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1           HEARING OFFICER MATOESIAN: Good evening, ladies  
2 and gentlemen. My name is Charles Matoesian. I will be  
3 the hearing officer tonight. This hearing is being held  
4 by the Environmental Protection Agency, the Bureau of Air,  
5 to discuss three proposed permits. Zion Energy, LLC, has  
6 requested a Clean Air Act Permit Program, or CAAPP, permit  
7 from the Illinois EPA for its power plant located at  
8 5701 North Street in Zion. The facility has three single-  
9 cycle combustion turbines, which can generate up to about  
10 480 megawatts of electricity.

11           The CAAPP program is Illinois' operating  
12 permit program for major sources of emission as required  
13 by Title V of the Clean Air Act. The conditions of CAAPP  
14 permits are enforceable by the public, as well as by the  
15 United States Environmental Protection Agency and  
16 Illinois. CAAPP permits may contain new and revised  
17 conditions established under permit programs for new and  
18 modified emission units pursuant to Title I of the federal  
19 Clean Air Act, thereby making them combined Title 1 and  
20 Title V permits.

21           The Illinois EPA is also proposing to issue  
22 a revised construction permit for the facility to  
23 incorporate commitments that Zion Energy, LLC, made as  
24 part of a compliance commitment agreement to address

1 changes in the configuration of the facility.

2           With this agreement, Zion Energy submitted  
3 dispersion modeling demonstrating the changes, including  
4 lower stack and building heights, would not result in air  
5 quality impacts that are substantially different from  
6 those addressed in the original design for the facility.  
7 The revision also addresses only the three turbines that  
8 have been built rather than the five turbines as  
9 originally permitted.

10           In conjunction with this action, the  
11 Illinois EPA is also proposing to issue an acid rain  
12 permit for the facility. The acid rain permit  
13 acknowledges requirements under the federal acid rain  
14 program. Under the acid rain program, Zion Energy's  
15 designated representative is Mr. David Plauck.

16           The purpose of this hearing is to receive  
17 comments and data and to answer questions from the public  
18 prior to making a final decision concerning these permits.  
19 Lengthy comments and questions should be submitted to the  
20 Illinois EPA in writing. Written comments must be  
21 postmarked by midnight October 10, 2003. Comments need  
22 not be notarized but should be sent to myself, Charles  
23 Matoesian. That's M-a-t-o-e-s-i-a-n, Illinois EPA Hearing  
24 Officer, regarding Zion Energy. Address of 1021 North

1 Grand Avenue East, PO Box 19276, in Springfield, Illinois,  
2 62794-9276.

3 This hearing is being held under the  
4 provision of subpart A of the Illinois Procedures for  
5 Permit and Closure Plan Hearings found at 35 Illinois  
6 Administrative Code, part 166. Notice for this hearing  
7 was placed in the Waukegan News Sun with run dates of  
8 July 26, August 2, and August 9, all of 2003.

9 On behalf of Renee Cipriano, the Director  
10 of the Illinois Environmental Protection Agency, the  
11 Agency itself, and myself, I welcome you all to this  
12 hearing; and we will begin now with the presentation by  
13 Mr. Chris Romaine.

14 MR. ROMAINE: Good evening. Thank you all for  
15 coming. I just want to say a couple of things. Basically  
16 we have only prepared draft permits for this existing  
17 facility. Public comments can certainly affect conditions  
18 that are placed in permit.

19 And then I'd mention that we also have with  
20 us today, in addition to people here at the front desk,  
21 Kevin Mattison, sitting in the back row, who is here from  
22 the compliance unit. And if there are questions on  
23 testing or monitoring, he could answer them or can assist  
24 in answering them. Unfortunately, he has another

1 commitment this evening and is not going to be able to  
2 stay with us all evening and probably should get out of  
3 here at 7:30, probably at 8 o'clock is the latest.

4 With that, I will turn it over to you, Jim.

5 MR. CASHMAN: Good evening, ladies and gentlemen. My  
6 name is John Cashman. Manish Patel and I are engineers  
7 with the Illinois EPA air permit section. Our duties  
8 include reviewing air pollution permit applications for  
9 various types of stationary emission sources, and we  
10 reviewed the applications for the Clean Air Act Permit  
11 Program permit and the revised construction permit that  
12 are the subject of tonight's hearing.

13 I would like to thank you all for coming  
14 here to express your interest in the draft permits that we  
15 have prepared for Zion Energy. Zion Energy is a new  
16 natural-gas fired power plant that began operation in 2002  
17 and has the capability of firing distillate fuel oil as  
18 backup fuel. It has three 160-megawatt natural gas-fired  
19 turbines with dry low NOx combustors while burning natural  
20 gas and utilizes a water injection system while burning  
21 distillate fuel oil.

22 Zion Energy has requested a revised  
23 construction permit that incorporates commitments that it  
24 has made as part of the compliance commitment agreement to

1 address changes in the configuration of the facility  
2 including stack and building heights, location of fence  
3 lines, and other minor site changes.

4           These commitments include several  
5 operational restrictions of the turbines while firing on  
6 distillate fuel oil. Dispersion modeling submitted by  
7 Zion Energy with the commitment demonstrate that the  
8 changes to the design of this facility do not result in  
9 the facility having air quality impacts that are  
10 substantially higher than addressed with the original  
11 design for the facility.

12           Testing conducted following initial startup  
13 of the turbine shows that the turbine meets emission  
14 limitations set in the construction permit. The plant is  
15 required to obtain a Clean Air Act Permit Program permit  
16 because it's a major source of emissions. The Clean Air  
17 Act Permit Program permit specifies applicable state and  
18 federal regulations that apply to the plants including  
19 emission limitations, monitoring requirements, and  
20 recordkeeping and reporting requirements. This includes  
21 requirements for the new regional trading program that  
22 becomes effective in 2004.

23           The CAAPP permit contains the requirements  
24 for the plant established in the revised construction

1 permit. One of the key requirements in this permit is  
2 that Zion Energy continues to operate and maintain  
3 continuous emission monitors to measure the nitrogen oxide  
4 emissions for each turbine. Zion Energy must operate  
5 these systems in accordance with the protocols under the  
6 USEPA's acid rain program. These monitors provide  
7 continuing information to verify compliance with  
8 limitations and requirements for nitrogen oxide emission.

9 In closing, we welcome your questions and  
10 comments. Thank you.

11 HEARING OFFICER MATOESIAN: Thank you,  
12 gentlemen.

13 Before we go to statements from the public,  
14 I just want to enter a few items into the record as  
15 exhibits. As Agency Exhibit No. 1, I would like to put a  
16 copy of the notice of public hearing that was placed in  
17 the newspaper.

18 Agency Exhibit No. 2, a copy of the order  
19 form at the place with the newspaper.

20 Agency Exhibit No. 3, a copy of proposed  
21 construction permit, proposed revised construction permit.

22 And item 4, Agency Exhibit 4, I should say,  
23 a copy of proposed CAAPP permit, which contains the  
24 proposed acid rain permit.

1 (Documents so marked.)

2 HEARING OFFICER MATOESIAN: We will now proceed.

3 And by the way, copies of those permits are available at  
4 the registration desk.

5 We will now proceed to the public comments.

6 And the first person I have is Mr. Jim Howard. If you  
7 could, sir, please, when you approach the podium state and  
8 spell your name for the record.

9 MR. HOWARD: James Howard. I live at  
10 2910 Gilead in Zion. I was here for the first hearing.  
11 And back then, you know, it was a new permit and I  
12 consider this a permit even -- They have changed things  
13 or whatever. Now, back then everybody was telling us how  
14 good it was and, you know, how good it was going to be for  
15 Zion. So I would just like to do a little history here.

16 The original application was from Skygen  
17 Energy, and it was received by the IEPA on November 12th  
18 of '99. The IEPA issued a construction permit for that  
19 facility December 8, 2000. In October of 2000, Calpine  
20 acquired Skygen Energy from Michael Polsky and Wisvest  
21 Corporation, which is an affiliate of Wisconsin Energy  
22 Corp. At the time Wisconsin Energy was a major investor  
23 in Skygen. On the sale, I believe they received 332, 335  
24 million compared to Michael Polsky's 163. So they had

1 controlling interest. And they now have ten-year  
2 contracts from the start of the unit, ten year total  
3 contracts, for all the electricity coming out of that  
4 peaker plant.

5                   So in my opinion it was built to serve  
6 southeastern Wisconsin, not Illinois or anybody in Zion.  
7 And the only reason I bring this to anybody's attention is  
8 because the original construction permit dated December 8,  
9 2000, on page 4 under the heading Conditions, item 6,  
10 states in part, For the purpose of this permit, peaking  
11 operation means operation when baseload generating  
12 capacity is insufficient to meet electrical demand and  
13 operating reserve requirements due to high demand, outage  
14 of baseload generating units, restrictions, or  
15 interruptions in the power grid.

16                   And I believe all this is referenced to a  
17 unit operating more than 2300 hours a year. The question  
18 I have on this is since this facility was built for  
19 Wisconsin Energy by Calpine, they receive all the benefits  
20 of the power from that unit, who determines if Wisconsin  
21 Energy has a baseload plant go down that they need these  
22 peakers running? Because they don't service Illinois, so  
23 it can't be Com Ed. So how do you determine if a unit  
24 will be allowed to run more than 2300 hours a year?

1 MR. ROMAINE: Do you want to attempt that,  
2 Manish?

3 MR. PATEL: It's basically determined based on  
4 the greatest needs in the power grid.

5 MR. HOWARD: I understand that. It states that  
6 in here, if there is a baseload plant goes down or a high  
7 demand. But does Wisconsin Energy or does -- Who comes  
8 to the IEPA to get permission to run for more than 2300  
9 hours?

10 MR. CASHMAN: That would have to come -- I'm  
11 sorry.

12 MR. HOWARD: And Calpine, Calpine is an IPP, you  
13 know, independent power producer, not a utility.  
14 Wisconsin Energy is a utility. So how do -- How can  
15 Wisconsin Energy come to the IEPA, say we had a baseload  
16 plant go down in Oak Creek or wherever, and we need this  
17 power when the IEPA don't regulate them?

18 MR. PATEL: It's owned and operated by Calpine  
19 so Calpine needs to come --

20 MR. HOWARD: Well, Calpine don't own any  
21 baseload plants.

22 MR. PATEL: No, this peaker power plant. So if  
23 they need to run more than what it is permitted --

24 MR. HOWARD: Do you understand my dilemma here?

1 If Calpine comes and requests to run a unit for more than  
2 2300 hours for the benefit of Wisconsin Energy, of which  
3 the IEPA does not regulate -- Is that correct?

4 MR. ROMAINE: Obviously, we don't regulate  
5 Wisconsin Energy.

6 MR. HOWARD: And Calpine is not a utility. They  
7 have no baseload plant. All they have is a peaker plant.  
8 So how can they come in to the IEPA, who does regulate  
9 them, and say we have to run more than 2300 hours because  
10 of the demand? The demand is in Wisconsin, not Illinois.

11 MR. ROMAINE: The burden is on Calpine to  
12 provide the information to make that showing.

13 MR. HOWARD: That's what I'm asking. Would they  
14 be within their rights to say a Wisconsin Energy baseload  
15 plant went down, that's why we have to run more than 2300  
16 hours a year?

17 MR. ROMAINE: Yes.

18 MR. HOWARD: And then they can dump on us  
19 because of Wisconsin Energy people.

20 MR. ROMAINE: In the unlikely case that ever  
21 would occur, that is conceivable. Based on historic  
22 operating hours of the facility, though, the facility has  
23 not been operating anywhere near 2300 hours a year.

24 MR. HOWARD: Oh, I understand that. But I'm

1 saying, you know, we just had the debacle over on the east  
2 coast. So you can go bump in the night, we need it now.  
3 So that's why I'm asking.

4 On page 2 of the December 8, 2000,  
5 construction permit, the original permit issued on  
6 December 8, 2000, under the heading Findings, Item 2,  
7 states, The Zion Energy power station would be constructed  
8 on a 114-acre parcel of property.

9 Could you explain to me in the modeling  
10 does that take in the acreage that their -- that a plant  
11 is built on, and how does the size, the acreage of the  
12 property, reflect on the modeling?

13 MR. PATEL: Basically that's the total land  
14 owned by the power station or Calpine. But in the  
15 modeling it's generally performed at the fence line  
16 basically. The fence line can be just surrounding the  
17 property.

18 MR. HOWARD: Would the fence line be around the  
19 114 acres?

20 MR. PATEL: No.

21 MR. HOWARD: Okay. Does anybody know how much  
22 land that property -- that plant was built on? I know the  
23 permit says 114 acres. Was that true?

24 MR. PATEL: Well, this is the information that

1 is on the application. But actually that parcel of land  
2 was -- The information presented in here is just for  
3 information purposes.

4 MR. HOWARD: All right. Well, anyway, the  
5 reason I ask that is I dug out a Calpine Corporation  
6 Security and Exchange Commission report, Form AK, dated  
7 December 31, 2000. And that report on page 27 states, we  
8 own 49 acres in Zion, Illinois, on which the Zion Energy  
9 Center will be constructed. Okay. Just 23 days after you  
10 issued your permit, that says 114 acres. The City of Zion  
11 was saying, telling everybody 114 acres.

12 Now, if it was me, and I was Calpine, and I  
13 was going to mislead or deceive or outright lie, I darn  
14 sure would do it to the IEPA, I wouldn't do it to the  
15 Security and Exchange Commission. So we are supposed to  
16 be able to come here and comment on this and that, and we  
17 can't even get the facts. We don't know if it's 149 acres  
18 or 14 acres, 49 acres. Who knows? Maybe they built it on  
19 20.

20 MR. ROMAINE: In terms of the air permitting  
21 process, as Manish said, it doesn't matter. What matters  
22 for the purpose of permitting and air quality modeling is  
23 where the fence is around the facility that excludes  
24 access from the general public.

1           MR. HOWARD: I have never seen a drawing or  
2 anything that shows the fence line ever even in your  
3 paperwork that, you know, is on the web site. I don't see  
4 anything that shows me where a fence line is if it was  
5 10 feet away from the unit or it's 1,000 feet away from  
6 the unit.

7           MR. ROMAINE: It is something that is addressed  
8 in the modeling evaluation.

9           MR. HOWARD: Well, I have never seen anything on  
10 it.

11                   And the other thing that really brings up  
12 to me is here you have got a multimillion dollar, billion  
13 dollar corporation. All right? And they, for whatever  
14 reason, I understand they got a lot of employees, this and  
15 that. But for whatever reason, nobody -- They can't  
16 figure out if they got 114 acres out here or they got  
17 49 acres out here. So it brings to me and puts in doubt  
18 what else on these three units haven't they got right.

19           MR. ROMAINE: It could also indicate that both  
20 statements are correct. They have more property that has  
21 not been developed at the power plant. The power plant  
22 sets on a 49-acre or 41-acre site and that there is  
23 additional property that they own in the area.

24           MR. HOWARD: Well, it raises grave concerns on

1 whether or not they can operate that. And the stacks at  
2 that plant, the mayor of Zion, everybody said they were  
3 going to be, what, 105 feet. They went ahead and built  
4 the darn thing, 75 feet. They didn't ask permission, they  
5 just did it.

6                   So it just tells me that the IEPA says, You  
7 got enough bucks, we will do it. And my honest opinion is  
8 I wish I had a higher court to go to than the IEPA, and I  
9 thank you for your time.

10                   MR. ROMAINE: Okay. I guess I would comment on  
11 the stack issue. When we were informed that the height of  
12 the stacks did change, we did pursue the matter. We sent  
13 a notice of violation to the Zion Energy Center. And we  
14 required them to perform modeling to address what the  
15 effect on air quality would be, and we only terminated  
16 that activity when we concluded that the changes in stack  
17 heights along with certain commitments that were being  
18 made wouldn't significantly change the modeled or  
19 permitted effect of the plant on local air quality.

20                   MR. HOWARD: You know, not to challenge anybody  
21 or get out of control here; but you say all this about the  
22 air modeling, this and that, that they done this. And,  
23 well, the facts aren't straight somewhere, either in the  
24 Security and Exchange Commission files, their reports to

1 them. Or you know -- And it gives me grave concern that  
2 any of this is right, any of the air modeling. You can  
3 sit here all night and all day. I read in the paper the  
4 other day somebody from the IEPA said rubber tires burn  
5 cleaner than coal.

6 MR. ROMAINE: That was me, sir. And I am  
7 annoyed at that statement because I would like your  
8 information to suggest what the --

9 MR. HOWARD: Well, I don't know. I would like  
10 somebody to prove it. Just to make a statement like that  
11 without something to go with it.

12 MR. ROMAINE: I have information. I don't know  
13 if I brought it with me this evening.

14 MR. HOWARD: You can get it to me, but I have  
15 seen rubber tire burn, I have seen coal burn. I would  
16 much sooner be around coal. Thank you.

17 HEARING OFFICER MATOESIAN: Thank you, sir. The  
18 next speaker is Mr. George Pavelich.

19 MR. PAVELICH: George Pavelich. I live on  
20 Delaney Road in close proximity to said peaker plant.  
21 Thank you for reopening the permit and taking a look at  
22 it. I would just hope that something more would come out  
23 of this than another permit. With all the changes, that  
24 would be a gross dereliction of your duties. I have seen

1 the greenish-yellow cloud coming from the stacks when it  
2 starts. And it lingers for a long time where I live. And  
3 at 75 feet or a 105 feet, I don't like it. And I can  
4 hardly believe that it is less effective on our long-term  
5 health to have that in the neighborhood at any height.

6 I wish that you would consider greatly that  
7 the company has lied repeatedly, and I have individual  
8 videotape of the representative Andrew Cullen telling us  
9 many of these lies. The permit is prepared by them and  
10 examined by you. So if you believe what they say,  
11 somebody doesn't know what they are doing because it's not  
12 accurate.

13 And now it seems the process will be that  
14 you will look at everything again and tell them it's okay,  
15 and they are going to get a permit and operate that plant.  
16 And I really wish that you would strongly consider not  
17 allowing the plant to operate unless it is built as it was  
18 originally permitted or it is to be modified to have at  
19 least 105-foot stacks and then follow up on it.

20 I would also like to know with the manpower  
21 that I know that you don't have, how often will someone go  
22 to that plant and monitor when I have seen them running on  
23 the weekends? I was at a birthday party on Greenbay Road  
24 on Sunday many months ago and saw the hugest greenish-

1 yellow cloud of junk spewing from the stacks and thought,  
2 where is our enforcement? What is that junk? Who is  
3 monitoring it? Who is going to do something about it?

4 I certainly can't do anything about it. If  
5 I go to the gate, I will be arrested. I have tried to go  
6 there before, and I have been shoo'd away by the police  
7 and told that I'm not allowed to drive down Main Street, a  
8 road I have driven down for 12 years.

9 MR. CASHMAN: Have you called the field office  
10 in Des Plaines?

11 MR. PAVELICH: I have called everybody. I have  
12 written letters. I have come to these things. And I  
13 mean, you know, really and truly I have lost all faith in  
14 your Agency. Mr. Patel could not answer Mr. Howard's  
15 questions. And I believe that originally the documents  
16 that I read the permit process did take into account the  
17 size of the parcel that the facility would be built on and  
18 that would also be included in the modeling.

19 And it appears that if I wanted to build a  
20 power plant that I would be able to put down whatever I  
21 knew would make the permit and submit it to you guys and  
22 just hope that you didn't catch it because that seems to  
23 be what has happened in this case. And I'm very unhappy  
24 about that. Because I have two choices, live in that area

1 with your decision, which I hope will be a good one, not  
2 to allow them to run; or sell my house and be displaced  
3 and move to another area because of a giant corporation  
4 that has more money than I do that's able to push us  
5 around and able to push you around, it looks like.  
6 Because when I talk to Mr. Frost, it seems like this is a  
7 review process; but you are already making considerations  
8 that it's okay for what they did. It's not okay for what  
9 they did. If I lied on an application for a driver's  
10 license, would I still get the license? Could I come back  
11 and in and, say, Oh, I'm not black, I'm white, I made a  
12 mistake. Would you give it to me? No, you would not.

13           The other thing that I discussed with him  
14 is -- I don't own this car anymore. But just to show how  
15 your Agency works. I have two warnings of driver license  
16 suspension, one for me and one for my wife because we're  
17 both on the title, a car that I no longer own that had a  
18 two-inch tailpipe that could be dropped down a 120-foot  
19 stack at the power plant. Do you do anything like this to  
20 the power plant, or do you just go after us because we  
21 don't have the money to fight?

22           It seems grossly unjust. And I just don't  
23 know how I can impress upon you how sickened I am by this  
24 whole process and how much I would really like you to

1 consider that they need to do something to make this  
2 right. And you do not need to issue them to run the  
3 permit as is. It's wrong, very wrong. Thank you.

4 HEARING OFFICER MATOESIAN: Does anyone from the  
5 Company want to respond?

6 MS. OWEN: Maybe they could introduce  
7 themselves.

8 MR. PLAUCK: Sure. Hi. My name is Dave Plauck.  
9 I'm the plant manager over at Zion Energy Center. With me  
10 today I have got Andrew Flanagan. He's the commercial  
11 manager for the Zion Energy Center. I also have Jason  
12 Goodwin and Ryan Bowles, both of them have environmental  
13 expertise with Calpine.

14 HEARING OFFICER MATOESIAN: Would you like to  
15 make a comment?

16 MR. PLAUCK: Yes. I would like to -- I guess I  
17 wouldn't mind at least referring to some comments here, I  
18 guess with respect to the initial discussion referring to  
19 the parcel of land. You have got to understand that as we  
20 develop these projects they are -- and I need probably  
21 some backup from the home office. But the initial option  
22 we had on the parcel of land, if I'm not mistaken, is  
23 broken up in -- That entire 114 acres is broken up into  
24 numerous parcels.

1                   I believe the first option that they took  
2 out on the land did represent approximately 49 acres,  
3 which may explain why that was represented in the specific  
4 filing you mentioned; but I'm not familiar with the  
5 specific filing you mentioned. But that's the only  
6 plausible explanation as to why. At some point down the  
7 road within the development, and I was not involved  
8 heavily with the development of that particular plant, I  
9 know the decision was made to purchase that entire parcel,  
10 which -- the entire parcel of land, which amounted to  
11 114 acres.

12                   MR. HOWARD: If I may. The original parcel out  
13 there was bought by Skygen, all right, before Calpine was  
14 in the picture. And they bought that original parcel from  
15 Orville Ellison. Okay? Calpine acquired Skygen --

16                   MR. PLAUCK: I would need to get our development  
17 people to confirm all this.

18                   MR. HOWARD: So Calpine wasn't in on the sale of  
19 that property.

20                   MR. PLAUCK: Well, typically the actual sale  
21 happens much later than when we first have options on the  
22 land. I don't know what date the actual transaction took  
23 place. I know Skygen was the original owner, and they had  
24 option --

1           MR. HOWARD: They acquired that when they  
2 acquired Skygen.

3           MR. PLAUCK: I realize Skygen was the first one  
4 that had the option on the land. When the actual purchase  
5 took place, I would have to --

6           MR. HOWARD: Calpine had the original option on  
7 that property?

8           MR. PLAUCK: I'm sorry. Skygen had the original  
9 option on the land.

10          MR. HOWARD: They purchased the property.

11          MR. PLAUCK: I don't know what date the purchase  
12 happened.

13          MR. HOWARD: They outright purchased it. As  
14 soon as they purchased it, Orville Ellison took the money  
15 and moved to California.

16          MR. PLAUCK: Before I go any further, I would  
17 really need to talk to the development people.

18          MR. FLANAGAN: Zion Energy, LLC, owns the land.  
19 They own the 114 acres. When Calpine purchased Skygen,  
20 they purchased Zion Energy, LLC.

21          MR. HOWARD: Correct. Along with the land.

22          MR. FLANAGAN: Yes.

23          MR. HOWARD: Whatever there is, that's what they  
24 got.

1 MR. FLANAGAN: That's owned by Zion Energy, LLC.

2 MR. HOWARD: Along with the land.

3 MR. FLANAGAN: And there is 114 acres. And I  
4 think the official record would be on file with the Lake  
5 County.

6 MR. HOWARD: But Calpine did not go in there and  
7 make a deal for the land. That come with the acquisition  
8 of Skygen.

9 MR. FLANAGAN: That's correct.

10 MR. HOWARD: I just wanted to clarify.

11 MR. FLANAGAN: Do you have a question?

12 MR. PAVELICH: I just wanted to know your title  
13 is.

14 MR. PLAUCK: I'm the plant manager.

15 MR. PAVELICH: How long have you been the plant  
16 manager?

17 MR. PLAUCK: I have been over at Zion since  
18 August of last year.

19 MR. PAVELICH: So about a year.

20 MR. PLAUCK: I got there --

21 MR. PAVELICH: How many previous managers? I  
22 know I have talked to two other people before you.

23 MR. PLAUCK: There is one predecessor to me who  
24 had the title of plant manager, who was in there from the

1 get-go. He moved on I believe it was last summer. There  
2 was an interim until they could fill it permanently, which  
3 is where I came in.

4 And you are welcome to stop by anytime and  
5 ask for me specifically.

6 MR. PAVELICH: You will need to call the Zion  
7 Police Department and tell them that. I have not ever  
8 been welcome.

9 MR. PLAUCK: We don't own the street. They  
10 don't own the street, so you are welcome to drive on over  
11 at any point in time.

12 MR. PAVELICH: Thank you.

13 HEARING OFFICER MATOESIAN: The next speaker is  
14 Ms. Verena Owen.

15 MS. OWEN: Thank you. I have prepared comments.  
16 But thank you for allowing me to drive on your street.  
17 Since this is the time to share some personal experiences  
18 with Calpine, I was driving down your street and one of  
19 your contractors, and I drive a little Saturn, chased me  
20 down 9th Street, which is a dirt road, on my bumper in one  
21 of the big SUVs and entered into your plant. So thank you  
22 for permitting me now to drive.

23 The other incident I had on your road when  
24 I was driving down 9th Street, and I have friends on 9th

1 Street. And, never mind, it's a public road. And I had  
2 to stop because my cell phone rang. And somebody in a  
3 truck shot out of your plant, blocked me in, and came to  
4 my car both fists swinging and threatened me. And I  
5 rolled up my window and I locked my door and yelled at him  
6 and said, "If you don't move your truck, I'm going to call  
7 the police." So I'm glad to hear that now we are allowed  
8 to drive down 9th Street.

9                   Good evening. My name is Verena Owen. I  
10 usually defer to the locals when I go to hearings like  
11 this. In this case, I am a local. And this is neither a  
12 pleasant town to be in nor are there any pleasant issues  
13 to discuss here tonight. This hearing is about greed and  
14 deals and lies and cover-ups and shameful behavior. And I  
15 usually thank IEPA for holding a hearing, but your Agency  
16 did not want to have a hearing on the revised permit  
17 until USEPA intervened on the public's behalf. So I'm  
18 thanking Tom Skinner and Pamela Blakely to uphold the  
19 concept of public participation on behalf of your Agency.

20                   But at least there is an opportunity for  
21 public comments. That's something that was recently taken  
22 off the agenda at Zion city council meetings. So I  
23 appreciate the opportunity to talk to you, and let's get  
24 started.

1                   Let's talk about the enforcement issue  
2 first. One of the reasons we are here tonight is that  
3 Calpine was in violation of the permit conditions, and  
4 these violations are not disputed. I don't think anybody  
5 in this room disputes that there were violations of permit  
6 conditions. And they did that knowingly. This was not a  
7 bookkeeping mistake. This was not a mistake at all. This  
8 was deliberate, a deliberate act, a deliberate act to  
9 knowingly violate the Clean Air Act; and that is a felony,  
10 people. That is a felony what you did.

11                   And IEPA, you have an agreement with USEPA  
12 to uphold the Clean Air Act and that includes prosecution  
13 of polluters. And since this is not an ongoing  
14 enforcement action and a compliance commitment agreement  
15 was issued in 2002, I do expect some answers tonight. You  
16 are done hiding on this. Because once a decision is made,  
17 we have the right, and we expect an explanation, and why  
18 there was no penalty assessed. There was cost. I know.  
19 I talked to your attorney. I talked to your air modeler.  
20 I talked to everybody. So we spent time and taxpayer  
21 money. The State is broke. The governor is going around  
22 looking for alternate sources of income.

23                   Why not go to them? And can you? Oh, yes,  
24 you can. Fines can be assessed and fines can be used to

1 send a signal for other polluters not to engage in the  
2 same illegal activities that Calpine did. So where is the  
3 money? Where is the money? Not a penny was assessed in  
4 the compliance commitment agreement, and I am angry about  
5 that. I am angry about that. What are you thinking?

6           Obviously, the decision, because it's not  
7 legal or right, was political. There seems to have been  
8 undue political pressure to let Calpine off the hook. Let  
9 me tell you a story. The first Title V permit I was ever  
10 involved was a small mom and pop store in Zion. I found  
11 out that they have since been referred to the Attorney  
12 General's office for enforcement. They are forced to hire  
13 an attorney. There will be -- They will have to pay a  
14 fine. They are fighting this the best they can. And all  
15 they did was not understand your rules and regulations.  
16 All they did was make a mistake, and they are going to be  
17 paying. The little fish. They, those you go after.  
18 Those big people, you let go. I need an explanation as to  
19 why that is. And that little place is probably going to  
20 go bankrupt because you are enforcing.

21           They can pay. And how much can they pay?  
22 I will tell you how much they can pay. The Illinois  
23 Environmental Protection Act, also known as Section 42,  
24 provides under H, I quote, Any person that violates any

1 provision of this Act or any regulation adopted by the  
2 board or any permit or term or condition thereof shall be  
3 liable, shall be liable, to civil penalty not to exceed  
4 \$50,000 for the violation and an additional civil penalty  
5 not to exceed \$10,000 for each day during which the  
6 violation continues. And as far as I know, it is still  
7 continuing. You don't have a revised permit.

8                   So let's go back. How long have you been  
9 doing this? People can do math in the audience, how much  
10 money they owe the State of Illinois. Further,  
11 Section 42, H, allows that in determining the appropriate  
12 penalty, the board is authorized to consider the following  
13 factors, which means there is discretionary, discretionary  
14 decisions are allowed; but they have to be reasonable,  
15 because there are rules under which you have to make those  
16 discretionary estimations. Let me tell you what they are.  
17 The duration and gravity of the violation. This was,  
18 obviously, and you might not agree, of great gravity  
19 because they thumb their nose at Illinois regulations.  
20 You let them get away, others will do the same thing.  
21 This goes way beyond one source.

22                   Second, the presence or absence of due  
23 diligence on the part of the violator attempting to  
24 comply. There was never any attempt to comply.

1                   Three, any economic benefits accrued by the  
2 violator because of delay in compliance. And I will also  
3 talk about that a little later.

4                   The amount that would deter further  
5 violations by the violator or by any other person  
6 similarly subject to the Act, which means the Act provides  
7 for you to set signals that such behavior will not be  
8 tolerated in your state. And if this was my state, those  
9 people would never do business in Illinois. We don't need  
10 people like that.

11                   And previous violations. That's No. 5 just  
12 to be complete.

13                   You recently issued a Responsiveness  
14 Summary for Indeck Rockford. Indeck Rockford also got --  
15 No. Indeck Rockford also had a problem at their plant.  
16 And I very carefully read your answers to understand the  
17 difference, and I think there is a big difference. The  
18 events at Indeck Rockford Center should not be considered  
19 to indicate what we will be accepting in the future but  
20 should be taken by other new plants as an official  
21 warning. That's a good intention. I wish you had thought  
22 about that with Calpine.

23                   Again, the cause of any violation would  
24 have an administrative nature which was definitely not the

1 cause here. This was not administrative nature. This was  
2 deliberate act.

3 In this case, by not issuing orders of  
4 violation, the Illinois EPA elected not to pursue a  
5 penalty. But you did issue a notice of violation for  
6 them, didn't you. So you can't elect not to have a  
7 penalty if you don't issue notice of violation because you  
8 think it was a small mistake. This was no mistake. You  
9 did issue a notice of violation. Where is the money?

10 It is difficult to assess the economic  
11 benefit, if any, that Energy Indeck experienced from the  
12 deficiency in the original application. Now we are  
13 talking about economic benefit because one of the standard  
14 conditions on your permits is that people that break the  
15 rules should not benefit from doing so. So let's think  
16 about how would they have benefited, which means by not  
17 benefiting, all the money they made since they were in  
18 violation with that plant is forfeited. That's ours. You  
19 cannot benefit from being a violator in the State of  
20 Illinois, at least not in theory.

21 If Calpine had come clear after receiving  
22 the building permits from the City of Zion in October, in  
23 October, what would have happened? They would have come  
24 to you. They will have a revised permit. Their beginning

1 of construction would have been delayed. They had the  
2 binding contract. They had to be up and running. That's  
3 why they came to you in February of the next year and  
4 said, Oh, we are telling you all this, and/or at the  
5 earliest possible time we could have. An outright lie.  
6 An outright lie.

7 I contacted your Agency in August and said,  
8 What they are doing is wrong. I got a friendly letter  
9 that your Agency is not concerned. It's not concerned.  
10 Why don't you listen to us? So here they say, earliest  
11 convenience which was -- October, November, December,  
12 January -- five months after they received a building  
13 permit from the City of Zion, they fessed up. This thing  
14 was half built. If you know you are not going to have  
15 105-foot smoke stacks, you tell beforehand. That's what  
16 it said in the permit.

17 Going on, the Indeck Rockford answer said, It is  
18 also difficult to see -- this is IEPA speaking -- it is  
19 also difficult to see how a penalty would serve to  
20 discourage other lapses in emissions in applications that  
21 have already been submitted. Good. You are not talking  
22 about lapses in emission limits. You are talking about in  
23 violation.

24 A hefty fine in this case would definitely

1 send a strong signal to others that any violation of  
2 Illinois rules will have consequences. Where are the  
3 consequences here? Where are the consequences? And then  
4 liars and cheaters will be caught and dealt with. Isn't  
5 that a beautiful concept? And there are people out there  
6 that actually believe that. I am one of them. For me,  
7 polluters pay. That is the concept.

8                   So I see that this commitment, compliance  
9 commitment, as an abuse of Illinois EPA's discretionary  
10 powers and in violation of the public trust. And I will  
11 see that the shameful deal that was negotiated behind  
12 closed doors gets voided and that Calpine will pay the  
13 fullest amount allowable under the law, and I can promise  
14 you that.

15                   Let's go onto air modeling. I'm  
16 disappointed that Jeff Sprague isn't here tonight. So I  
17 expect that you guys sitting at the table will pick up the  
18 flag and will answer the questions I have. I assume that  
19 you are prepared because air modeling, the several  
20 revisions we had to go to because you guys couldn't do it  
21 right, are a big part of the discussion here tonight.

22                   First of all, interesting enough, after  
23 what Mr. Howard said, the new PSD permit is silent to the  
24 size of the facility. The old permit definitely says

1 114 acres. The new one conveniently took it out. I don't  
2 know why, but just a notice.

3           Okay. I do understand air modeling a bit,  
4 so let's get going here. Sources rely on emission  
5 calculations -- No, wrong. Calpine relied on emissions  
6 calculations from the estimated performance data sheet  
7 that was given to them by General Electric, GE, in the  
8 original application in 1999. I still have a copy of  
9 everything that was ever written about you guys, and I  
10 looked it up.

11           In this data sheet, this is the official  
12 data sheet they based all their emissions calculations on.  
13 In this data sheet, NOx is already given as NO 2. It says,  
14 NOx -- excuse me, that's NO -- in pounds per hour. And if  
15 you wish, I will supply this again to you. I sent you a  
16 copy several times. Yet -- and this really is bothering  
17 me and I never got an answer -- IEPA allows Calpine to  
18 further dilute the emissions by a factor of .9.

19           There is new guidance by USEPA. Apparently  
20 there is a factor that can be put into use if you are kind  
21 of on the border or for whatever reason because you could  
22 have NOx to say, well, it's NO2. However, you are double  
23 dipping here. The limits in the permit are already based  
24 on NO2. You cannot let them use the factor again. You

1 cannot let them use the factor again. You cannot let them  
2 use this to reestimate the emissions, NO2 concentrations.

3 EPA assumes that the factor is applicable  
4 because it assumes that the vendor guarantees ... and the  
5 proof supports this position. That's too many assumptions  
6 for me. Why don't you address my question? And  
7 apparently not tonight again, and I asked you that in  
8 writing once before, why you think you can assume such  
9 thing. These assumptions are wrong.

10 MR. ROMAINE: Those assumptions are not wrong.  
11 When you are dealing with NOx, you can report it either as  
12 NOx or NO2. And GE reported it as NO2, that does not mean  
13 that it was all emitted as NO2.

14 MS. OWEN: That is your opinion. That is your  
15 assumption. Because, fine -- To me, you have NO2, that's  
16 what you use. You don't dilute it by .9.

17 Because let's talk about what happened when  
18 they let -- First of all, they were not allowed to do  
19 this in the first air modeling. So they are violating the  
20 Clean Air Act, get off free. IEPA issues a new rule, they  
21 benefit from it. Okay. This is like me getting a  
22 speeding ticket, and then they lower the speed limit or  
23 make the speed limit higher; and they say, Oops, now your  
24 ticket is null and void, lucky you. No, no, no. That is

1 not how this works. They had to do air modeling with the  
2 old rules. The new one, which they caught, should have  
3 been under the old rule, not under the new rule. Because,  
4 what happens? The significant impact level for NOx is set  
5 at one -- Help me out with what it is, is it milligrams  
6 per cubic meter?

7 MR. ROMAINE: Micrograms.

8 MS. OWEN: The significant impact level is one  
9 micrograms per cubic meter. With this little trick, would  
10 you like to guess what they come in at? Yes. .99. .99,  
11 how darn convenient.

12 So I need to know what would the  
13 consequences be if Calpine had impacted the significant  
14 impact level, because they did with SO2, and they had to  
15 come and get a new permit.

16 MR. ROMAINE: They would have had to do more  
17 modeling.

18 MS. OWEN: You sent a guidance letter to USEPA.  
19 And in your own guidance letter you state, For evaluation  
20 of NOx impacts, the analysis relied on the second level  
21 ozone limiting method that, in absence of this adjustment,  
22 in absence of this adjustment, the maximum impact of the  
23 plant in the new configuration would have been more than  
24 di minimus. You already know that. And you still let

1    them do this.  I do not understand this.  I do not  
2    understand this.

3                    As far as I can see, IEPA aided Calpine in  
4    hiding the fact that the source has an impact for NOx and  
5    that Calpine's so-called minor changes triggered major  
6    modification to a USEPA permit, and Calpine cannot comply  
7    with the conditions of the original permit and needs to  
8    apply for such a modification.

9                    And I have more to say.  But I know there  
10   are other people in the audience.  And so with your  
11   permission, I would like to sit down and continue later.

12                   HEARING OFFICER MATOESIAN:  Sure.  The fourth  
13   speaker I have is Miss Susan Zingle.

14                   MS. ZINGLE:  Good evening.  My name is Susan  
15   Zingle.  When I have looked through some of these permits  
16   before, I had gone to the trouble of FOIA'ing the actual  
17   data on how many hours and how many tons per unit.  And  
18   what I got was a stack of paper about six inches high,  
19   xeroxed double side, I couldn't even begin to figure it  
20   out.  So do you have an easily understandable summary of  
21   how many hours you ran and how many tons of each major  
22   pollutant you emitted?  Anybody?

23                   MR. CASHMAN:  Is it just that sheet that we  
24   have?

1           MR. ROMAINÉ: I have here a copy of the annual  
2 emission report for 2002. It indicates that in calendar  
3 year 2002 the facility emitted 10.9 tons of carbon  
4 monoxide, 41.5 tons of nitrogen oxides, 7.5 tons of  
5 particulate matter, 3.1 tons of SO<sub>2</sub>, and 6.3 tons of  
6 volatile organic material.

7           MS. ZINGLE: Okay. And how many hours did the  
8 operation run?

9           MR. ROMAINÉ: My information shows approximately  
10 1340 hours.

11          MS. ZINGLE: I'm sorry?

12          MR. ROMAINÉ: Total turbine hours was 1,340.

13          MS. ZINGLE: And how many of those hours were on  
14 oil?

15          MR. ROMAINÉ: 83.

16          MS. ZINGLE: How much oil is stored on the  
17 premises?

18          MR. ROMAINÉ: Manish?

19          MR. PATEL: It's a 1.5 million gallon capacity  
20 tank, but I don't know how much actually at a time they  
21 store.

22          MR. PLAUCK: Right. It fluctuates depending on  
23 what time of the year. Typically we have on the order of  
24 around 500,000 gallons, between 500 and 600,000 gallons.

1 And that's going to vary depending on whether or not it's  
2 during the winter or afterward.

3 MS. ZINGLE: Okay. Were all of those 1340 hours  
4 in the summer?

5 MR. ROMAINE: I don't believe so, no. I'm not  
6 sure.

7 MR. PLAUCK: Not all of them, but the majority  
8 of them were.

9 MS. ZINGLE: Where it was so far below the  
10 permitted operating hours on natural gas, why was it  
11 necessary to burn any oil at all?

12 MR. PLAUCK: I would say probably -- Well, the  
13 major portion of the oil burned was for the commissioning  
14 and testing of the units that's required to do to perform  
15 the necessary compliance testing to demonstrate to the  
16 IEPA and the EPA that we are within emission compliance in  
17 the permit.

18 MS. ZINGLE: Okay. But if George is seeing  
19 greenish yellow puffs of smoke, doesn't that mean sulfur,  
20 and doesn't that mean oil? I only have high school  
21 chemistry knowledge, but --

22 MR. PLAUCK: Right. I can't speak to what  
23 George saw. When you are commissioning on oil, I'm not  
24 saying that there might not be some puffs of smoke when

1 you initially start up; but that's part of the tuning  
2 process, and that's part of the commissioning process.

3 MS. ZINGLE: Okay. Since it really seems that  
4 you don't need the oil, and since there is some question  
5 both about the area that the modeling covers and the way  
6 the calculations are done, wouldn't it make sense to  
7 reopen the BACT calculations and make the appropriate  
8 determination that oil is not BACT and this plant should  
9 not burn oil? They burnt more oil proving that they could  
10 burn oil than they actual needed to burn to operate.

11 MR. ROMAINE: The BACT determination that was  
12 made allows oil to be burned as a back-up fuel, and  
13 nothing has been presented that would suggest that was an  
14 appropriate determination.

15 MS. ZINGLE: Well, one, they clearly don't need  
16 to burn oil. They are operating way under their permit  
17 limits. And two, the oil they did burn was only to prove  
18 to you that they could, in fact, burn oil. The plant can  
19 operate and supposedly make a profit without the oil.

20 MR. ROMAINE: If there is natural gas.

21 MS. ZINGLE: Why are we subjected to the  
22 additional pollution from the oil when, in fact, they can  
23 do just fine on natural gas?

24 MR. ROMAINE: The basis of the permit is that

1 when natural gas is available they operate on natural gas.  
2 There is conceivably circumstances when there could be an  
3 interruption in natural gas supply. And in those  
4 circumstances, the facility would not be able to operate  
5 on natural gas; and that's where the back-up fuel will you  
6 be allowed.

7 MS. ZINGLE: But my understanding is, and  
8 correct me if I'm wrong, that the reason there would be an  
9 interruption in the natural gas supply is because they  
10 have voluntarily assigned an interruptible contract with  
11 their gas supplier. So they create their own  
12 interruption, and then we are expected to absorb the  
13 difference of the oil.

14 MR. ROMAINE: I can't comment on your  
15 information about the nature of the oil supply contract or  
16 the natural gas supply contract.

17 MS. OWEN: Yes, you can. It's in the  
18 application. You should read it. There is a little cross  
19 as to what gas supply is, it's interruptible.

20 MS. ZINGLE: Feel free to correct me if I'm  
21 wrong.

22 MR. ROMAINE: We can look into that. That still  
23 doesn't mean there could not be other circumstances where  
24 there are interruptions to the natural gas supply, due to

1 interruptions in pipelines.

2 MS. ZINGLE: If that's the case, then why  
3 doesn't every peaker plant have oil? Because every peaker  
4 plant would be subject to the same act-of-God kind of  
5 interruption of the natural gas supply.

6 MR. ROMAINE: Because some of them do, everybody  
7 doesn't have to.

8 MS. ZINGLE: No. I would think that industry  
9 practice is, if in fact the gas supply was that -- I  
10 don't want to use the word volatile, but that erratic,  
11 that they would all be going for oil. They are not.

12 MR. ROMAINE: No.

13 MS. ZINGLE: The natural gas supply is not  
14 erratic. Expensive maybe, but not erratic. But they do  
15 oil to save themselves money. You give them the out as if  
16 the supply is, in fact, subject to all these vagaries. It  
17 is not. It's their own decision to save money, to have a  
18 contract to increase the pollution. And I object to that.  
19 We can just go on.

20 I did want to touch on the stack height. I  
21 will comment again that the IEPA was tremendously slow to  
22 respond. We had gotten the diagrams from their Stormwater  
23 Management application, clearly showed the layout of  
24 buildings and pads and things that had nothing to do with

1 what was in the application. We sent it to you, and  
2 nothing happened until we finally go out and look at the  
3 stack, compare it to the Com Ed power lines, and realized  
4 the stack is supposed to be the same height and, gee, it's  
5 not. And then you call. And then there is a response.  
6 You could have responded months before. And in fact,  
7 could have responded in time for them not to build the  
8 plant to the different and new specs. You chose not to.  
9 That's okay.

10 In the construction permit, it talks about  
11 the firm must comply with all other applicable federal  
12 state and local requirements. I didn't see that in the  
13 CAAPP permit. Did that go forward because it's part of  
14 the construction permit? Did I overlook it? Or do you  
15 not require them when they operate to comply?

16 I will go on when you look. You don't have  
17 to answer me this minute.

18 MR. ROMAINE: It's present in the standard  
19 condition 9.4.

20 MS. ZINGLE: 9.4.

21 MR. ROMAINE: Actually that condition is a  
22 condition we put in permits but it also reiterates a  
23 standard condition that's found in all permits, all  
24 construction permits.

1 MS. ZINGLE: I also notice that on page 9 in  
2 Section 5.2, Section A, talks about, No person shall cause  
3 or allow the emission of fugitive particulate matter from  
4 any process including material handling or storage  
5 activity.

6 It is visible by an observer looking  
7 generally overhead at a point beyond the property line.  
8 The clouds of dust during construction were just  
9 appalling. We had trustee from the village of Wadsworth  
10 stopping trucks on the street. We had complaints from  
11 neighbors miles around. It was atrocious.

12 Just a small comment. As a lay person, for  
13 example, on page 10, it's talking about risk management  
14 and it cites 40 CFR 68.1 and 40 CFR 61, 62, 63, and 40 CFR  
15 again 603 or 35 IAC. As a lay person, those numbers don't  
16 mean anything to me. And so to figure out what this is  
17 talking about, I have to go to another book or on the  
18 Internet and spend some time looking up to find out if I  
19 even care what this section says.

20 It would be enormously helpful to the lay  
21 person, and this permit is supposed to be designed so that  
22 citizens can read it, to indicate what type of function  
23 those sections cover. So you can say, yes, I'm interested  
24 in this, I need to research it; or no, I don't care and go

1 on. As it stands right now, you have to look up every  
2 single paragraph.

3 In paragraph 11, page 11, 5.2.6, If the  
4 source is required to have an episode action plan, the  
5 permittee shall maintain at the source and then it goes on  
6 with what they have to have. Is Calpine required to have  
7 an episode action plan, and do they?

8 MR. CASHMAN: No.

9 MS. ZINGLE: And why not? I take it an episode  
10 action plan -- What kinds of things would that cover?

11 MR. PAVELICH: I take it one has never been  
12 instituted since no one can answer?

13 MR. CASHMAN: There is a list that we are aware  
14 of that I use to determine -- the EPA gives me that has a  
15 list of facilities that are required to have an episode  
16 action plan. And this facility is not listed as well.  
17 Listed is what a company has to disclose to us in the  
18 permit application. In the application itself, I believe  
19 it talks about episode action plans. And in there, they  
20 are claiming as well they don't have to. So they are  
21 supposed to declare everything to us.

22 MR. PAVELICH: And you believe them, that's what  
23 I'm to understand, because they declare to?

24 MR. CASHMAN: We'll double-check on that for

1 you.

2 MS. ZINGLE: Can you just enlighten me as a  
3 lay person what kind of things --

4 MS. OWEN: What is it?

5 MS. ZINGLE: Why would somebody need one, an  
6 episode action plan?

7 MR. ROMAINE: Oh. An episode action plan is a  
8 very old form of the episode action day program, but it  
9 was a mandatory program. It allowed the Illinois EPA to  
10 require sources to cut back their operations if Illinois  
11 or a particular area was experiencing an air pollution  
12 episode.

13 MS. ZINGLE: An episode at what level of --

14 MR. ROMAINE: There are certainly definitions  
15 that define concentrations in the air that would be  
16 considered an episode. And then large facilities were  
17 required to have plans that explained the actions they  
18 would be taking to reduce their emissions during such  
19 episodes.

20 MS. ZINGLE: I would think that burning oil  
21 during an episode, however it is defined, would not be in  
22 our best interest.

23 MR. ROMAINE: We haven't had episodes in the  
24 last 20 years. It's an out --

1 MS. ZINGLE: We are still in noncompliance. And  
2 when the eight-hour standard goes in, we are going to be  
3 in noncompliance forever.

4 MR. ROMAINE: And the episode action plan does  
5 not address ozone air quality in that sense.

6 MS. ZINGLE: Well, that was my question, what  
7 does it cover?

8 MR. ROMAINE: It would theoretically address --

9 MS. ZINGLE: I should tell you --

10 MR. ROMAINE: There are high episode levels.

11 MS. ZINGLE: I grew up in Pittsburgh. And I  
12 remember the mayor of Pittsburgh shutting down the steel  
13 mills because it was getting --

14 MR. ROMAINE: Right. For ozone, the emergency  
15 level is .5 parts per million on an hourly basis. That's  
16 four times the current standard. We have, as I said, not  
17 experienced the levels.

18 Yellow alerts are at .20. Red alerts are  
19 .30 in an hourly standard. Again, those are numbers that  
20 just aren't experienced given the improvements that have  
21 occurred in air pollution control and emissions reduction.

22 MS. ZINGLE: Even in light of ozone action days,  
23 and we have had exceedances, we haven't had them recently  
24 but we did last year, would it still not make sense to

1 start to regulate the use of some of the more heavily  
2 polluting fuels like oil on those days? If I can't gas up  
3 my car and I can't mow my lawn, why can they burn oil?

4 MR. ROMAINE: Because the concern that you have  
5 for oil is emissions of sulfur dioxide. The concern for  
6 fueling cars and operating lawn mowers is the loss of  
7 organic solvents. We are talking about two different  
8 pollutants.

9 MS. ZINGLE: As I get into, let's see, on  
10 page 30 of the permit, are they, in fact -- I couldn't  
11 tell as I read this. Are they, in fact, averaging NOx  
12 emissions?

13 MR. ROMAINE: They are not allowed to average.  
14 It's a flaw in the permit.

15 MS. ZINGLE: Where does it say that?

16 MR. ROMAINE: It doesn't.

17 MS. ZINGLE: Should it?

18 MR. ROMAINE: It should say that they are not  
19 allowed to average. Averaging is not allowed by new --  
20 averaging by this provision is not allowed by new plants  
21 except for one specifically noted source.

22 MS. ZINGLE: Okay. So should this not say then  
23 that they -- Either should this whole section just not be  
24 in here?

1 MR. ROMAINE: That's correct.

2 MS. ZINGLE: Or should it be noted that they  
3 should not average?

4 MR. ROMAINE: It should simply have the first  
5 section, emission of NOx from the affected turbine shall  
6 not exceed .25 pound per million Btu. Do you have the  
7 number that these turbines are emitting at?

8 MR. CASHMAN: .055.

9 MR. ROMAINE: Okay. And these turbines operate  
10 at less than a quarter of that, which is part of the  
11 reason were we did not think it was appropriate for  
12 averaging for modern turbines.

13 MS. ZINGLE: In start-up provisions on that same  
14 page at the bottom, it talks about during startup the  
15 traditional standards don't apply, which I understand. I  
16 don't see in here, though -- and perhaps I missed it --  
17 that there is no standard for how bad it can get during  
18 startup. So it can just, if they have a really horrible  
19 event, they can just call that startup and keep on  
20 trucking.

21 So I wanted to suggest maybe you do need an  
22 ultimate standard by which it's just too bad to be  
23 conceived even during startup. And second of all, I  
24 wanted to verify, although I do think I saw it later in

1 the permit, that startup is included in the total tons of  
2 emissions from the plant.

3 MR. ROMAINE: I believe it is. John? Do you  
4 want to confirm that?

5 MR. CASHMAN: Yes. Correct. In 7.1.9 (p),  
6 emissions of each pollutant from the affected turbines,  
7 including emissions from startup.

8 MS. ZINGLE: I don't think we are going to solve  
9 this issue tonight, but I'm going to bring it up; and we  
10 can maybe think about it or you can maybe think about it  
11 in the future.

12 On page 34, paragraph E, it talks about,  
13 For purposes of this permit peaking operation means  
14 operation when baseload generating capacity is  
15 insufficient to meet electrical demand. And yet, where  
16 they have a contract, their power is already all spoken  
17 for. They may be doing something on the open market in  
18 addition to that, I don't know. But it seems to me that  
19 they get all the benefits of virtually a baseload  
20 operation. They know what they sold. They know when they  
21 are going to run. They know how this works, but then they  
22 get the permit exceptions that someone who is actually  
23 taking market risk to operate as a peaker plant. It seems  
24 to me they are getting the best of both worlds. A true

1 peaker just sits there until somebody needs them, and they  
2 operate on the spot market.

3 MR. ROMAINE: In fact, that isn't the case.

4 MS. ZINGLE: Okay.

5 MR. ROMAINE: Most peakers in Illinois, in fact,  
6 do enter into contractual arrangements with existing power  
7 companies.

8 MS. ZINGLE: But then some of these exceptions  
9 to help them do business seem not to be necessary because  
10 their income stream is guaranteed. They have the contract  
11 whether they run or not. And I don't -- I don't see the  
12 advantage to cutting them pollution slack when, in fact,  
13 they are making a profit.

14 MR. ROMAINE: Okay. Thank you.

15 MS. ZINGLE: Okay. Just my opinion. Did you  
16 sell any -- Do you sell beyond your contract on the spot  
17 market?

18 MR. FLANAGAN: No.

19 MS. ZINGLE: You did not. Would you ever?

20 MR. FLANAGAN: I mean there are confidentiality  
21 provisions of our contract that I don't want to expand on.  
22 But under contract, no, we are not permitted to sell  
23 additional power from the facility.

24 MS. ZINGLE: On page 37 at the very top of the

1 page, it talks about emissions during an hour that  
2 includes a startup shall be assumed to be at the limits  
3 established earlier. At any point are they ever measured  
4 so that you know that your limits are somewhere in the  
5 vicinity of being accurate?

6 MR. PATEL: Startup emissions were measured as a  
7 part of the initial compliance testing, and they are  
8 within the factors of --

9 MS. ZINGLE: And then further down that page,  
10 Compliance with annual limits shall be determined on a  
11 monthly basis for the sum of the data for the current  
12 month plus the preceding 11 months.

13 So you are back to doing a running 12-month  
14 total, which I think is fine. I was curious why this  
15 permit was different from some of the others. And please  
16 don't loosen this one, go tighten the others.

17 MR. PATEL: It was in the construction permit.

18 MR. ROMAINE: That was the way the construction  
19 permit was prepared.

20 MS. ZINGLE: Well, so was it in the other case.

21 MR. ROMAINE: I don't believe it was.

22 MS. ZINGLE: Oh, I read it to you at the  
23 hearing.

24 MR. ROMAINE: I know you read it to me, but I

1 don't remember seeing it in the construction permit.

2 MS. ZINGLE: It was, because that's how I knew  
3 what to look for. I'm not real bright. I just read the  
4 instruction, and I go look for it. And when I don't see  
5 it, I ask.

6 MR. ROMAINE: You are quite intelligent.

7 MS. ZINGLE: I'm really glad we are only doing  
8 one of these this year and not coming back to do the one  
9 across the street.

10 We are not averaging. We did that. Oh,  
11 there it is, out of requirements. Oh, I had a question on  
12 this. Obligation to comply with other requirements, on  
13 page 52. It says, Issuance of this permit does not  
14 release the permittee from applicable state and federal  
15 laws and regulations and applicable local ordinances  
16 addressing subjects other than air pollution control.

17 So does that mean if a local municipality  
18 has an ordinance regarding particulate matter that you are  
19 exempting them from it?

20 MR. ROMAINE: No.

21 MS. ZINGLE: Okay.

22 MR. ROMAINE: This permit would be silent as a  
23 Clean Air Act permit on local ordinances that address air  
24 pollution control matters.

1           MS. ZINGLE: Okay. I was also curious where we  
2 are talking about other permits they have to have. Do  
3 you -- How do you handle your wastewater?

4           MR. PLAUCK: We are a zero discharge facility.  
5 So with the exception of, you know, we were granted a  
6 septic field for human waste and everything else that's  
7 put in the tanks, and we ship that off.

8           MS. ZINGLE: So you neither have nor need a  
9 NPDES permit?

10          MR. PLAUCK: That's correct.

11          MS. ZINGLE: I think that's all I have. Thank  
12 you.

13          HEARING OFFICER MATOESIAN: Thank you, ma'am.

14                 Miss Owen, would you like to continue then?

15          MS. OWEN: Nobody else?

16          MR. PAVELICH: I just wanted to ask a question  
17 that Susan brought up the point. The portion of the  
18 permit enforcement, as you term it, compliance, by the  
19 user, is checked by your Agency monitoring; correct? I  
20 mean they give you the information, and I think Mr. Patel  
21 said that during construction something was monitored? Is  
22 that -- You mean that someone physically went out there  
23 and scooped up some smoke and figured out what was in it?  
24 Have you ever been to the facility and sampled any air or

1 emissions from the plant at any time?

2 MR. ROMAINE: Kevin, do you want to handle this?

3 MR. MATTISON: My name is Kevin Mattison. I'm  
4 the source emissions test specialist for the State of  
5 Illinois. I was out at the facility during the June test,  
6 2002. The State of Illinois does not do any sampling  
7 itself. All sampling in Illinois is done by third party  
8 contracting companies. Those contracting companies are  
9 hired and paid for by the facilities. We do go out there  
10 and witness those tests. I was out there to witness those  
11 tests to make sure that testing was done appropriately.  
12 They followed all the USEPA methodologies, and they are  
13 operating appropriately.

14 MR. PAVELICH: For collection. But the actual  
15 laboratory analysis you do not see that, and you only get  
16 paper test results?

17 MR. MATTISON: The only laboratory analysis for  
18 this facility was done was for particulate matter. Okay.  
19 Where the actual sample is collected on a filter as well  
20 as in the water. That is then taken back to the stack  
21 testing company's lab where they will send it out to a  
22 third lab that they may contract with to have those  
23 weighed and analyzed.

24 All of the other pollutants that were

1 monitored, SO2 is done by fuel analysis, again sent out to  
2 a different lab. But nitrogen oxide, carbon monoxide, and  
3 VOC testing was all done on site with instrumentations  
4 that were calibrated on site and witnessed by myself.

5 MR. PAVELICH: So you witnessed some of the  
6 analysis, but others were farmed out to facilities paid  
7 for by the user, which you have no control over.

8 MR. MATTISON: The user paid the stack testing  
9 company to come do a job.

10 MR. PAVELICH: Right.

11 MR. MATTISON: That testing company then has an  
12 obligation to do that job appropriately. That testing  
13 company could either do the analysis in-house or send it  
14 off to a third party laboratory to do further analysis if  
15 their laboratory cannot handle that.

16 MR. PAVELICH: And the State of Illinois does  
17 not do that testing why? I mean I see a conflict of  
18 interest, farming it out to any other company not in  
19 control of the EPA since you are the ones actually  
20 monitoring. So you are telling me that you are seeing  
21 some digital instrumentation or readings with your own  
22 eyes, and the rest of it's provided to you, and you just  
23 have to believe what it says. Looking at their track  
24 record, I wouldn't be very satisfied.

1 MR. MATTISON: They have nothing to do with it.

2 MR. PAVELICH: But they contract and pay a firm  
3 to do something, and there is conflict there. There is  
4 conflict. I don't see that the Agency from the State of  
5 Illinois is --

6 MR. MATTISON: If it was a perfect world, you  
7 would be doing your own sampling yourself.

8 MR. PAVELICH: They are doing their own  
9 sampling.

10 MR. MATTISON: You personally would be doing  
11 your own sampling, and you would have the information  
12 yourself.

13 MR. MATTISON: We at the State of Illinois  
14 cannot sample every single facility in the state. We do  
15 not have the manpower nor the funds to do such a thing.  
16 Henceforth, why it's the facility who contracts out to a  
17 third party, independent contractor, to do that.

18 Now, if that third party independent  
19 contractor is going to start cheating and lying, at some  
20 point we are going to find out about it. We evaluate  
21 those reports. I've evaluated the June 2002 report.  
22 Okay.

23 MR. PAVELICH: But it's paper. It's not -- You  
24 are not in a laboratory. So to me, I just don't see that

1 as valid data.

2 And the other question, oh, I guess I have  
3 two now, can we pay to get some of our own samples? Will  
4 they allow us to come over there? When we see one of the  
5 big thick clouds, can we come over there and have  
6 somebody during the commissioning of the plant?

7 MR. MATTISON: That's between you and the  
8 corporation, how you want to handle that.

9 MR. PAVELICH: During the commissioning of the  
10 plant you said was the only time that I saw those  
11 yellowish-green clouds. Yet, I have seen them since the  
12 very first day you fired it, out of all three stacks every  
13 month, more than one time a month, and the commissioning  
14 process must surely be over. So I'm confused as to why I  
15 would continue to see that floating around the  
16 neighborhood.

17 And what I was directing to him, the other  
18 part of my question -- then I will be quiet -- how many  
19 times has the Illinois EPA or USEPA visited the site on  
20 9th Street physically to test? Once, is that correct,  
21 initially?

22 MR. MATTISON: Well, I was out there several  
23 different days.

24 MR. PAVELICH: But that was one test?

1           MR. MATTISON: But the testing did take multiple  
2 days just because of the pure nature of it and the number  
3 of loads due to the regulations that they had to test  
4 under.

5           MR. PAVELICH: But that means there has been one  
6 test. You have not been there -- I mean if each time you  
7 test, it takes three days, I consider that one test. So  
8 you went out there and did a three-day test, that's one  
9 test.

10          MR. MATTISON: There was just a test done this  
11 summer as well.

12          MR. PAVELICH: Which was my next question. How  
13 many times total has the EPA sampled air quality and  
14 emissions from that plant?

15          MR. MATTISON: The EPA has never sampled.

16          MR. PAVELICH: Well, or have you requested it to  
17 be sampled?

18          MR. MATTISON: According to the construction  
19 permits, they were required to do an initial compliance  
20 test in accordance not only with the initial construction  
21 permit but as well as the NSPS regulations, subpart GG.

22          MR. PAVELICH: That's what they are required to  
23 do. What did do you do?

24          MR. MATTISON: That's what they did.

1           MR. PAVELICH: So you did do two since it's been  
2 operating?

3           MR. MATTISON: To my knowledge, yes.

4           MR. PAVELICH: How many months has it been that  
5 the plant has operated on and off?

6           MR. MATTISON: I don't know.

7           MR. PAVELICH: Would you be able to answer it  
8 for me?

9           MR. PLAUCK: Sure. The plant has been  
10 commercial, Units 1 and 2 are commercial June of '02. So  
11 they have been in commercial operation since then. Unit 3  
12 went commercial in June of this year, 2003.

13          MR. PAVELICH: So then your first test was the  
14 initial on the first two, the second test was the initial  
15 on third. How often do you plan to do any follow-up  
16 testing, a year down the road, two years down the road,  
17 every year, every six months?

18          MR. MATTISON: That would be a permit section --

19          MR. ROMAINE: Well, the RATAs. The fact there  
20 is continuous emission monitoring for NOx in the RATAs.

21          MR. MATTISON: They have continuous emission  
22 monitoring systems on there, first of all.

23          MS. OWEN: For one pollutant.

24          MR. MATTISON: For nitrogen oxide, and I believe

1 they are dealing with O2, is that correct?

2 MS. OWEN: What about the rest?

3 MR. PAVELICH: There is more than two invisible  
4 poisons.

5 MS. OWEN: NOx is invisible. He's talking about  
6 green stuff coming out of the chimney. When is that going  
7 to get tested?

8 MR. PAVELICH: Here is what I'm looking for. I  
9 see that cloud, I know the plant is commissioned, I know  
10 all three units are commissioned. They are operating,  
11 they are commercial. They shouldn't be operating on oil.  
12 I should not see the sulfur or whatever you guys described  
13 it as, I'm not a scientist. When I see it, who do I call?  
14 What do we do about it?

15 MR. MATTISON: When you see it, you need to call  
16 the field operations section.

17 MR. PAVELICH: Do I need to take a picture of it  
18 to prove I saw it? Do you want a video of it?

19 MR. MATTISON: Well, you can do one of --  
20 anything that you would like to do to document.  
21 Obviously, the first thing that you need to do is to  
22 notify the Agency that there is a problem. Okay. One way  
23 to do that is to call the office. The area code is  
24 847-294-4000, and it will get you to the switchboard. And

1 you can then ask to talk to a field inspector for the Lake  
2 County area or his boss. Okay. And you can make a  
3 complaint. If you are seeing this stuff, and you are not  
4 notifying us, we can't send out an inspector to  
5 investigate what's going on. Okay? We just can't -- We  
6 can't read your mind.

7                   The second thing that I would do is if you  
8 can create a working relationship with the facility is  
9 when you do see that, call the facility up and say, hey,  
10 I'm seeing this, what's going on? And if you can't create  
11 that kind of working relationship, then, obviously, at the  
12 same time you are going to have to call us and rely on us  
13 to get out an inspector out there and do an investigation  
14 and find out what's going on.

15                   MR. PAVELICH: How many inspectors are there for  
16 this area in northern Illinois?

17                   MR. MATTISON: I think --

18                   MR. PAVELICH: Northern half of the state.

19                   MR. MATTISON: Well, there is region one that  
20 covers Chicago and its collar counties. Anywhere between  
21 15 to 20. I don't know of the exact count.

22                   MR. PAVELICH: Are we in Region 1?

23                   MR. MATTISON: Yes, you are. Bureau of Air.

24                   MR. PAVELICH: 847-294-4000.

1 MR. MATTISON: Yes.

2 MR. PAVELICH: Thank you.

3 HEARING OFFICER MATOESIAN: Thank you,  
4 Mr. Mattison.

5 MR. MATTISON: You are welcome.

6 MR. PAVELICH: Thank you.

7 HEARING OFFICER MATOESIAN: Ms. Owen?

8 MR. CASHMAN: She had a comment.

9 HEARING OFFICER MATOESIAN: Okay, that's fine.

10 MS. DE BRUIN: All right. I wanted to comment.

11 My name is Sandra De Bruin. I live here in Zion. I have  
12 lived here most of my life.

13 My comment was when I came in and saw this,  
14 and I have to admit I haven't been as active as I used to  
15 be, on this introduction page, the second paragraph,  
16 fourth line, it says, Minor site changes. Who determined  
17 whether these were minor or major?

18 MR. PATEL: Well, the minor site changes is just  
19 they are not changing the site entirely from what they  
20 originally proposed in the construction permit basically.  
21 They are not moving the plant from property A to  
22 property B. That is probably we consider -- we should  
23 consider major changes.

24 MS. DE BRUIN: So only if they actually move the

1 building would it be major.

2 MR. PATEL: No. Well, their layout basically.  
3 These type of projects, it's their nature that some of the  
4 buildings might get moved around. Location of the turbine  
5 itself can move a little, several feet from what it was  
6 originally permitted or proposed. So those are the type  
7 of changes. The fence line may move several feet.

8 MS. DE BRUIN: I can understand the fence line  
9 being minor, but I can't understand the height of the  
10 stack being minor. When we built our home and added on to  
11 it here in Zion, we got a building permit. They had to  
12 see everything. They had to have the below grade. They  
13 had to have the sides, how big was it was going to be,  
14 what configuration of the roof it was, what type of  
15 insulation we were going to use, what type of flooring we  
16 were putting in there, making sure we hired the right  
17 contractors that have union approval, so forth. And they  
18 sent an inspector out. And believe me, they measured and  
19 they looked. And they didn't like this little board that  
20 the contractor put up on the roof, and they wouldn't  
21 approve that house until we fixed that little board.

22 Now, if we had said we were going to build  
23 a chimney 150-foot tall and the chimney was 75-feet tall,  
24 I don't think they would have approved it.

1           MR. PATEL: That was not considered as a minor  
2 change.

3           MS. DE BRUIN: Well, wait a minute, it says  
4 address --

5           MR. PATEL: And other minor site changes.

6           MS. DE BRUIN: You are not really saying here  
7 that the stack height was minor?

8           MR. PATEL: No.

9           MS. DE BRUIN: See, when I read this, that  
10 wasn't what I took it to mean at all. To me the way it's  
11 put here that you are considering the change in the stack  
12 being minor.

13          MR. PATEL: No.

14          MR. DE BRUIN: All right. Well, I do feel a  
15 little bit better about that. I'm still saying if we had  
16 built something different than what we got a permit to do,  
17 the city would have shut it down. They would have said  
18 you cannot do this, you have to change it until it meets  
19 what you told us you were going to build there first.

20                    And do you know, we had a neighbor, and he  
21 put his roof on the house and he went to the city hall.  
22 He got his permit and they asked how much is it going to  
23 cost. He said it's going to cost me \$525 or something  
24 like that. And they said, okay, we will give you the

1 permit. And then the building inspector came out and  
2 said, well, you can't put a whole roof on this house for  
3 \$525. The man said, yes, I did. We had my brother-in-law  
4 came, my uncle came. We got up on the roof, we put it up  
5 on Saturday.

6 Well, you didn't have a permit for that.  
7 If you had it contracted out, it would have cost you  
8 \$4,000 for that. So you should have gotten a permit for  
9 \$4,000, not one for \$525. You know, they took him to  
10 court over that? He had to pay a \$500 fine because he  
11 told them a lie at the beginning.

12 Now, I wish you'd do that to these people  
13 because they lied to us not only once, they lied and lied  
14 and lied. And they are still sitting here, and they are  
15 not paying fees. But my poor little neighbor that has  
16 four kids had to go to court and defend himself in court  
17 over \$500.

18 HEARING OFFICER MATOESIAN: Thank you.

19 Would you like to speak again, Ms. Owen?

20 MS. OWEN: Thank you. I promise I will get to  
21 the Title V permit eventually. There is another issue.  
22 IEPA correctly had doubts about the time of the  
23 construction of turbine 3. And you asked Calpine to  
24 submit evidence that they, indeed, constructed this

1 turbine before their permit had expired.

2           In the response to your Agency, Calpine  
3 stated that it received a permit from Stormwater  
4 Management on August 23. And they included a copy of what  
5 they claim is the permit, and it clearly says in big  
6 letters, Watershed Development Permit Application,  
7 Received August 23. So I don't think that Stormwater  
8 Management really issues permits in a day or even half a  
9 day. So I'm not sure that this was a correct statement by  
10 Calpine.

11           Other evidence they submitted was that they  
12 had a building permit by the City of Zion. Zion would  
13 postdate the 4th of July if it would gain them something.  
14 So -- And they did this by the way, since we are all  
15 friends here, they did this repeatedly for the source,  
16 allowing them to construct and change the underlying  
17 ordinances after the fact several, several times. So if  
18 the City of Zion, they include the City of Zion building  
19 permit dated August 30, you can take it as you will, I  
20 don't believe a word.

21           Then they said, well, you sent Kenny, which  
22 is the construction company, a summary. And the summary  
23 is interesting. I have read summaries before. And I  
24 always look for the odd thing. This has an odd thing. It

1 is interesting that, if you read the summary, that the  
2 only things that actually have a date next to them, a date  
3 next to them, is the excavation for Unit 3 and that the  
4 generator mat slab was poured on September 23. The entire  
5 document, which is nine pages long, does not have a single  
6 date for any of the other activities Kenny did at this  
7 huge facility they are running out there and constructing.  
8 I find this extremely suspicious. I believe that this was  
9 generated to cover up the fact that Calpine started  
10 construction of this permit after the permit has expired.

11           And therefore, I don't think they should  
12 get a new permit to cover up. Don't issue them this  
13 revised permit. Investigate. Do a thorough investigation  
14 as what happened out there with the third turbine.

15           And speaking of the new permit, the new  
16 construction permit, it is a new permit. It is not a  
17 revision of a permit. Revisions are meant to correct  
18 errors or wrong assumption and are not meant to cover up  
19 illegal activities. That is not how this is done. I  
20 understand that this is new permit, and the new PSD permit  
21 is meant to safeguard against further deterioration of the  
22 air quality. And as such, it has to contain best  
23 available control technology analysis and alternative  
24 analysis. Neither of which was done.

1                   Therefore, in my eyes, this permit is  
2 illegal. Calpine must be made accountable for its actions  
3 and be required to apply for a major modification and  
4 included with that application has to be a new BACT  
5 determination and other things that are required with the  
6 full PSD review.

7                   Before I go to Title V, I want to mention  
8 something else. Unfortunately, Craig Snyder had to leave,  
9 the gentleman was here, the person that lives right next  
10 door to those people. I don't know if you had a chance to  
11 do a field trip out. I requested that you did. Did you?  
12 Did you see the Snyder's house?

13                   MR. ROMAINE: Yes.

14                   MS. OWEN: There have been noise problems ever  
15 since they started operating. We have had meetings in her  
16 garage, where we had to close the door because it was so  
17 noisy that the camera would pick up on the microphone the  
18 whining of the plant and what we were saying.

19                   George Pavelich -- George, how far do you  
20 live from that thing?

21                   MR. PAVELICH: As the crow flies, I would guess  
22 less than half of a mile. And on a summer evening besides  
23 the crickets and the winds whistling, I can hear that  
24 hissing, whining sound. And when the trees are full as

1 they are right now, it's quieter. But in a few months  
2 when fall is over, I won't have that barricade. And I  
3 think that's an awful long ways away to be sitting in my  
4 front or back yard and hear anything at all that I didn't  
5 hear before.

6 MS. OWEN: We tried to discuss noise with you at  
7 the first hearing, and it was then considered not to be an  
8 issue we can talk about. However, now IEPA is well aware  
9 of the noise problems these peaker plants have. I have  
10 been to a lot of hearings. We bring it up all the time.  
11 I know the standard answer. If they are in violation, we  
12 have to prove it. We have to go to Pollution Control  
13 Board. We have to file a suit.

14 Guess what, we looked into that. And you  
15 know what, we don't have the money to do it. And there  
16 are lots of people that can't afford to hire somebody for  
17 \$5,000 to do a noise study to hire an attorney or even  
18 take the time for the Pollution Control Board and file  
19 suit. So this is grossly unfair, grossly unfair. You can  
20 take this home and think about it. And I get the same  
21 answer again, this is not something IEPA considers. Yes,  
22 you have to, because I'm telling you this is not the only  
23 case.

24 Title V. I think -- Let me just look at

1 the construction permit. One of the things I did, I was  
2 comparing the new permit to the old permit; and I noticed  
3 lots of the findings the old permit had were not carried  
4 over to the new permit. And one of them happened to be  
5 the PSD determination. So just a curious thing, what  
6 happened to all the other findings? Was this a mistake to  
7 have those omitted, or is this seriously no longer those  
8 findings considerations?

9 MR. PATEL: The findings are for a revised  
10 permit as it is labeled. So the earlier findings are  
11 still valid under the old permit as when it was prepared.

12 MS. OWEN: Okay. Will the old permit -- And I  
13 don't advocate that you issue them this new permit, I  
14 don't think you should. But just pretend you will. Will  
15 the old permit then expire?

16 MR. PATEL: Once we issue this new, this revised  
17 permit, this will take effect in place of the earlier  
18 permit that was issued.

19 MS. OWEN: Okay. The summary you passed out, or  
20 I don't know if it was a summary or a public notice, it  
21 made it sound like the compliance agreement merely said  
22 something about them only constructing three turbines. I  
23 read the agreement, it does not say that.

24 So are you going to build five? Are you

1 going to build four? When are you going to build four?  
2 Are we going to come back here? Anybody like to answer  
3 that? Because I think we want to know what your plans are  
4 out there.

5 MR. GOODWIN: Jason Goodwin with Calpine. The  
6 permit with respect to the fourth and fifth turbines is no  
7 longer valid. The time line in which to begin  
8 construction of those turbines has expired, so we don't  
9 have authorization under the permit to build it.

10 MS. OWEN: I understand, but that was not my  
11 question. My question was what plans do you have for the  
12 site out there. I understand that the permit has expired.  
13 Are you planning on building No. 4 and No. 5?

14 MR. GOODWIN: At this point in time, no.

15 MR. PAVELICH: At any point in time?

16 MR. GOODWIN: I can't say what will happen in  
17 business conditions in the future.

18 MR. PAVELICH: If conditions were good, you  
19 would expand?

20 MR. PLAUCK: But if it were to happen, we would  
21 have to go through the exact same permitting process and  
22 go ahead.

23 MS. OWEN: It hasn't been a problem in the past  
24 now, has it.

1           I can't find the size of the fuel heater in  
2 this permit. There was discussion about the fuel heater  
3 size in the air modeling. And there was one that was 8,  
4 whatever the unit is, is it a million Btu, and one was 12.  
5 And in this permit, I can't tell what size the fuel heater  
6 is.

7           MR. CASHMAN: The two fuel heaters are less than  
8 10 million Btu's. They are considered insignificant in  
9 section 3.

10          MS. OWEN: Where is that?

11          MR. CASHMAN: In Section 3, 3.1.1.

12          MS. OWEN: I would assume that the type of the  
13 fuel heater had to be memorialized in the construction  
14 permit in order to take it over to the Title V permit, or  
15 can you now establish conditions like that in Title V?

16          MR. PATEL: Well, it is there under attachment A  
17 that identified as what it was proposed in the original.

18          MS. OWEN: Attachment A. Fuel rated heat input  
19 15. Not 10, 15. Which would not make them -- Which  
20 would not make them insignificant, is that correct?

21          MR. PATEL: Right. But we have information in  
22 their Title V application that it has been lowered to less  
23 than 10 million Btu.

24          MS. OWEN: So you made changes to a not yet

1 published or issued Title I in their Title V permit, which  
2 you failed to identify in the Title V permit? I'm out  
3 here asking silly questions. Right?

4 MR. CASHMAN: Changes in what content?

5 MS. OWEN: In this. Okay. Again, I wondered  
6 about the size of the fuel heaters because I'm aware that  
7 if they are under 10 million Btu they are considered  
8 insignificant. Correct?

9 MR. CASHMAN: Insignificant is a Title V --

10 MS. OWEN: I understand that.

11 MR. CASHMAN: Not a construction permit.

12 MS. OWEN: I understand that. I understand  
13 that. That was not my question. My question was since it  
14 is 15, why is it insignificant in your Title V permit?  
15 And the answer was that in the application that they  
16 wanted something else, so you made changes to an  
17 underlying construction permit without telling me. That's  
18 my question or, actually, that was my statement.

19 MR. PATEL: As long as they go below, I mean  
20 that says that maximum, the rated input.

21 MS. OWEN: Manish, I forgive you because you  
22 haven't heard that argument from me yet. I have been  
23 saying this for every Title V hearing I go to that you  
24 have to tell me what you are doing. I cannot mind read.

1 I cannot tell what changes you made until you tell me what  
2 changes you made. If you make changes to a Title I  
3 permit, you owe us to tell us that you are doing this; and  
4 we are not playing hide and seek here.

5 On to the next. It's really not, it's just  
6 illustrating how frustrating this gets. You expect us to  
7 come and make knowledgeable -- We are really trying to  
8 make knowledgeable comments. But you have to tell us what  
9 you are doing, which brings me to the next thing. Does  
10 this one have a statement of basis? Do any of your  
11 permits have a statement of basis?

12 MR. PATEL: For Title V you are asking?

13 MS. OWEN: For Title V. You are off the hook.  
14 I'm looking at John.

15 MR. CASHMAN: Yes. I mean, yes, we submit a  
16 project summary for every one of our Title V's when they  
17 go to public notice.

18 MS. OWEN: Okay. You just said when they go to  
19 public hearings you issue a project summary. A --

20 MR. CASHMAN: I said public notice.

21 MS. OWEN: No, no, no. You said if I go to --  
22 Yes. I didn't ask about public notice. I asked about a  
23 statement of basis. And that is in your Act that you have  
24 to issue a statement of basis if you don't do something

1 else, which I forget what it is, but you don't do it, so  
2 trust me here. A statement of basis, you don't issue a  
3 statement of basis. As such, it would allow us to  
4 understand your thinking in those Title V permits. That's  
5 what a statement of basis is for. You don't issue a  
6 statement of basis.

7                   And those ridicu -- Excuse me. Those  
8 tries for statement of basis in the form of your project  
9 summary are really not good enough. And I will comment  
10 again on this in writing in more detail to make you  
11 understand what my point is a little better.

12                   MR. ROMAINE: I guess I have sort of a general  
13 comment. Our objective, and we don't always do it, and we  
14 are struggling with it, is to get that information into  
15 the Title V permit so that we can prepare a much  
16 simplified statement of basis because that is more  
17 efficient. If we can get the Title V properly prepared  
18 and include the information that identifies changes, then  
19 we don't have to say the same thing twice.

20                   MS. OWEN: I understand. And you also know --  
21 Well, let's not go there. Actually, let's. The statement  
22 of basis is a requirement under the Clean Air Act. There  
23 have been several guidance documents as to what a  
24 statement of basis should discuss, the factual and

1 regulatory issues that made your Agency decide to write  
2 the Title V as it did. And you do not even come close in  
3 writing a decent statement of basis. You do not.

4 And I would request that you especially  
5 look at the guidance letter I believe to the Ohio EPA that  
6 very detailed spells out what a statement of basis is.  
7 IEPA, you do not have one.

8 We talked about the episode action plan  
9 already. I have a question about the risk management plan  
10 of the same vein. I didn't know what an episode action  
11 plan was. What exactly is a risk management plan, and is  
12 that something we should be interested in?

13 MR. ROMAINE: A risk management plan is a plan  
14 that is required of a facility that stores certain  
15 hazardous chemicals above a threshold amount.

16 MS. OWEN: So this is something we should know  
17 about. What are those thresholds? Are they close? Is  
18 Calpine close to being at a threshold for a risk  
19 management plan since, again, it just quotes the  
20 regulations and we don't know what it says?

21 MR. ROMAINE: I believe at this time we do not  
22 believe it's subject to a risk management plan.

23 MR. GOODWIN: Our facility is not subject to  
24 part 76. We don't store any of the subject chemicals on

1 site that will require us to come.

2 MS. OWEN: You don't have water treatment  
3 chemicals at all?

4 MR. GOODWIN: None of those are subject to the  
5 program.

6 MS. OWEN: Okay. I guess diesel fuel does not  
7 count.

8 MR. GOODWIN: No.

9 MS. OWEN: That's too bad.

10 Let's go through this. I had to laugh. I  
11 don't know who made the statement -- it might have been  
12 John -- saying that something they had in the application,  
13 therefore, has to be true. However, I read the  
14 application for the Title V permit; and they thought they  
15 were not a CAM source, which of course they are. So there  
16 are, obviously, as we talked about, mistakes made by  
17 sources that you should not say that they are always  
18 right. They are a CAM source because of the water  
19 injection, is that correct?

20 MR. CASHMAN: Yes.

21 MS. OWEN: Okay.

22 MR. CASHMAN: It's interesting, yes.

23 MS. OWEN: Yes.

24 MR. FLANAGAN: Can you repeat the question?

1           MR. CASHMAN: She is talking in regards to CAM.  
2     And that is something that we will take a look at,  
3     bringing that up. Because applications that are received  
4     after -- Hold on one second. Applications received after  
5     April 20, 1998, would only have to address CAM and look at  
6     CAM only if they are a large, what's considered a large  
7     pollutant-specific emissions unit.

8           MS. OWEN: Are they?

9           MR. CASHMAN: And I believe these are. These  
10    would be.

11          MS. OWEN: Well --

12          MR. GOODWIN: The CAM rule is intended to apply  
13    monitoring requirements to units that are not currently  
14    monitored under other applicable requirements. The  
15    issuance is already monitored as part of part 75 by the  
16    permit requirements.

17          MS. OWEN: I don't think you are correct there.  
18    I believe the way I understand CAM, it is actually  
19    monitoring of the devices that can be adjusted and are  
20    used for pollution control. And your water injection is  
21    definitely such a device.

22          MR. GOODWIN: That equipment is currently  
23    monitored.

24          MR. CASHMAN: I believe under the acid rain,

1 which is the exemption under CAM.

2 MS. OWEN: The acid rain.

3 MR. GOODWIN: The purpose of monitoring  
4 injection rate, it's obviated by the fact that we have a  
5 CEM monitoring actual NOx emissions at the stack.

6 MS. OWEN: Okay. So will that get streamlined  
7 out of the permit then?

8 MR. CASHMAN: Yes or no. Depends. Maybe it  
9 will have to be addressed only at renewal.

10 MS. OWEN: Okay. Then we have five years then  
11 we can think about that.

12 MR. CASHMAN: That's the program.

13 MS. OWEN: For those who don't know what  
14 Title V's are, they are actually meant to enable the  
15 public and the EPA and the source to have a clearer  
16 picture of what the source has to do to stay in compliance  
17 with all what they call applicable requirements, which is  
18 things we find in the Clean Air Act. They are in existing  
19 construction permits and things like that. It also allows  
20 for us as the public to actually go out and enforce  
21 conditions in that Title V permit if we believe that they  
22 are in violation of any of those conditions.

23 However, in order for us to do that, those  
24 conditions have to be enforceable as a practical, in a

1 practical manner. And I have brought this up before that  
2 some of the conditions in your permit are simply not  
3 written to enable us to do that. They have to provide the  
4 clear explanation of the action limitation or requirement  
5 applied to the facility and make it possible to determine  
6 whether the facility is complying with this condition.

7                   Adding to the problem is that these  
8 Title V's are written so complicated and so difficult to  
9 read and for us to understand that it basically takes away  
10 our right as the public to bring any kind of enforcement  
11 action because we don't understand them. It would be very  
12 helpful if you would consider changing the format of these  
13 Title V's and not have testing requirements separated from  
14 the monitoring requirements, from the recordkeeping  
15 requirements, and so on. Because in order to track a  
16 certain pollutant limitation through your permit, it is  
17 almost impossible to do. It is. Trust me here. I have  
18 spreadsheets all over my living room floor trying to do  
19 that. I can't. I cannot. So give this some thought.

20                   According to condition 7(c) of the  
21 construction permit, now I'm not sure if it's still 7(c)  
22 in the new permit. Let me check. Yes, it is. According  
23 to condition 7(c) of the construction permit, the fuel  
24 storage tank is subject to NSPS. If it's subject to NSPS,

1 it has to be -- it is an applicable requirement and has to  
2 be in the CAAPP permit. And if it is subject to NSPS and  
3 should be in the Title V permit, it has to have some kind  
4 of adequate monitoring recordkeeping attached to it to  
5 assure that it is in compliance. There is not a word  
6 about the storage tank in your permit. You cannot delete  
7 NSPS requirements out of Title V.

8 MR. CASHMAN: That storage tank is considered  
9 insignificant. And based on what I know, we can get  
10 verification in our comments back to you. But I believe  
11 that it's insignificant, and that's the detail because  
12 it's considered to be insignificant.

13 MS. OWEN: Are you telling me that IEPA can  
14 consider applicable requirements insignificant? Hmm. I  
15 will get back to you about that one, too.

16 MR. PATEL: I guess the only requirement under  
17 the NSPS applicable requirement is to keep the -- for the  
18 life of the storage tank, keep the dimensions of the tank  
19 and showing the capacity of the tank.

20 MS. OWEN: Yes. You can come up with some kind  
21 of monitoring idea how to check that and how to report it.  
22 I don't think it's that complicated. Seems pretty easy to  
23 me.

24 Since they are a zero -- What did you call

1 yourself, a zero --

2 MR. GOODWIN: Discharge.

3 MS. OWEN: -- discharge source. Thank you.

4 Shouldn't we talk about the cooling tower? I understand  
5 the difference between a wet tower and a dry tower I think  
6 by now. So since you're a discharger, are you a wet  
7 tower?

8 MR. GOODWIN: We don't have cooling towers.

9 MS. OWEN: You don't have cooling towers. Good.  
10 Perfect.

11 Going back to this. Yes. Maybe it's easy  
12 for you, but it's difficult for us. On page 34, it says,  
13 The emissions of NOx from each affected turbine when  
14 firing natural gas shall not exceed 9 ppm on an hourly  
15 average.

16 Yet, they don't have to report the hourly  
17 NOx emissions in that unit. If I read that the NOx  
18 emissions were X, Y, Z pounds per million Btu, I could not  
19 tell if the source was in compliance or not. So I would  
20 suggest that you make it able for us to understand if they  
21 are not just by looking at their emissions report. Either  
22 change this to that unit or give us some kind of factors  
23 so we can translate what they are doing. And I know that  
24 these limits come out of the construction permit, and they

1 have to be in here. But they make no sense being that  
2 isolated, just is something you have to put in.

3 I have a question on page 35. The  
4 emissions of CO and PM from each affected turbine shall  
5 comply with the limits specified in condition 7.1.6, which  
6 is the one on the bottom of the same page. How are we  
7 monitoring this?

8 MR. CASHMAN: Based on our compliance conditions  
9 in 7.1.12(d), compliance demonstration, for 7.1.6 is  
10 demonstrated by --

11 MS. OWEN: Could you tell me the page you are  
12 on?

13 MR. CASHMAN: I'm sorry. Page 44. 7.1.12(d) is  
14 kept by the recordkeeping requirements in 7.1.9.

15 MS. OWEN: Let's go there.

16 MR. CASHMAN: Which would include --

17 MS. OWEN: Hold on. I'm not at 7.1.9.

18 MR. CASHMAN: That starts on the page 38, which  
19 would require various types of recordkeeping conditions on  
20 7.1.9 on page 38, which would then lead you to all of the  
21 items listed, which then gets you to letter P, emissions  
22 of each pollutant from the affected emissions from the  
23 turbines including startup.

24 MS. OWEN: No. I'm not talking NOx. I'm

1 talking PM and CO.

2 MR. CASHMAN: That would be everything, P, from  
3 each pollutant.

4 MS. OWEN: The emissions of each pollutant from  
5 the affected turbines, with supporting calculations  
6 including documentation validity of emissions factors used  
7 in tons per month and tons per year. Yet, the emission  
8 limitation is in pounds per hour.

9 MR. CASHMAN: That takes, okay, that would take  
10 care of the monthly limitations. And tons per hour would  
11 be demonstrated on stack testing emissions factors  
12 whatever.

13 MS. OWEN: When is the next stack test?

14 MR. CASHMAN: Good question.

15 MS. OWEN: How will they show compliance by  
16 letting them use numbers in some stack test that is God  
17 knows how many years old? Don't they have to have another  
18 one if they are using whatever comes out to be factors,  
19 something under 7.9, to tell us that they're in compliance  
20 with CO and PM? Is an initial stack test, indeed, enough?

21 MR. CASHMAN: As the way it is now, in the next  
22 five years, this permit doesn't require them to test; but  
23 it wouldn't keep the field or somebody else to make the  
24 test if need be.

1 MS. OWEN: Where is that?

2 MR. ROMAINE: Rather than waste time looking for  
3 it, do you want to move on?

4 MS. OWEN: I was waiting for some answer, but  
5 you can move on. That's no problem.

6 I think Susan kind of touched on this.  
7 This permit contains emissions factors for startup  
8 emissions to make them accountable as overall emissions of  
9 the source. But does this also establish the requirement  
10 for them to actually check that they are not exceeding  
11 those factors? And that's why I would not see monitoring  
12 and keeping record of what they are doing?

13 MR. ROMAINE: John, did you hear the question?

14 MR. CASHMAN: I'm sorry. I was still trying to  
15 ponder over that previous question. I'm sorry.

16 MS. OWEN: All right, again. The permit has in  
17 condition -- On page 34, it has factors for emissions or  
18 has factors for the startup, how to calculate startup  
19 emissions. Because we, obviously, want the source to  
20 include the startup in the overall emissions amount. Now,  
21 my question is in these emissions factors do they have to  
22 show that they are not exceeding them?

23 MR. CASHMAN: They have shown that they haven't  
24 exceeded them in the stack test.

1 MS. OWEN: That was not my question. Do they  
2 have to continue to show that they are never exceeding  
3 them?

4 MR. PATEL: They have to submit compliance  
5 certification annually and that tells that they are in  
6 compliance with all applicable --

7 MS. OWEN: How would they know if they never  
8 have to monitor this?

9 MR. PATEL: Then we would be asking for  
10 continuous monitoring for everything.

11 MS. OWEN: Fine with me. Sounds good to me.  
12 Anybody else? Do you want to have a vote out there?

13 AUDIENCE MEMBER: Fine. We have to test our  
14 cars every year.

15 MS. OWEN: Let's do it.

16 MR. ROMAINE: This is something that we have the  
17 discretion to address. I think we may have to check  
18 whether we specifically have a provision for retesting in  
19 the permit. There should be one. It's something we have  
20 to do under the Environmental Protection Act. Given the  
21 margin of testing -- of the test emissions versus the  
22 factor that has been applied, we have not contemplated  
23 retesting of startup emissions. We think there is enough  
24 of a safety factor in there. What we would be focusing in

1 on is significant changes to the startup practices and the  
2 written procedures for startup.

3 MS. OWEN: Let's go there. Startup practices.  
4 Do you have those in writing yet?

5 MR. ROMAINE: No.

6 MS. OWEN: Isn't it true that any permit  
7 conditions have to be based on some kind of information  
8 the public can review, which would be a written startup  
9 procedure since you are talking about it in your permit?  
10 I would expect that if I asked you to see it that you  
11 could produce it.

12 MR. ROMAINE: Permit conditions do not  
13 necessarily have to be based on information in our  
14 possession.

15 MS. OWEN: So how do we as the public access  
16 that information then if it's not in your possession?

17 MR. ROMAINE: If there were a request for a copy  
18 of the startup plans, we would then have to request a copy  
19 of it from the Zion Energy Center. And then to the extent  
20 that it was not claimed as trade secret, we could make it  
21 available.

22 MS. OWEN: Have you asked them if they have one?

23 MR. ROMAINE: Yes.

24 MS. OWEN: And they do?

1 MR. ROMAINE: Yes.

2 MS. OWEN: Hmm. I don't get to see it.

3 MR. PATEL: Back to the startup question. The  
4 factors are there to estimate the tons per year basically.  
5 It's not an emissions limit. So they use that factor to  
6 calculate the tons per year, and they need to include the  
7 startup emissions to show compliance with the tons per  
8 year.

9 MS. OWEN: I understand that. I just want to  
10 see -- I have from my view those factors could become  
11 invalid with the age of the turbine, with improper  
12 maintenance. I'm not suggest that they do, but there are  
13 several factors that would increase startup emissions.  
14 And since they never have to check if these factors are  
15 still correct, they might not report all emissions.

16 Let's go on to the next one. You guys can  
17 think about it. 7.1.7 on page 37. It says, Testing  
18 requirements. The affected turbines shall comply with the  
19 applicable testing requirements of 40 CFR 6335(A). I  
20 don't know what that is. B, shouldn't test methods be  
21 specified in this permit or identified?

22 MR. CASHMAN: The little detail that we  
23 reference in the testing for NSPS requirement, and this is  
24 the only testing that this facility is subject to --

1 MS. OWEN: So far. We are still discussing  
2 that, right? Ah, I see.

3 MR. CASHMAN: This is the detail that we put in.

4 MS. OWEN: What is that?

5 MR. CASHMAN: What you see there, what you just  
6 read.

7 MS. OWEN: What does it test?

8 MR. CASHMAN: What the applicable requirements  
9 would be in 60.235.

10 MS. OWEN: Which are?

11 MR. PATEL: For NOx emissions basically.

12 MS. OWEN: Thank you. Which they have a CEM  
13 for, so okay.

14 MR. PATEL: That's basically for the initial  
15 compliance testing.

16 MS. OWEN: But you have initial compliance  
17 testing for all pollutants, not just NOx; right?

18 MR. PATEL: Right.

19 MS. OWEN: But these testing requirements do not  
20 have to be for initial compliance testing, those  
21 requirements do not have to be in a Title V permit?

22 MR. PATEL: This is the NSPS requirement.

23 MR. CASHMAN: Yes. This is the applicable  
24 testing that would apply to this turbine.

1 MS. OWEN: No, no, no, no. But Manish just said  
2 that they are testing requirements for initial compliance.  
3 And my question, the question was if those testing  
4 requirements, compliance, they do not have to be in a  
5 Title V permit.

6 MR. CASHMAN: Those are usually stated in the  
7 construction permit. And then those were, those were  
8 already dealt with and dealt with in the construction  
9 permit, and they are keeping records of it.

10 MS. OWEN: So the answer to my question is a  
11 simple no, correct?

12 MR. CASHMAN: Sure. No.

13 MS. OWEN: Okay. 7.1.8 under monitoring  
14 requirements. Going back to the water injection. They  
15 test it, this water injection; correct? And they must  
16 have come up with some water-fuel ratio that would have  
17 them in compliance with the NOx emissions. I would have  
18 no clue where to find that. Why isn't the test results,  
19 why aren't the test results of their compliance testing in  
20 the permit?

21 In other words, where is the water-fuel  
22 ratio under which they can operate in compliance? Because  
23 if I'm looking at plus or minus five percent, I don't know  
24 what plus or minus would throw it off. I cannot -- This

1 is not practically enforceable because I don't know what  
2 it is.

3 MR. CASHMAN: It's noted. Thank you.

4 MS. OWEN: Page 39, J, just to make me feel  
5 better, could you make this three turbines instead of  
6 four?

7 MR. CASHMAN: Sure. That's copy/paste there.  
8 Sorry.

9 MS. OWEN: Thank you. Well, I already said  
10 40(q)(ii), that we just discussed that, the water-fuel  
11 ratio.

12 This permit has an opacity number, correct?

13 MR. CASHMAN: Yes.

14 MS. OWEN: How do we do this? How do we monitor  
15 opacity especially if they are spouting green things out  
16 the chimney?

17 The construction permit specifies  
18 method 9. Yet, the Title V permit as far as I can tell is  
19 silent on the opacity requirements. And if this was just  
20 natural gas, I wouldn't even make this an issue; but we  
21 are burning oil here.

22 MR. CASHMAN: Okay, thanks. We will look.

23 MS. OWEN: I'm sorry. Did you say something,  
24 John?

1 MR. CASHMAN: I said thanks.

2 MS. OWEN: Page 40(q)(iii). Would somebody  
3 quote me the authority of this one? I have no idea what  
4 that means.

5 MR. ROMAINE: This is a NSPS provision. We can  
6 find the correct citation for it.

7 MS. OWEN: It would be helpful. It looks so  
8 lonely out there. I don't know what that is or where it  
9 came from, what it means.

10 MR. ROMAINE: It's something in 40 CFR, subpart  
11 GG for turbines.

12 MS. OWEN: Good. We decided that this unit or,  
13 excuse me, that the source is not participating in the NOx  
14 averaging; is that correct?

15 MR. ROMAINE: That's correct.

16 MS. OWEN: So which then I, of course, do not  
17 have any questions on page 42.

18 Okay. Page 43, under (d). Can I say  
19 something? Would you, please, if you are trying to find  
20 something in the permit, on top of each page, left, right,  
21 somewhere, quote the last condition number? Because we  
22 are (d)(i), (d)(i) of what? I don't even know because I  
23 have to go back. I don't know. So I don't know which  
24 condition we are in, but it's (d)(i) on page 41 -- 43.

1 MR. CASHMAN: 7.1.10.

2 MS. OWEN: All right. It says here, and this is  
3 for backup fuel. Use of backup fuel for affected turbine  
4 for more than 72 hours in a rolling 12-month period  
5 following completion of shakedown in emissions testing.  
6 Now, this must be some reporting thing. Correct? Yes.

7 Where does this come from?

8 MR. CASHMAN: That came from the construction  
9 permit.

10 MS. OWEN: What condition?

11 MR. CASHMAN: It's incorporated in from the  
12 construction permit.

13 MR. PATEL: It's condition 18, B.

14 MS. OWEN: 18, B. Thank you.

15 What are good combustion practices?

16 MR. ROMAINE: Good combustion practices are a  
17 term that is commonly used to describe proper operation of  
18 a combustion source to minimize incomplete combustion  
19 products.

20 MS. OWEN: Good. Define proper.

21 MR. ROMAINE: There is no exact specifics of a  
22 level of oxygen, level of turbulence.

23 MS. OWEN: Yet, you require them to do this.

24 And I'm supposed to understand that they are following

1 this requirement to be in compliance. I need to know what  
2 that is.

3 MR. ROMAINE: In terms of the quantitative  
4 definition of complete combustion product, a good  
5 combustion product -- good combustion practices for this  
6 permit, the quantitative requirement would be expressed as  
7 the emission limits for carbon monoxide and volatile  
8 organic material.

9 MS. OWEN: Okay. Which would mean that they  
10 certify themselves to be in compliance for carbon monoxide  
11 and --

12 MR. ROMAINE: Volatile organic material.

13 MS. OWEN: -- volatile organic if they follow  
14 proper procedures of which we don't know what they are.  
15 Right? Oh, no. I know. You say in order for me to  
16 assess what the proper is, I look at the emissions limits;  
17 correct? Yes.

18 MR. ROMAINE: No.

19 MS. OWEN: If they are working properly, they  
20 are not exceeding carbon monoxide and VOM; correct?

21 MR. ROMAINE: No.

22 MS. OWEN: Oh, I thought I had it.

23 MR. ROMAINE: In terms of the quantitative  
24 evaluation, certainly if emissions were above those

1 limits, good combustion practices would not be followed.  
2 Other aspects of good combustion practices are operating  
3 with a properly tuned turbine, conducting proper  
4 maintenance, adjusting sensors if those are out.

5 MS. OWEN: Do they have to keep a log of this  
6 and report the log and keep a record so that you know that  
7 they are actually doing this?

8 MR. ROMAINE: I believe there is a requirement  
9 that they keep a maintenance and repair log for the  
10 turbine. Is that correct, John?

11 MR. CASHMAN: That's correct.

12 MS. OWEN: Tuning is different.

13 MR. ROMAINE: Tuning is certainly covered by the  
14 maintenance and repair log of the turbine. So it's  
15 basically operating in accordance with manufacturer's  
16 recommended practices for maintaining a turbine to operate  
17 properly for good combustion. It also means if there are  
18 gross failures to follow good practices, we would be in a  
19 position to issue them a notice of violation for failure  
20 to properly maintain the turbine in that regard.

21 MS. OWEN: These procedures should allow for  
22 review, da, da, da, to as necessary to make adjustments.  
23 Who reviews them?

24 MR. ROMAINE: The source.

1 MS. OWEN: So if they can't comply with what you  
2 just explained to me, they review it and change it?

3 MR. ROMAINE: That is not the intent. The  
4 intent is if something changes with the turbines or they  
5 find a scenario that they hadn't previously addressed,  
6 that they would then go back and reevaluate their  
7 procedures to see whether they need to do more frequent  
8 maintenance. If temperature sensors keep failing or  
9 oxygen sensors, then develop a new supplier, a new repair  
10 procedure, rather than continuing to operate in the  
11 practice that has caused the problems in the past.

12 I use the automobile example. So if your  
13 temperature sensor on your coolant system keeps going out,  
14 you don't simply go back and replace it every 2,000 miles,  
15 you figure out what the problem is; and if you need a  
16 better sensor, you get a better sensor.

17 MS. OWEN: Do you have a copy of that plan?

18 MR. ROMAINE: No.

19 MS. OWEN: You know, USEPA Region 9 has a  
20 Title V permit review guideline, which I frequent often  
21 because I try to understand things. And it says, on  
22 page 346, A permit condition is not practically  
23 enforceable if it references documents, procedures,  
24 instructions, etcetera, that are described in a manner

1 that is insufficient to allow such items and the content  
2 thereof to be specifically finding or conclusively  
3 identified.

4                   And from what you just explained to me you,  
5 are not doing that.

6                   MR. ROMAINE: I have to look at that guidance.  
7 I believe we are, in terms of the obligation for them to  
8 keep an operating log or repair maintenance log and to  
9 keep specific operating procedures for the turbine.

10                   MS. OWEN: If you read further on in the  
11 guidance, since you are already talking about while you  
12 guys are thinking about it, but if you need any additional  
13 kind of encouragement about the water-fuel ratio, the  
14 guidance says, Specific numbers must be incorporated into  
15 the permit rather than a reference to a document which may  
16 not include clear requirements. And I think that is  
17 really, really important because --

18                   MR. ROMAINE: I'm not going to dispute the  
19 general matter. In terms of this particular application,  
20 the NOx CEM provides much better information on the  
21 performance of water injection for the turbine when oil is  
22 being fired than simply keeping a crude measurement of  
23 water --

24                   MS. OWEN: And that's better than a general one,

1 of course. I agree with you by the way on this one.

2 Reporting requirements. What's promptly?

3 MR. ROMAINE: John? Do you --

4 MS. OWEN: Page 41.

5 MR. CASHMAN: I take promptly as within up to 30  
6 days.

7 MS. OWEN: That's not promptly. And if this is  
8 your definition of promptly, this definition needs to be  
9 in the permit. You cannot use undefined terms and  
10 promptly is not in the Illinois regulations. I looked.  
11 Promptly for me would be within two or three days. If I  
12 tell my kids to clean up their rooms promptly, I would not  
13 give them a month. It might take them a month but then  
14 they are in violation. See, that's the point.

15 MR. ROMAINE: The purpose of this provision is  
16 to, in fact, define what promptly is for different types  
17 of deviations.

18 MS. OWEN: Let's look at them then. It's  
19 30 days here. There is a quarter here. No. 30 days.  
20 Excuse me. November of each year, that's yearly.

21 MR. ROMAINE: Provision A, which talks about  
22 "Shall promptly notify the Illinois EPA of deviations as  
23 follows:" If there were certain activities for which  
24 prompter prompt reporting would be required that should be

1 specified here. If there are provisions for which less  
2 prompt prompt reporting, such as a quarterly report would  
3 be acceptable, that would also be here.

4 MS. OWEN: Chris, do you know this is on record  
5 what you just said?

6 Okay. So IEPA distinguishes between --

7 MS. ZINGLE: Shades of promptly.

8 MS. OWEN: Prompter prompt. What was the other  
9 one?

10 MR. ROMAINE: Less prompt, more prompt.

11 MS. OWEN: Less prompt. You still have to  
12 define what that is. I'm sorry. And maybe you will take  
13 this with you and think about that.

14 See if I have anything under general permit  
15 conditions -- No. Oh, yes. I'm sorry. I almost blew  
16 that one. Not a new topic. They were required to test  
17 the turbines at different load levels, four for NOx and  
18 three for everything else. And NOx aside, they picked  
19 those levels according to their normal operating range; is  
20 that correct?

21 I have seen test results from a source that  
22 thought the normal operating range was somewhere between  
23 90 and 100 percent. And they might, and they might not.  
24 And lower loads increase emissions. And since we don't

1 have CEMs for the other pollutants, I am concerned that  
2 this permit does not establish the operating parameters  
3 that were tested for in the load restrictions because you  
4 don't talk about what load they can operate under at all.

5 MR. ROMAINE: What load was testing conducted  
6 at?

7 MR. CASHMAN: 50 percent, 75 percent, and  
8 100 percent.

9 MS. OWEN: Uh-huh. So in my view, you have to  
10 limit them to not run below 50 percent, which is unlikely  
11 that they do. And since it's 50 percent, I'm not really  
12 pushing this very hard; but I have seen other test  
13 results.

14 MR. CASHMAN: I'm sorry. For the unit 1, it was  
15 180, 50 percent. Unit 3 was 50, 75, and 100 percent.

16 MS. OWEN: Okay. So I think that somewhere in  
17 this permit it should say shall not run below 50 percent  
18 or above 100 because those turbines can.

19 MR. ROMAINE: Based on the test results that  
20 were received, we are not sure that would be necessary.  
21 We certainly understand that if these turbines operated  
22 routinely at below 50 percent load, that might be a  
23 circumstance where we should require additional testing.

24 MS. OWEN: How would you know if they do because

1 you don't require monitoring of that? That's my point.

2 MR. ROMAINE: That is certainly a valid comment.

3 Thank you.

4 MS. OWEN: Thank you. I'm done. Let's go home.

5 MS. ZINGLE: One more issue. Don't go home yet.

6 MS. OWEN: Go ahead.

7 HEARING OFFICER MATOESIAN: Just state your  
8 name, please.

9 MS. ZINGLE: Susan Zingle. Thinking back to  
10 several years ago when deregulation first happened and  
11 peakers were -- we were going to construction permit  
12 hearings on a weekly basis, one of the points that came up  
13 a lot was the number of hours the construction permits  
14 allowed them to run. I have seen definitions of peaker  
15 that is something that runs approximately 10 percent of  
16 the time or 876 hours a year.

17 When you get into this permit on page -- I  
18 guess actually begins on page 32 but the bulk of the  
19 discussion is on page 33, there is a lot of concern about  
20 averaging over the three years that no one turbine runs  
21 more than 2300 hours. How did you come up with 2300  
22 hours?

23 MR. CASHMAN: That was first addressed in the  
24 construction permit.

1 MR. PATEL: Right.

2 MS. ZINGLE: Okay. But then it goes back to my  
3 original question. All of the reporting here if it runs  
4 more than that, there is no penalty, but you have to start  
5 to document why it's not operating like a peaker. So why  
6 is that limit not set at 876 hours?

7 MR. ROMAINE: Okay.

8 MS. ZINGLE: Because actually I sat here and did  
9 some arithmetic. The ozone season, May through September,  
10 is 3672 hours. So these could run two thirds of the time,  
11 day in and day out, without regard to the load on the  
12 system or the need for electrical power, and still qualify  
13 as a peaker.

14 MR. CASHMAN: There is a combined total of 69.

15 MS. ZINGLE: Right. Right. But averaging each  
16 turbine, the limit is 23 I think.

17 MR. CASHMAN: Correct.

18 MR. ROMAINE: This permit is intended to provide  
19 the facility flexibility to operate as needed as a peaker  
20 plant.

21 MS. ZINGLE: Right.

22 MR. ROMAINE: There isn't any requirement that  
23 it not operate more than 876 hours per year and still be  
24 considered a peaker plant. The modeling and evaluation

1 that was performed as requested in the application was  
2 based on these proposed numbers. These numbers didn't  
3 cause air quality problems with all five turbines  
4 operating. The permit was issued on that basis. There  
5 are other qualitative provisions in the permit, which  
6 supplement the inherent nature of the permit of the  
7 turbines as they are simple-cycle turbines. That would  
8 allow us to take action if they were not operated as  
9 peaking facilities.

10 MS. ZINGLE: Right. And I think that needs to  
11 start closer to 876 hours rather than 2300 so the  
12 definitions are consistent with what comes out of the  
13 USEPA.

14 MR. CASHMAN: Are you being confused with the  
15 10 percent when they don't have to use NOx monitoring?

16 MS. ZINGLE: No. Just we had such a rash of  
17 plants, all of them claiming to be peakers. In their  
18 efforts to sell themselves to the village boards, oh, we  
19 are small. We only operate when it's really hot, only a  
20 few hours in summer. We are a peaker.

21 And then they get a permit that lets them  
22 run most of the year. And we spent a lot of time trying  
23 to match what they were telling the village boards about  
24 the intent of it versus what was actually in the permit.

1 And I just see some of that discordance here. A peaker  
2 runs when it's hot, when everybody's air conditioners are  
3 pumping, when there is really a need in the system for  
4 more power.

5 MR. CASHMAN: But many of those --

6 MS. ZINGLE: 2300 a year ain't it.

7 MR. CASHMAN: Many of those you are describing  
8 does take a limit as a peaker definition so they would not  
9 have to take a continuous NOx monitoring.

10 MR. ROMAINE: Actually, they haven't.

11 MR. CASHMAN: There is some that --

12 MR. ROMAINE: They rarely do that.

13 MS. ZINGLE: It was all part --

14 MR. ROMAINE: I agree it's a discordance.

15 MS. ZINGLE: In the synthetic minor  
16 conversation, some of that doesn't apply here since it's  
17 already PSD. There were a lot of things that went into  
18 that. I see now another document that says a peaker runs  
19 2300 hours a year, and I don't believe I want that  
20 perception. I don't want to start creating policy through  
21 the permits. Peakers are small things.

22 MR. ROMAINE: Peakers do not run 2300 hours year  
23 after year after year. This facility in 2002 reached --  
24 the turbines averaged only about 680 hours.

1 MS. ZINGLE: So if you used the USEPA --

2 MR. ROMAINE: This year has not been a good  
3 season. They have only operated about 350 hours each.

4 MS. ZINGLE: So if you use the USEPA definition  
5 of peaker, 876 hours, they still would not have any  
6 additional paperwork burden but at least all the  
7 definitions would start to come together.

8 MR. ROMAINE: Except for one other aspect, which  
9 may or may not apply in this case. My understanding is  
10 that in terms of contractual relationships, the people  
11 that enter into these agreements want to make sure that  
12 they have the ability to call in a peaker plant for a  
13 certain number of hours. To get a contract, the lawyers  
14 say, I want to see a permit that says 2300 hours. If your  
15 permit doesn't say 2300 hours, I'm not going to enter into  
16 the contract.

17 MS. ZINGLE: At which point you can still give  
18 them the permit for 2300 hours, but I think they lose the  
19 ability to sell themselves as a peaker. They are now an  
20 intermediate baseload following -- something, simple cycle  
21 whatever, but they really are no longer a peaker.

22 MR. ROMAINE: But they actually operate as a  
23 peaker.

24 MR. ZINGLE: They operate as a simple-cycle

1 combustion, natural gas-fired or oil-fired combustion  
2 turbine.

3 MR. ROMAINE: Which is the nature --

4 MS. ZINGLE: A peaker is something that comes on  
5 on short notice, fires up quickly in the middle of July  
6 when you are starting to have brownouts and everything is  
7 going to go under if you don't get more power under the  
8 grid.

9 MR. ROMAINE: And in terms of the nature of cost  
10 of operating the turbines and currently with the current  
11 cost of natural gas that is inherent in the way this  
12 facility is operating, this is a very expensive facility  
13 to operate in terms of burning natural gas. If you can  
14 get your power from burning coal or from a combined-cycle  
15 facility --

16 MS. ZINGLE: All I'm trying to do is to get the  
17 definitions to match -- the USEPA definitions to match the  
18 requirements. It would not change a thing about the way  
19 they actually operate.

20 MR. ROMAINE: And, as John has said, the USEPA  
21 definitions don't define a peaker plant. The USEPA  
22 definitions define certain circumstances where a certain  
23 set of monitoring practices may be followed for a plant  
24 versus another set of circumstances where a different set

1 of practices has to be followed.

2 MS. ZINGLE: So I'm suggesting --

3 MR. ROMAINE: In this case, they follow the  
4 practices anyway.

5 MS. ZINGLE: So I'm suggesting perhaps we need a  
6 little more consistency here as, in essence, we are  
7 shaping a new industry in Illinois. Let's be very  
8 straightforward and very precise in what we say.

9 MR. ROMAINE: I accept the comment.

10 MS. ZINGLE: They are selling it under a  
11 contract. They don't have an economic risk on selling on  
12 the spot market. They are running in the winter. They  
13 are running at night. They can run -- It's truly not  
14 peaking. It's truly not.

15 MR. ROMAINE: I accept the comment as an  
16 opinion. Thank you.

17 MS. ZINGLE: Yes. I didn't -- No. And next we  
18 can talk about how many angels dance on the head of a pin.  
19 I mean we are not going to solve it, but we have had this  
20 issue come up before. And I want your information and  
21 USEPA's information to give us some strength when we go  
22 before a village board to say what these plants really are  
23 or not going to do. And 2300 hours under contract is not  
24 truly a peaker plant, not baseload, but it's not a peaker

1 either. Thank you.

2 HEARING OFFICER MATOESIAN: Thank you. Are  
3 there any other questions or comments?

4 (No response.)

5 HEARING OFFICER MATOESIAN: No? All right.  
6 Then I will adjourn this hearing.

7 Once again, on behalf of Renee Cipriano,  
8 the Illinois Environmental Protection Agency, and myself,  
9 I thank you all for coming. Good night.

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(Which were all the proceedings had

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in the above-entitled cause.)

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

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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.

10

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