to work at Premcor, who falsified some water data,
17 he's in prison. The federal government put him there.
18 So that's what happens if you falsify the data or
19 underreport it.

20 MR. BREUER: Thanks.

21 HEARING OFFICER MATOESIAN: Thank you. Were
22 there other questions?

23 MS. ESPARZA: She has a comment.

24 HEARING OFFICER MATOESIAN: We need a

1 translator.

2 (Whereupon statements were made in
3 Spanish by Ms. Castanida, which are
4 not made a part of this record.)

5 MS. ESPARZA: Delores Castanida. She is saying
6 that we are stating here tonight that there is only a
7 two percent level of contamination, but she is concerned
8 that there is a lot of children and older people that are
9 getting sick that, obviously, shows a greater amount of
10 contamination. And she would like to know that what does
11 Midwest Generation offer to the people in the community if
12 it is going to stay open, can they go and supervise the
13 plant to see what's going on? Because the elderly people
14 that are getting sick and families with children don't
15 have access to medical assistance or any help. So she
16 would like to know if they open their doors to the
17 community to go just to supervise to see what is actually
18 going on because they don't know what's going. You guys
19 are sitting here explaining to the community that
20 everything is fine, and they are not seeing a hands-on,
21 all the results that they are getting are the people are
22 getting sick so --

23 (Whereupon statements were made in
24 Spanish by Ms. Castanida, which are

1 not made a part of this record.)

2 MS. ESPARZA: They don't have -- People in the
3 community don't have access to any health benefits. When
4 they get sick, it's harder for them to get to seek help,
5 that she feels that they are taking advantage because it's
6 a Latin community. Does Midwest open their doors for the
7 community to go in?

8 MR. MC FARLAN: I'm Doug McFarlan,
9 Vice President of Public Affairs at Midwest Generation.

10 And we have frequently had visitors to the
11 Fisk and Crawford stations. Our plant manager, Mike
12 Hanrahan, was here and answered a question earlier. So
13 why don't I leave you information, how you can contact me.
14 Because, obviously, we can't have 24 hours a day open
15 access. But with concerned citizens or community groups,
16 we certainly would like to accommodate people, meet with
17 them, show them around. And we can make the appropriate
18 arrangements.

19 And so why don't we just talk. And I offer
20 that to anyone else. We always offer that, Mike and his
21 team at the plant. And those of us that are in the office
22 downtown welcome chances to interact and show people
23 around to answer their questions.

24 HEARING OFFICER MATOESIAN: Thank you.

1 Are there any further questions then at
2 this point?

3 MR. MEAD: On this particular point or any?

4 HEARING OFFICER MATOESIAN: Any.

5 MR. MEAD: Jerry Mead from the Pilsen Southwest
6 side group again. One thing I meant to mention earlier
7 and I forgot, again this goes back to the actual example
8 is the Fisk plant, but I just want to bring it up in this
9 community as well so they are aware as they look at the
10 permit process. As we reported last night at our hearing
11 from the Fisk plant, after some careful study there was
12 some data that suggested that Midwest Generation didn't --
13 or not Midwest Generation but it was a different plant,
14 that the Fisk plant did make major modification to the
15 plant that were not reported, probably should have
16 triggered NSR.

17 So I just want to let the community here in
18 the Little Village know that they might want to look over
19 the record and see, because one of the things that I'm
20 sure was mentioned earlier about how this permit process
21 works is that the company is supposed to be currently in
22 compliance and that's when the permit can go forward
23 because, as far as everybody is aware, they are meeting
24 the require ments they are required to meet. However, if

1 it was to turn out that Crawford or Fisk may have violated
2 the NSR provisions by not reporting major modifications,
3 then they would be out of compliance. So I think it's an
4 important thing for people in the community to be aware of
5 and to do the research and make sure that hasn't happened.

6 HEARING OFFICER MATOESIAN: Thank you.

7 Do we have any further comments or
8 questions?

9 (No response.)

10 HEARING OFFICER MATOESIAN: Okay. If not, then
11 thank you all for coming; and I will adjourn the hearing.
12 Good night.

13 * * *

14 (Which were all the proceedings had in
15 the above-entitled cause.)

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1 STATE OF ILLINOIS)
)
2 COUNTY OF DU PAGE)

3

4 I, JANICE H. HEINEMANN, CSR, RDR, CRR, do
5 hereby certify that I am a court reporter doing business
6 in the State of Illinois, that I reported in shorthand the
7 testimony given at the hearing of said cause, and that the
8 foregoing is a true and correct transcript of my shorthand
9 notes so taken as aforesaid.

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Janice H. Heinemann CSR, RDR, CRR
License No 084-001391

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