

1 BEFORE THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2 IN THE MATTER OF:)
3 CLEAN AIR ACT PERMIT PROGRAM)
4 PERMIT AND TITLE I PERMIT)
5 RELIANT ENERGY AURORA)

6 REPORT OF PROCEEDINGS taken at the hearing
7 of the above-entitled matter, held at 2590 Ogden Avenue,
8 Aurora, Illinois, before Hearing Officer Jagiello,
9 reported by Janice H. Heinemann, CSR, RDR, CRR, a notary
10 public within and for the County of DuPage and State of
11 Illinois, on the 11th day of February, 2003, commencing at
12 the hour of 7:00 p.m.

13 APPEARANCES:

14 MR. PAUL JAGIELLO, Acting IEPA Hearing Officer;
15 MR. CHRISTOPHER ROMAINE, BOA, Manager, Utility
16 Unit, Air Permit Section;
17 MR. JIM ROSS, Manager, Permit Section;
18 MR. JOHN CASHMAN, Permit Engineer;
19 MR. BRAD FROST, Office of Community Relations.

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EXHIBITS

(No exhibits submitted.)

1 HEARING OFFICER JAGIELLO: I just want to state
2 that welcome to the hearing. My name is Paul Jagiello,
3 and I will be acting in the capacity of the hearing
4 officer for this evening's hearing.

5 Let the record reflect that it is now
6 about, oh, 9:18 p.m. on Tuesday, February 11, 2003.

7 MR. ROMAINE: 7:18.

8 HEARING OFFICER JAGIELLO: What did I say?

9 MR. ROMAINE: 9:18.

10 HEARING OFFICER JAGIELLO: 7:18. It seemed like
11 it was longer on the road than I believe it was. Okay.
12 7:18 p.m. on Tuesday, February 11, 2003.

13 Now, Reliant Energy Aurora has requested a
14 Title V Clean Air Act Permit Program permit from the
15 Illinois EPA for air emissions from its electric power-
16 producing plant located at 2909 Eola Road in Aurora.

17 This hearing is being held to provide an
18 opportunity for the public to understand and comment on
19 the permit being requested before final decision is made
20 concerning the permit. Now, this hearing will be
21 conducted in accordance with the Illinois EPA's Procedure
22 for Permit and Closure Plan Hearings, which are codified
23 at 35 Illinois Municipal Code, Part 166.

24 This hearing is being held in order that

1 the public again may be informed about the proposed
2 permit and make comments to the Illinois EPA for its
3 consideration when reviewing the permit.

4 The conduct of tonight's hearing will be as
5 follows: First oral statements will be made by the
6 Illinois EPA representatives. Next representatives of
7 Reliant Energy of Aurora can make statements if they wish.
8 At the conclusion of those statements there will be a
9 period during which relevant comments and questions can be
10 made. Those comments and questions can be addressed to
11 any of the speakers. Questions asked of the speakers must
12 be framed as a question, relevant to the subject
13 presented, and not repetitious. Arguing or dialogue with
14 any of the speakers will not be allowed.

15 Anyone who wishes to make a comment may do
16 so so long as the comments, again, are relevant to the
17 issues which are addressed at the hearing. And please
18 indicate that you wish to make a comment on your
19 registration card, which many of you have already done.

20 People will be called forward in the order
21 in which they have completed their registration card.
22 And then there are public comment forms at the
23 registration table, if you wish to use them. Otherwise,
24 comments written on standard 8.5 by 11 paper will be

1 acceptable. When submitting photographs, data, plans, or
2 other documents for the record, please put your name on
3 them for identification purposes.

4 Anyone asking questions or making comments,
5 please state your name and, if applicable, any
6 governmental body, association, or organization that you
7 might be representing for purposes of this meeting record.
8 If you are representing yourself, you can state that you
9 are just an interested citizen or resident and state your
10 town of residency. If there are a number of people who
11 want to make statements and questions, to give everyone a
12 chance, we will get -- when I get to that point, we will
13 see. And if we have to limit the times for questions or
14 comments, we will address it at the time.

15 Once the hearing is adjourned today, the
16 hearing record remains open until I believe midnight
17 March 13, 2003. During that time, all relevant written
18 comments, documents, or data will be accepted and entered
19 into the hearing record.

20 Please send all written comments to the
21 Illinois EPA in care of Brad Frost, Community Relations,
22 at 1021 North Grand Avenue East, Post Office Box 19276,
23 Springfield, Illinois, 62794-9276.

24 FEMALE VOICE: Does he have a telephone number?

1 MR. FROST: Yes. It's 217-782-7027.

2 HEARING OFFICER JAGIELLO: And I also want to
3 state that this evening this hearing is being transcribed.
4 The court reporter is taking down everything that's being
5 said. And for the court reporter to do her job, it's
6 important that only one person speak at a time.

7 Well, at this time then I would like to have
8 the Illinois EPA introduce themselves.

9 MR. ROMAINE: My name is a Chris Romaine. I'm
10 manager of the Utility Unit in the Air Permit Section.

11 MR. ROSS: My name is Jim Ross. I'm the manager
12 of the Permit Section in the Bureau of Air.

13 MR. CASHMAN: My name is John Cashman. I'm a
14 Permit Engineer with the Illinois EPA.

15 MR. FROST: I'm Brad Frost. I'm in the office
16 of Community Relations with the Illinois EPA.

17 MR. ROMAINE: And then also with us this
18 evening -- Oh, you are here.

19 MR. SYED: Rizwan Syed with the EPA.

20 MR. ROMAINE: And certainly the representatives
21 of Reliant here this evening can speak, identify
22 themselves.

23 MR. KUSH: My name is John Kush, and I'm in the
24 Air Resources Division of the Environmental Department

1 with Reliant.

2 MS. CHAN: Winnie Chan. I'm an Environmental
3 Specialist with Reliant Resources.

4 MR. MASON: I'm James Mason, the plant manager
5 here at the Aurora facility.

6 HEARING OFFICER JAGIELLO: At this time we will
7 have John, Mr. Cashman, John Cashman explain the permit
8 and what's being requested.

9 MR. FROST: Can everyone hear? Because we have
10 an audio system we can set up. If people can't hear, we
11 will -- Okay.

12 MR. CASHMAN: Again, good evening, ladies and
13 gentlemen. Again, my name is John Cashman. I'm an
14 Environmental Protection Engineer with the Illinois
15 Environmental Protection Agency. My duties include
16 evaluating air pollution permit applications for various
17 types of stationary emission sources.

18 I would like to thank everybody for coming
19 here to express your interest in the draft Clean Air Act
20 Permit Program permit that the Illinois EPA prepared for
21 Reliant Energy Aurora.

22 Reliant Energy Aurora is a new natural gas-
23 fired power plant that began operation in 2001. It has
24 four 170 megawatt natural gas-fired turbines with dry low

1 NOx burners and six 45 megawatt natural gas-fired turbines
2 with water-injection systems.

3 All major sources must operate under a
4 Clean Air Act permit. Reliant Energy Aurora is considered
5 a major source because it has the potential to emit more
6 than 100 tons of nitrogen oxides and carbon monoxide.

7 The Clean Air Act permit specifies
8 applicable state and federal regulations that apply to the
9 plant such as federal New Source Performance Standards,
10 including emission limitations, monitoring requirements,
11 and recordkeeping requirements, as well as requirements
12 for the new NOx trading program that becomes effective in
13 2004.

14 This permit also contains the requirements
15 for the plant established in its construction permit.
16 Testing conducted following initial startup of the
17 turbines show that the turbines meet emission limitations
18 set in the construction permit for emissions of carbon
19 monoxide, volatile organic material, and nitrogen oxides.

20 One of the key requirements in this permit
21 is that Reliant Energy Aurora continue to operate and
22 maintain continuous emission monitors to measure the
23 nitrogen oxide emissions from each turbine.

24 Reliant Energy Aurora must operate these

1 systems in accordance with the protocols under the USA's
2 Acid Rain Program. These monitors provide continuing
3 information to verify compliance with the limitations and
4 requirements for nitrogen oxide emissions.

5 HEARING OFFICER JAGIELLO: All set? Anybody
6 from Reliant Energy wish to speak?

7 MR. KUSH: Sure.

8 MR. ROSS: Wait. I think we have a few opening
9 comments also.

10 HEARING OFFICER JAGIELLO: Oh, there is more?
11 I'm sorry.

12 MR. ROSS: Yes. I will make some brief
13 comments, and I think Chris is going to make some brief
14 comments followed by Reliant.

15 Again, my name Jim Ross; and I have been
16 with the Illinois EPA for 15 years, all of that in the
17 Permit Section. I have been Manager of Illinois' CAAPP
18 program. CAAPP being an acronym for Clean Air Act Permit
19 Program. For the last five years and recently as of early
20 January, as a result of some of the retirements at the
21 Illinois EPA, I have been acting manager of the Permit
22 Section.

23 And what I wanted to do is give you kind of
24 an overview of the CAAPP program and what it's all about

1 and what that program seeks to accomplish. The 1990 Clean
2 Air Act Amendments created a federal operating permit
3 program known as Title V. Now, that was a nationwide
4 operating permit program. In Illinois, this Title V
5 program is known as the CAAPP program. And it focuses on
6 all the industrial sources of air pollution in Illinois of
7 greatest concern. It requires that a single permit be
8 issued to each affected source that covers all emission
9 units and activities at a source.

10 Now, these CAAPP permits are very detailed
11 in scope as compared to the previous state operating
12 permits that Illinois issued. They have considerable more
13 conditions and requirements than were found in our
14 previous permits.

15 One thing I wanted to seek to educate you
16 on is some of the benefits of a CAAPP permit or Title V
17 permit. They basically are synonymous, they mean the same
18 thing. Again, all requirements for this facility are
19 consolidated in a single operating permit. All conditions
20 in this permit with the exception of those for fees are
21 federally enforceable, state enforceable, and enforceable
22 by the public. That is something that is new to the Title
23 V program.

24 Oftentimes, in a Title V permit, you will

1 find more monitoring than what was required in, say, the
2 previous construction permits and definitely the typical
3 previous Illinois state operating permit before the Title
4 V program came about. In particular, the Title V permit
5 brings more reporting requirements. And this allows for
6 the source to do a periodic self check of compliance.

7 Now, we refer to the additional reporting
8 requirements in Title V as kind of the big four reporting
9 requirements. And I will touch on those briefly. The
10 first one being the requirement to report all deviations
11 from permit conditions. The term deviation is better
12 defined than what was previously in state operating
13 permits. And this reporting requirement is more closely
14 followed.

15 The second major reporting requirement that
16 comes along with the issuance of a Title V permit is the
17 semiannual monitoring report. These are required to be
18 submitted twice a year. And they basically summarize all
19 reporting or all monitoring requirements at the source.

20 Third major reporting requirement -- and
21 this is what is considered one of the main benefits of
22 Title V -- is what's known as the Annual Compliance
23 Certification. And it is one of the main tools that
24 allows the Illinois EPA to verify that the source is

1 actually operating in compliance with their permit.

2 Now, this requirement only becomes
3 effective upon the issuance of a Title V permit. So until
4 this permit is actually issued, the source is not required
5 to submit this Annual Compliance Certification. So that's
6 a major benefit to getting these sources permitted under a
7 Title V permit.

8 And finally, the fourth major reporting
9 requirement is an annual emissions report. Now, this is
10 technically already required of many sources. But once
11 the CAAPP permit is issued, there becomes available to the
12 Illinois EPA a single document to cross-check with the
13 annual emission report's numbers for compliance. So it is
14 an additional tool that the Illinois EPA can use to verify
15 compliance of a source.

16 Also, I wanted to touch on what a Title V
17 permit does and what it doesn't do. This Title V permit
18 does not allow any increase in emissions above those
19 previously allowed. This Title V permit does not allow
20 the construction of any new equipment or the modification
21 of any existing equipment. What this Title V permit does
22 do is establish new conditions that must now be adhered to
23 as a result of this permit, in particular, the new
24 reporting requirements that are again one of the major

1 compliance tools that we use to verify compliance of a
2 source.

3 His permit establishes new reporting
4 requirements and self-monitoring requirements. Again, I'm
5 emphasizing that. And they are an integral part of the
6 Title V program and an integral part of this permit. And
7 again, this permit is considered the primary compliance
8 tool for monitoring and verifying compliance of the
9 source.

10 CAAPP permits are the most thoroughly
11 reviewed and most compliance-g geared permits that the
12 Illinois EPA, Bureau of Air, issues. They are what we
13 refer to as the cream of the crop as far as permits go.
14 And then finally, I just wanted to state that we are here
15 to hear your comments on the permit. And we are here to
16 listen to them. And it is important that we hear your
17 comments. It's also important that you make known your
18 concerns so that you retain your rights to petition the
19 USEPA to object to the permit if you so choose.

20 In explanation, the issues you may cite in
21 any petition to the USEPA may be limited to those that you
22 have previously raised. Therefore, I want to reemphasize
23 this. It is very important that you make your concerns
24 known to us, hopefully here tonight, if you haven't

1 that, I will turn it over to Chris.

2 MR. ROMAINE: All I want to do is thank you all
3 for coming tonight particularly in light of the weather,
4 and I particularly want to thank people for their
5 continued interest in the Reliant Aurora facility.
6 Obviously, there were people interested when it was being
7 constructed; and you are the people who are still here
8 interested in how it's operating.

9 As Mr. Ross has indicated, you can affect
10 our decision, in effect, what goes in the permit.
11 Obviously, the better your comments, the more concrete
12 they are, obviously, they have to relate to the subject
13 matter that we have the authority to deal with, the better
14 we will be able to respond to your comments. Thank you
15 again.

16 MS. WITTNEBEN: And you only deal with the air
17 issue?

18 MR. ROMAINE: That is correct.

19 MR. ROSS: Turn it over to the company if they
20 want to make any comments.

21 MR. KUSH: Sure. I will make comments. Good
22 evening, my name is John Kush. And I'm a leader in the
23 Air Resources Division of the Environmental Department of
24 Reliant Energy.

1 For the past two years, we have strived to
2 be a good neighbor to the communities of Aurora and DuPage
3 County while helping to meet the energy needs of the
4 region; and we will continue to do so.

5 As you have already heard, we are here
6 tonight because as required by Title V of the Federal
7 Clean Air Act, we are required to submit an application
8 for a Title V Operating Permit within 12 months after the
9 commencement of the operation of the plant. The plant
10 began operation in March of 2001, and we submitted the
11 application for this permit in March of 2002.

12 Again, let me reiterate at this point that
13 we are not proposing to construct any new equipment, nor
14 proposing to modify any existing equipment at the plant by
15 this permit action. The Title V operating permit simply
16 consolidates all existing air quality regulations and
17 existing permits within the plant, included in such is the
18 Illinois EPA construction permit and the federal Acid Rain
19 Permit. So you can think of the Title V operating permit
20 as a one-stop shop to find out about any air-quality
21 related requirement for the plant.

22 And I just want to share a little bit of
23 information regarding the plant operations for the past
24 two years. I think it's worth mentioning that the annual

1 operations and emissions from the plant during the first
2 two years were well below its permitted levels. The plant
3 ran at approximately 20 percent of its permitted capacity
4 as looked at through the fuel use limitation within the
5 permit while the annual emissions were only about
6 17 percent of its permitted capacity during those two
7 years.

8 I want to just thank you for taking the
9 time to come and participate in the permit process. Turn
10 it over -- Turn it back to the IEPA.

11 HEARING OFFICER JAGIELLO: Thank you.

12 At this time we will just take questions
13 and any comments from you, the audience.

14 Susan Zingle.

15 MS. ZINGLE: I'm here. My name is Susan Zingle.
16 I'm with the Lake County Conservation Alliance. I want to
17 thank all of you for taking the time to come here this
18 evening in the bad weather. You had a longer drive than
19 we did.

20 My questions focus mainly on the public
21 input and public comment aspects of this permit. I'm on
22 the EPA's mailing list so I get every notification of
23 every permit. But two, three years ago when this plant
24 was first being proposed, Chris, I'm sure you remember --

1 the other folks weren't here -- a very contentious
2 construction air permit hearing where there were 250, 300
3 people easy. I was curious how many of those people did
4 the EPA mail to notify them of tonight's meeting. They
5 all signed in.

6 MR. ROMAINE: That's a question that Mr. Frost
7 will have to answer, and I see he has left the room
8 already. Let's put that on hold. Can you round him up?

9 And what's your next question?

10 MS. ZINGLE: By the same token then when this
11 public hearing was granted, how many people in the area
12 did you notify from the original interested citizens who
13 participated? And then at that same time I must have
14 gotten 14 or 15 notices of public hearings for CAAPP
15 permits from all the different peakers across state.

16 And as I recall, most of those peakers got
17 their construction permits spread out over a two, two and
18 a half, year time period. I was curious why all the CAAPP
19 permits came in a lump at once. And then by extension,
20 how many of those -- Most of those hearings were
21 contentious as well. How many of those people were
22 notified of the issuance of the permits?

23 And as far as I know, this is the only
24 public hearing, although I don't believe there has been

1 any lessening of interest on the part of the people across
2 the state.

3 MR. ROSS: Well, I can address at least part.

4 MS. ZINGLE: Part of the role is to keep people
5 involved, and you don't keep them involved if you don't
6 tell them what's going on.

7 MR. ROSS: Right. Well, the part I can address
8 is why you are seeing some of the Title V permits getting
9 issued for these sources. And in my view, you should be
10 happy to see that. That is a desirable outcome.

11 MS. ZINGLE: Not a complaint. No.

12 MR. ROSS: What we actually did is we made a
13 concerted effort. We realize there was several of the
14 applications out there for similar sources that had
15 similar units, similar regulations applied. And we
16 identified them and pulled together several people to work
17 on these to promote consistency, the same people issuing
18 these permits with the same conditions, again in an effort
19 to promote consistency. And I think the effort was
20 successful, and you saw the results of that in that the
21 Title V permits for many of these facilities were issued
22 over a two to three month period.

23 MS. ZINGLE: Even though the plants came on line
24 over a two year period. I think by the time everyone here

1 is finished, you will have learned a lot about what's in
2 the permit and what we see. And these comments could very
3 easily be applied to the other peakers plants across the
4 state except that there were no public hearings and so
5 public comment is closed. You don't have the benefit of
6 the neighbors' input on any of those permits, nor do you
7 have the benefit of the comments here.

8 I don't think necessarily that the public
9 was served by lumping them together like that. I can't
10 review all those permits and do all those FOIAs and do all
11 that background work in that short period of time, neither
12 can Verena, and neither can some of the other people here.

13 MR. ROSS: Well, right. I understand your
14 concern there. But our goal at the Illinois EPA is just
15 to issue these permits, to get these sources, these major
16 sources of air pollutants, operating under a Title V
17 permit.

18 MS. ZINGLE: I don't -- I applaud the Title V
19 permits. That's fine.

20 MR. ROSS: Okay. So, again, I would emphasize
21 in my mind -- I'm convinced of this -- that it's a good
22 thing that we issued permits to these sources. Now, the
23 fact that they went out over -- a lot of permits went out
24 over a two to three month period, you know, that's the way

1 it worked out. We were --

2 MS. ZINGLE: Okay.

3 MR. ROSS: We were focusing on all these similar
4 units at one time and the effort was successful, and the
5 results were these permits got issued. Now, I --

6 MS. ZINGLE: Well, you don't -- You and I
7 haven't worked together before. Chris will laugh. I have
8 a very strong streak of paranoia. And I work with
9 governmental bodies all over the place, and I don't -- I
10 always look for the dark side.

11 In fact, in your zeal to issue the permits,
12 which is the good thing, you effectively precluded
13 meaningful public input; and I think that's a mistake.

14 Now, then I have a further concern. I
15 believe this permit has a five-year life.

16 MR. ROSS: Correct.

17 MS. ZINGLE: And so five years from now are we
18 going to see those same 14 permits come out in the same
19 week because they are all going to become due at the same
20 time?

21 MR. ROSS: I can't say what's going to happen in
22 five years from now, but certainly it's possible.

23 MS. ZINGLE: Yes. So assuming I'm still
24 involved, if Verena is still involved, A, will you go back

1 and notify the neighbors of those plants the second time
2 around that you did not do the first time?

3 MR. ROSS: Well, I think you are bringing that
4 to our attention today.

5 MS. ZINGLE: Yes.

6 MR. ROSS: And it's becoming obviously something
7 that we need to look at.

8 MS. ZINGLE: Right.

9 MR. ROSS: Providing better notice to the public
10 regarding these, and we are certainly going to take that
11 back with us and seek some resolution.

12 MS. ZINGLE: And is there anything we can do to
13 catch -- There were 14 permits that I think came out
14 really not over two or three months but more like in the
15 space of a week, and is there anything we can do to catch
16 the other 13 permits? Or could I ask that these, the
17 comments here tonight, to the extent that they would apply
18 across the board as far as technique, could they be asked
19 to apply to all the permits that are still outstanding?

20 MR. ROSS: Certainly.

21 MS. ZINGLE: Okay.

22 MR. ROSS: And to let you know, we are making
23 another effort with some of the remaining peaker turbine
24 type permits. So we will be generating some draft permits

1 on those and going to notice, public notice on those, over
2 the next two or three months I anticipate. Probably a
3 block of around ten permits over the next two or three
4 months. Does that sound right, roughly ten or so?

5 MR. CASHMAN: Yes. There is probably about
6 that.

7 MR. ROSS: So the effort is ongoing. And our
8 goal is to get all the major sources of air pollution in
9 Illinois operating under Title V permits.

10 MS. ZINGLE: I want them on Title V, but I want
11 them on meaningful Title V permits where both the people
12 who live near the plants and people like the Lung
13 Association and Illinois PERG and Lake County Conservation
14 Alliance who have been following this for years have an
15 opportunity to review them and make meaningful comments.

16 MR. ROSS: Right. And Brad is back, and I'm
17 sure he heard your comments.

18 MS. ZINGLE: Actually I think I'm finished.
19 Thank you.

20 HEARING OFFICER JAGIELLO: Did you want to ask
21 Brad anything about the --

22 MR. FROST: Do you want me to respond to that?

23 MS. ZINGLE: Yes. The public notice process.

24 MR. FROST: And I understand, okay. Talking

1 specifically about this facility, and then I will talk
2 generally about the public notice process. This facility
3 when we initially sent it out to public comment, I will
4 admit that we made a mistake. We did not send it to the
5 300 or 500 people that attended the first hearing. And
6 that's part of the reason, my understanding, that we are
7 having this hearing tonight. And when we sent out the
8 notice for the hearing, all of those people were notified
9 or at least they were sent notices. In general, for --
10 I did.

11 MS. VOITEK: Brad, of all people, I did not get
12 one.

13 MS. ZINGLE: And she hasn't moved.

14 MR. FROST: We went back and our list had like
15 3 or 400 people on it. I mean it's hard for me to go
16 through a list of 300 people and make sure that every
17 single name that I recognize is on it. But I can -- I
18 will give you our mailing list, and you can see how many
19 people we mailed it out to.

20 MS. ZINGLE: Did they do that same thing for --

21 MR. FROST: Now, for other comments, for other
22 ones that we had hearings on, I cannot say 100 percent for
23 sure that everyone at the hearings was -- But I know at
24 least in certain cases they were.

1 MS. ZINGLE: Okay.

2 MR. FROST: It's a problem with me delegating
3 the doing of the mailing list to someone underneath me and
4 them not realizing that that is something that's
5 appropriate to do rather than me doing the mailing list
6 myself after I receive these comments from, you know --
7 and generated this hearing. That's something I have to
8 start looking at more closely is to make sure that people
9 that were -- Because she doesn't know that we had a
10 hearing and now we have it again. And it's just me having
11 to oversee that that process is being done better.

12 MS. ZINGLE: For all of these hearings in total,
13 there was enough public outcry for the Governor to convene
14 the Pollution Control Board to hold hearings on the
15 peakers. So I would think that would be a clue maybe that
16 there is enough public interest to warrant specialized
17 attention to the CAAPP permits as they come due. What's
18 done is done.

19 But five years from now, when we have got
20 five years of history and experience with CAAPP -- both
21 you and we have experience with CAAPP permits, I would
22 like to not have to do all 14 of them in the same week
23 again. So if it can relate back to their original startup
24 date, which spreads them out over two years, some -- You

1 need some mechanism so that we can all participate over
2 time.

3 MR. FROST: Let's ask this question. What to
4 you is a reasonable number, say, per month for us to
5 issue, for us to send out to public notice?

6 MS. ZINGLE: I think it's whenever -- If they
7 are due 12 months after they came live, that would take,
8 that would spread them out right there. They all came
9 live over a period of about two years. And the department
10 got behind on the CAAPPs in total. The peakers were easy
11 to do in a lump, so you cleared your desk.

12 MR. ROSS: Oh, our desk is in no way cleared.

13 MS. ZINGLE: Your desk is not cleared yet?

14 MR. ROSS: No, not even close.

15 MS. ZINGLE: But to the detriment of a very
16 interested group of people.

17 MR. ROSS: Right. And maybe just for the
18 record, I would state that of the 14 or so that we did
19 issue this was the only one we received a request for a
20 hearing on.

21 MS. ZINGLE: Right. We picked.

22 MS. OWEN: We had to choose.

23 MS. ZINGLE: We had to choose. And if you don't
24 have one scheduled for the Calpine plant in Zion, I can

1 request it this evening. You will be coming to Zion.

2 MR. ROSS: That's fine.

3 MS. ZINGLE: But there were interested citizens
4 in all of those towns. We went to angry hearing after
5 angry hearing after angry hearing, and all those people
6 should have had the same opportunity.

7 MR. ROSS: We would welcome their comments. And
8 if there are a sufficient number of people requesting a
9 hearing --

10 MS. ZINGLE: They didn't get notified. They
11 don't even know this plant is out there.

12 MR. ROSS: All these were public noticed.

13 MS. ZINGLE: Not to the people who participated
14 in the hearing. You have to be a fan of this and get on
15 your Web site. And we did a lot -- Verena and I did with
16 e-mail to the people that we know are interested, but we
17 shouldn't have to do your public outreach for you. And
18 you weren't hear for the original hearings. Chris will
19 tell you.

20 MR. FROST: Which ones, which ones are you
21 specifically referring to that -- I mean Libertyville has
22 gone away. A lot of the ones where it was a -- there were
23 big hearings, they are not there. We haven't done the
24 CAAPPs for them yet.

1 MS. ZINGLE: A lot of them didn't get built.

2 MR. FROST: And I guess that's what I'm saying
3 is you are saying there is a lot of public interest in the
4 ones that we noticed, but I don't think that there was.

5 MS. ZINGLE: But you did not notice neighbors
6 and local activists for any of the 14.

7 MR. FROST: We never notify neighbors. That's
8 not part of our --

9 MS. ZINGLE: No. People that attended the
10 construction permit hearings.

11 MR. FROST: We did on some of them. Like I
12 said, it was spotty. And that's a problem that's going to
13 be rectified.

14 MS. ZINGLE: Just for the --

15 MR. ROMAINE: Let me check. Did I hear you
16 say -- Can I have a raise of hands, at least two, saying
17 that we would like a hearing for Calpine?

18 MS. ZINGLE: Yes.

19 MR. ROMAINE: Okay. Thank you.

20 MS. ZINGLE: And you are all invited.

21 MS. OWEN: All raise your hand. Would you like
22 a hearing for Calpine? Yes, everybody, thank you.

23 HEARING OFFICER JAGIELLO: Okay. Verena Owen.

24 MS. OWEN: Yes. That's me. Thank you. My name

1 is Verena Owen. I'm also with the Lake County
2 Conservation Alliance. I have a housekeeping question.
3 You said that this would be the hearing as we had before
4 with the PSD permits, 35 Illinois Administrative Code,
5 part 166, and you said there would be a responsiveness
6 summary. Did I hear correctly?

7 MR. ROSS: To this hearing?

8 MS. OWEN: Yes.

9 MR. ROSS: Yes.

10 MS. OWEN: Do you have a time frame within the
11 45 days afterwards, within the 60 days?

12 MR. ROSS: Well, I think the responsiveness
13 summary will be sent out directly prior to us taking final
14 action.

15 MS. OWEN: You mean the proposed permit or the
16 final permit?

17 MR. ROSS: The final permit.

18 MS. OWEN: Which can be any time you choose even
19 after the 60 days we have to object to the permit, that's
20 correct, right?

21 MR. ROSS: That's correct.

22 MS. OWEN: That creates a problem for the people
23 who would like to object to this permit should we choose
24 so because we don't have your response.

1 MR. ROSS: I think you will have the opportunity
2 to object to the proposed permit as we send it to the
3 USEPA. And then after the Title V permit is issued, these
4 permits are enforceable by the public. So you don't lose
5 your rights, you -- The permit can still be enforced by
6 you, which is different than it was prior to Title V.

7 MS. OWEN: Well, I understand that; but my
8 question was -- Never mind. I will submit this in
9 writing because it gets kind of detailed, and I don't want
10 to lose people in the audience.

11 I have another housekeeping question,
12 Mr. Hearing Officer.

13 HEARING OFFICER JAGIELLO: Sure.

14 MS. OWEN: We are getting -- We have a court
15 reporter here, and you said that the transcripts will be
16 on the Web site?

17 HEARING OFFICER JAGIELLO: I -- I'm not sure.
18 I don't -- I didn't say that the transcripts will be.

19 MS. OWEN: That was my question. In the past,
20 we always had it posted on your Web site before the 30 day
21 comment period closes.

22 MR. FROST: When we receive it. It's generally
23 two weeks, correct?

24 MS. OWEN: Mr. Seltzer always made sure that we

1 had a full 30 days. So in case the transcript gets
2 delayed, can I contact you to ask you to extend the 30-day
3 comment period?

4 HEARING OFFICER JAGIELLO: Brad, they can
5 contact you. And then if you want, you can get ahold of
6 me. I don't think I'm going to be having much to do with
7 this after tonight's hearing.

8 MR. FROST: Contact me about it.

9 MS. OWEN: You would have to issue an order,
10 however, to extend the comment period.

11 MR. FROST: That wasn't the general -- That
12 wasn't generally what happened, though, Verena. We would
13 post it as soon as we received it, it was the 30 day
14 comment period.

15 MS. OWEN: No, that's not correct, Brad. Bill
16 has in the past extended the comment period if the
17 transcript came in late.

18 MR. FROST: If it came in late possibly.

19 MS. OWEN: That was my point.

20 MR. FROST: But the typical time to receive it
21 was two weeks after the hearing.

22 MS. OWEN: Right.

23 MR. FROST: Okay. I wanted to make sure I had
24 what you were saying correctly.

1 MS. OWEN: Thank you so much for housekeeping.
2 I would have lengthy comments. But considering the people
3 here, would you allow me to just start and stop and go
4 back to the very end when everybody is done talking once
5 to let me talk again?

6 HEARING OFFICER JAGIELLO: Sure. And if you
7 want, you can submit them in writing if you wanted.

8 MS. OWEN: I would prefer some answers I guess
9 tonight. Problem with the responsiveness summary is that
10 your Agency always answers relevant questions. And I am
11 unable to ascertain what you consider relevant and what
12 not. I consider all my questions relevant. So we will
13 see.

14 First of all, thank you for holding this
15 hearing. I really appreciate it. It's a long drive for
16 you.

17 HEARING OFFICER JAGIELLO: Would you speak up,
18 please. I think some people are having a hard time.

19 MS. OWEN: Do I mumble? I'm sorry. I can
20 certainly speak up.

21 FEMALE VOICE: You are sitting amongst people.
22 You are absorbing all the sound, so we can't hear it down
23 here.

24 MS. OWEN: As long as I don't have to stand on

1 my head, I think I will be all right.

2 All right. I think that Mr. Ross gave a
3 really good introduction to what Title V is, that the 1990
4 Clean Air Amendment required large pollution sources to
5 get a permit that applies to the day-to-day operation.
6 This Clean Air Act also provides for -- extensively
7 provides for opportunity for the public to participate in
8 this process.

9 And Susan talked about the public notice.
10 I brought your public notice, and I think there are two
11 problems. A, this is good size. I know you publish it in
12 the paper. And Brad and I go over this all the time.
13 When you see it in the paper, it's the size of a postage
14 stamp. It is very hard. Ask anybody in the room if they
15 saw in their paper the public notice. If you want to
16 reach out to the public, you have to put it where they can
17 see it in a size they can read.

18 The next thing I think with the public
19 notice is a problem that is not particularly unique to the
20 source. It says, "The permit will be enforceable by the
21 United States Environmental Protection Agency as well as
22 the Illinois EPA." Why would we be interested? This
23 permit is also enforceable by the public, yet your public
24 notice does not say that.

1 "This permit may contain terms and
2 conditions established pursuant to Title I of the Federal
3 Clean Air Act, thereby making it a combined Title V and
4 Title I permit." The word "may" is really troublesome.
5 All these people who came out here in the snow storm
6 tonight were interested in the construction permit. If
7 you propose to make changes to a construction permit to a
8 Title V permit, you owe it to the public to let us know
9 that that's what you are doing. By saying "may" and
10 covering your bases, you are not giving us the right
11 picture. So did you make changes to the construction
12 permit to this Title V permit?

13 MR. ROSS: I believe -- correct me if I'm wrong,
14 please -- basically the construction permit conditions
15 were carried over?

16 MS. OWEN: That's correct.

17 MR. ROSS: Into the Title V permit.

18 MS. OWEN: Did you make changes?

19 MR. ROSS: I don't believe there were any
20 significant changes.

21 MS. OWEN: No. No. No, any changes. We decide
22 what's significant.

23 MR. ROMAINE: John?

24 MR. ROSS: Were there any basic --

1 MS. OWEN: Well, I know of one. So it's not a
2 guessing game, I will let you know later what it is.
3 However, it is not identified in your permit as it should
4 have been, which creates another problem. But when you go
5 out to public notice, you guys know if you are making
6 changes to a construction permit. You need to let us
7 know. And if you don't, you don't. Then say, "We did not
8 make any changes."

9 But for us to -- The 40 permits, we had to
10 pick and choose. We need to have a chance to know what we
11 are choosing. By not telling us what you are doing, you
12 are really robbing us of an opportunity.

13 MR. ROSS: Well, sometimes, if I may address
14 what you are saying here, we carry over conditions from a
15 construction permit to the Title V permit. And they are
16 not easily acclimated to each other. And so sometimes
17 wording changes and also sometimes we update conditions
18 somewhat so there are relatively minor changes made when
19 we carry over construction permit conditions, but
20 certainly we would seek to identify or notify you of any
21 significant changes.

22 The process of carrying over these
23 construction permit conditions to a Title V permit is
24 something that we have discussed many times with the USEPA

1 and reached an agreement with them on just what is
2 acceptable changes and how to identify those changes in
3 the permit. So we have worked out a mechanism that I
4 guess identifies that changes sometimes do need to be
5 made, but then we also seek to notify you or identify the
6 changes that we are making in the Title V permit. If you
7 are aware, and I believe you are, of our T1, T1R, T1N,
8 notations that we put at the end of conditions.

9 MS. OWEN: Yes. And I will get back to this
10 later, but back to the public notice. If you know you did
11 it, say so. We are going to have an onslaught of Title V
12 permits, we are obviously the one -- We are obviously
13 interested in the ones where you are making changes,
14 especially to a PSD permit. Those are the ones we want to
15 discuss. But that was all I had on the public notice.

16 I think it violates the Clean Air Act the
17 way it's phrased. And I hope you take this back, and you
18 think about at least adding that the public has the right
19 to enforce this and to make sure that this "may" is either
20 a yes or a no. I don't like "mays." That's ambiguous.

21 Because the Clean Air Act provides us with
22 an opportunity to comment, I think the public has certain
23 expectations. I don't know how many people actually read
24 this thing, but it needs to be understandable. Since this

1 is a tool for us to make sure that we understand how the
2 source is in compliance, we need to be able to understand
3 this permit. This is not a particularly difficult
4 process. They are basically burning gas. How difficult
5 can this be? Yet, it was not easy to read this permit.

6 Why isn't it easy to read the permit?
7 Because conditions should come, testing, monitoring,
8 recordkeeping, and reporting. The way this permit is
9 written is that you have to read the entire permit to find
10 out for what condition, which monitoring, which
11 recordkeeping, which reporting is. Why don't you do
12 condition one with a statement of bases, that this is what
13 has to be done to be in compliance. Then you go to
14 condition 2. The way this permit is written you have to
15 flip back. It took me two hours this afternoon to even
16 get a beginning of an understanding which conditions are
17 exactly reported and reported how. And I'm not sure it's
18 complete. It is almost impossible for us to understand
19 these permits.

20 And the other thing, the permit is supposed
21 to include every applicable requirement. It's not
22 supposed to be a shopping list of anything that could
23 apply to the source. It either does or it doesn't. I
24 challenge you to tell me one peaker that has a cold

1 cleansing degreaser. Why do we have a condition for this
2 in an operating permit for a peaker plant? It just fills
3 up space. We have to read it. We have to understand it.
4 And we finally go, I don't think this applies. Why are
5 things in this permit that do not apply to the source?

6 MR. ROSS: Is that a question?

7 MS. OWEN: Yes.

8 MR. ROSS: Okay. Well, we put that in all Title
9 V permits after -- And I think many states put that in
10 all their Title V permits after discussions with USEPA
11 Region 5. It may or may not apply to many sources. In
12 this case, it doesn't. But through an agreement with
13 USEPA, we decided -- and they concur -- that that is a
14 general enough condition which may or may not be
15 applicable, but the source may eventually bring something
16 on site where they may not even need a permit for that
17 that may apply to. They may not even have to notify us if
18 they brought, you know, maybe an exempt from permitting
19 requirement or whatnot and that condition may apply.

20 So many sources out there may have
21 something affected by this condition that they don't need
22 a permit for. So that is something that we basically put
23 in all permits.

24 MS. OWEN: Are you trying to tell me that you

1 put everything that exists in the SIP into your Title V
2 permits?

3 MR. ROSS: Absolutely not. That's not what I'm
4 trying to tell you.

5 MS. OWEN: Then I don't understand which, in the
6 superfluous conditions, make it to the Title V permit and
7 which ones do not.

8 MR. ROMAINE: I guess I will comment. I don't
9 believe it's superfluous. We have identified cold
10 cleaning degreasers as a insignificant activity. It is,
11 in fact, our expectation that most sources have cold
12 cleaning degreasers as part of their maintenance
13 operations and the provision alerts the source of the
14 obligation to comply with the applicable regulations that
15 govern operation of cold cleaning degreasers.

16 MR. ROSS: They are a common enough source where
17 we felt it was appropriate, and I think others agreed with
18 us, that this condition would apply to so many that we put
19 it in all permits.

20 MS. OWEN: Okay.

21 MR. ROMAINE: And I have -- One of the
22 complexities or the challenges of Title V permits is it
23 does have to address things that may not have a lot of
24 direct relevance to a particular source but are

1 nevertheless applicable.

2 One of the other things that I think
3 certainly could be confusing is the fact that the permit
4 has provisions dealing with ozone depleting substances.
5 We would not expect this to normally be applicable to a
6 source. On the other hand, if they happen to do vehicle
7 maintenance and they have air conditioners, it's
8 appropriate to alert people that you have to properly
9 operate and service air conditioners on vehicles. So I'm
10 afraid one of the downsides of having detailed complete
11 permits is you will find provisions that may not seem that
12 critical to a particular facility, but they are still
13 relevant.

14 MS. OWEN: Okay. Which brings me to another
15 point, then I'm going to sit down for a minute and let
16 somebody else talk. For instance, the risk management
17 plan. This permit says "Should the stationary source
18 become subject to the prevention --" whatever "--release
19 prevention regulations." Do you mean they are not? Do
20 they have a risk management plan? Do they need one, and
21 when do they need one? Those are questions and we read
22 this and it says "should," "may," "might." It doesn't
23 mean anything.

24 MR. ROSS: Well, we have two general types of

1 conditions that we put in permits. One is where we have
2 identified that the source is subject to the risk
3 management plan, and we state that in the permit. The
4 condition you are seeing, if they should, would mean that
5 they are currently are not. But if something changes at
6 the source and they do become subject, then they are
7 covered; and we are letting them know that they would need
8 to submit a plan in accordance with the requirements that
9 are identified there.

10 MS. OWEN: But you amend permits all the time.
11 But you have this in here to --

12 MR. ROSS: Right. This in my mind would be
13 something that you would want there so that the company
14 would know --

15 MS. OWEN: Convince me.

16 MR. ROSS: Well, if it's something that the
17 company needs to know, there is a requirement out there
18 that if something changes then they need to review the
19 applicability of this requirement. So did the change make
20 this now so that they are required to submit a risk
21 management plan. Where it maybe something that they may
22 not pick up if this condition wasn't in the permit. It's
23 important enough, the ideas of risk management planning
24 companies have in these plans, that we wanted to identify

1 it in all of our permits and let sources know. And this
2 source currently doesn't need a plan I believe is the way
3 that condition is worded. But if something changes that
4 they would eventually require a plan, then this would
5 bring it to their attention; that if they change
6 something, they need to look at this, and now does this
7 become applicable to them.

8 MS. OWEN: Is the same true for the episode
9 action plan?

10 MR. ROSS: Yes.

11 MS. OWEN: They don't need one currently?

12 MR. ROSS: Yes.

13 MS. OWEN: They don't need one currently.

14 MR. ROSS: I don't believe so.

15 MS. OWEN: Do they have one?

16 MR. ROSS: I don't believe they do. It's not
17 required of them currently.

18 MS. OWEN: Okay. That's all I have. I will let
19 somebody else talk, and I will come back.

20 MR. GOEBEL: My name is Chris Goebel, and
21 I'm a --

22 HEARING OFFICER JAGIELLO: Mr. Goebel, we are
23 going to go --

24 MR. GOEBEL: Oh, I'm sorry.

1 HEARING OFFICER JAGIELLO: We have cards and
2 people have signed in. Do you have a card in here?

3 MR. GOEBEL: Yes, sir, I do.

4 HEARING OFFICER JAGIELLO: You do, okay.

5 Mary Peterson?

6 MS. PETERSON: I don't have any questions.

7 HEARING OFFICER JAGIELLO: No. Okay. Thank
8 you.

9 Jim, Mr. Wittneben?

10 MR. WITTNEBEN: Wittneben.

11 HEARING OFFICER JAGIELLO: Wittneben.

12 MR. WITTNEBEN: My name is Jim Wittneben.

13 That's W-i-t-t-n-e-b-e-n. And I'm representing myself as
14 a resident of unincorporated Naperville living one of the
15 closest residents to the peaker power plant.

16 And my -- In terms of air pollution, I
17 don't, you know, I can't see it. It's going up so fast or
18 whatever, so I don't know what's impacting me and my
19 family and our neighbors. But I do know that some of the
20 things that we were told at the earlier hearing, public
21 hearings that we had, that I was confused on I guess on
22 what was happening. So the one problems that we are
23 experiencing in our neighborhood are nonair-polluting
24 things; but they are noise pollution, vibration, and light

1 pollution.

2 And so the other thing is we noticed that
3 we seem to be getting this noise during the middle of the
4 night. And I thought maybe the hours of operation were
5 limited. And I know that that might be something that the
6 city of Aurora was handling, but I just would like to know
7 what type of hours of operation are you allowed to operate
8 at.

9 MR. MASON: It's within the -- I don't mind
10 answering that. James Mason with Reliant. Our operation
11 hours are from the earliest is 6 a.m. in the morning to 10
12 p.m. at night. The only equipment we run during the night
13 is some seal oil pumps for our generators to run. It's a
14 seal oil for our bearings on our generators. We run our
15 lights, of course. And those are for security purposes.
16 Okay. There is no other producing of power during the
17 hours past 10:00 other than unless we are shutting down
18 some equipment.

19 So unless you are hearing our accessory
20 compartment on our 7FAs, that's the larger plants you see,
21 the higher stacks, there is nothing else that we run.
22 There is ten transformers that are kept energized that
23 have a hum. Okay. And that's it.

24 MR. WITTNEBEN: So I guess if we -- If we think

1 we are hearing noise, who do we call? Do we have -- I
2 mean do you have somebody at the plant or a phone number?

3 MR. MASON: I have someone at the plant 24 hours
4 a day. The number is (630) 820-9634.

5 MR. WITTNEBEN: Okay.

6 MR. MASON: If the guard is making rounds at
7 that time, it will tell you the cell phone number to call.

8 MR. WITTNEBEN: Okay.

9 MR. MASON: And if you hear a noise that sounds
10 strange, please tell us, please call us.

11 MR. ROSS: Also I do want to mention we do have
12 regulations which govern noise pollution.

13 MR. WITTNEBEN: I guess I didn't spend two
14 hours. I only spent 15 minutes reading this tonight. So
15 there are -- Are they covered in this?

16 MR. ROSS: No. They are not regulated in this
17 permit. But I did want to let you know, you can find them
18 on our Web site or contact us for them. And they can be
19 enforced by local law enforcement. So you can also
20 contact your local police department or health department
21 to report excessive noise.

22 MR. WITTNEBEN: And if my understanding was
23 correct, I thought I might have heard a rumor that the
24 noise was two decibels over what the limit was for the

1 evening? Is that when you measured?

2 MR. MASON: No, sir. We actually came within
3 two to three decibels of making the nighttime permit with
4 equipment on line. We actually came under the --

5 MR. WITTNEBEN: Daytime.

6 MR. MASON: Yes, the daytime.

7 MR. WITTNEBEN: And what are the nighttime hours
8 according to the --

9 MR. MASON: 10 o'clock.

10 MR. WITTNEBEN: 10 o'clock.

11 MR. MASON: 10 o'clock also.

12 MR. WITTNEBEN: Okay.

13 MR. MASON: That's why we had the cutoff.

14 MR. WITTNEBEN: Okay. Is there -- In terms of
15 these hours of operation, do you keep records that the
16 public can get hold of in terms of hours of operation; or
17 don't you have to do that recordkeeping?

18 MR. MASON: We do. We have lots of records.

19 MR. WITTNEBEN: Right, but I mean that apply
20 to --

21 MR. MASON: We do not provide them to anyone.

22 But if the --

23 MR. WITTNEBEN: Okay.

24 MR. MASON: Some government agency would care to

1 see it, we can show them when we were operating and when
2 we were not.

3 MR. WITTNEBEN: The other thing is what I
4 thought I heard before was that each one of these ten
5 generators could run 1,000 hours a year. But now what I
6 hear is is that they can run so much fuel through them a
7 year, so that they can run them at lower levels and run
8 them more hours.

9 MR. KUSH: Yes. In the air quality permit
10 there -- It's not a specific hourly limit for the
11 turbines. There are emission limits for the pollutants
12 for each turbine for the plant as a whole. There is a
13 fuel use limitation for the plant as a whole. The only
14 place where there is -- And I believe that 1,000 hours
15 was I think that was communicated at some point maybe
16 during the construction permit period.

17 MR. WITTNEBEN: Yes.

18 MR. KUSH: I'm not sure. As to try to get a
19 comparison to try to relate the fuel use of the plant
20 to -- in operation time, but it doesn't equate exactly
21 because we have got two different size turbines at the
22 plant.

23 MR. WITTNEBEN: Right.

24 MR. KUSH: I guess, one, if you are going

1 through the permit, you will see an hours' limitation
2 associated with some new regulations that are going to be
3 in effect next summer that are related to the NOx CAAPP
4 program. And those would be some summer -- some ozone
5 season limitations.

6 And several of the turbines will have an
7 hourly limit for the ozone season. And I believe -- I
8 don't have that open, but it's somewhere in the permit.
9 It's over 1,000 hours. I don't recall exactly what that
10 limit is.

11 MR. WITTNEBEN: Okay. I just have a couple more
12 questions for the other people waiting to talk. And one
13 is on storage of fuel. We are told there is no storage of
14 fuel, that you were just accessing the pipelines that came
15 through the property. Do you still have no storage of
16 fuel?

17 MR. MASON: Of fuel oil? No, sir.

18 MR. WITTNEBEN: No. Fuel. Gas, natural gas.

19 MR. MASON: No. We can't store natural gas
20 other than what's in the pipeline.

21 MR. WITTNEBEN: So that the only fuel or the
22 only storage is water storage, right?

23 MR. MASON: Yes, sir.

24 MR. WITTNEBEN: Which makes sense.

1 MR. MASON: Yes.

2 MR. WITTNEBEN: And so from a --

3 MR. MASON: All right. Lube oil. That's not
4 fuel oil. We've got transformer oil and lube oil but
5 that's --

6 I'm sorry, kind of a sidebar.

7 MR. WITTNEBEN: So that I guess this is -- I
8 don't like your lights from shining on me, but I like your
9 lights from the security point of view; right? But so I
10 just want to make sure that security is there. But if
11 there is no, you know, if no one is going to do a
12 terrorist attack on your plant from causing major
13 problems, then I have to worry about things blowing out
14 into my property or whatever, and it doesn't sound like
15 that's an issue. Or if a turbine blows, will it --

16 MR. MASON: I can't -- See, you live on the
17 north side, correct, from our --

18 MR. WITTNEBEN: No. We are on the southeast
19 corner of your property.

20 MR. MASON: You are off from Ferry?

21 MR. WITTNEBEN: Right.

22 MR. MASON: No. The lights, as you say, are
23 there for security reasons. If you notice typically,
24 Other than through this weekend -- They are now brighter.

1 Have you noticed that?

2 MR. WITTNEBEN: Yes. Oh, yeah.

3 MS. WITTNEBEN: Yes.

4 MR. MASON: The reason they are brighter because
5 we are now -- Homeland Security is now raised to orange
6 level.

7 MS. PETERSON: What, so they can see them better
8 from the plane or what?

9 MR. MASON: That's actually for the guards and
10 our security cameras to pick up any movement of anybody
11 within the site. And lighting is the best deterrent of
12 any -- Anywhere where there is kids --

13 MR. WITTNEBEN: Can you put down lights?

14 MS. PETERSON: Can you put blinders on them?

15 MR. MASON: We have lowered quite a few.

16 MR. WITTNEBEN: Just, you know, if you put the
17 blinders on, the shields, so that they go down so where
18 the guards can see but we --

19 To prevent radiation beyond.

20 MS. PETERSON: It's almost an issue when you are
21 coming down Prairie Road, you can't see it's so bright.

22 MR. MASON: We made quite a few changes, and we
23 will revisit that. And it's very possible the wind can
24 shatter, it could have loosened some of those because they

1 are tightened mechanically and maybe they have -- We made
2 a huge effort to tilt them to where they lighten the area
3 where we need them, but also to keep it off from the
4 neighbors. So we will make a concerted effort. Since we
5 are now using them again. We went for a year without
6 using them. But all they do is right now as a deterrent.
7 We are not operating at this time, so we do not need them.

8 MR. WITTNEBEN: Okay. So, anyway, the light is
9 the least of our worries but if you could do any of
10 that --

11 MR. MASON: I will take it as a --

12 MR. WITTNEBEN: And I just wanted to make sure,
13 the note on vibration. I don't know if there is any
14 limits or any EPA aspects to vibration. But if when it's
15 shaking your windows in your home or -- I don't know if
16 that's considered noise from it or what. So I thought
17 these turbines were supposed to be so perfectly balanced
18 and on such a huge concrete platform that they wouldn't --

19 MR. MASON: One to one and a half mil, that's a
20 thousandths of an inch of vibration.

21 MR. WITTNEBEN: But maybe it's the air intake or
22 the air exhaust that's causing it. I -- But whatever.

23 MR. MASON: Do you notice a difference between
24 when the units are running and they are not? Can you

1 tell?

2 MR. WITTNEBEN: Yes. Yes. Oh, yes.

3 MR. MASON: Okay.

4 MR. WITTNEBEN: So that's, maybe you need to get
5 our phone numbers and call us. "Are we running, are we
6 running?"

7 MR. MASON: Yes.

8 MR. WITTNEBEN: Okay. So the last comment I had
9 was I think when John -- when you were reading the intro,
10 you were saying that there was three things from their
11 initial report that they were under the limits, that was
12 carbon monoxide, the volatile organic, and the nitrous
13 oxide. But you didn't mention I guess it's SO2 and
14 particle and HAP. Are they also under the limit on that,
15 or are they in violation, or that wasn't measured? These
16 are three other things that are in this.

17 MR. CASHMAN: Correct. Maybe Chris can
18 elaborate a little bit. In the construction permit, they
19 were required to test for those three.

20 MR. WITTNEBEN: Okay.

21 MR. CASHMAN: Which they met.

22 MR. ROMAINE: Sulfur dioxide can be determined
23 through the sulfur content of the natural gas. Generally
24 sulfur dioxide is at very low levels of sulfur. It's

1 simply a matter of doing material balance and setting a
2 number for it.

3 In terms of particulate matter, likewise,
4 natural gas-fired turbines are not significant sources of
5 particulate matter. We did not believe it was appropriate
6 to require particulate matter testing.

7 MR. WITTNEBEN: Okay. So there is -- The last
8 thing was I think we were talking about is that you can
9 operate under emergency situations. Is there any
10 definition of emergency?

11 MR. MASON: No.

12 MR. WITTNEBEN: Has that happened yet?

13 MR. MASON: No.

14 MR. WITTNEBEN: So you never had to operate as
15 an emergency. So if my lights go out, you come on to give
16 me power. Okay. Thank you.

17 HEARING OFFICER JAGIELLO: Okay. Terry Voitek.

18 MS. VOITEK: Hi. I want to thank all of you for
19 being here tonight. I also want to, for the record, I
20 contacted Senator Chris Lauzen and also Peter Roskam. And
21 neither one of them could be here tonight, but they would
22 have liked to have been here. They did not receive
23 notice. I just wanted to let Brad know. You should be
24 letting our senators know.

1 MR. FROST: I know that Senator Lauzen got
2 notice because he's one of the people that requested the
3 hearing.

4 MS. VOITEK: Now I --

5 MR. FROST: I'm saying we always do.

6 MS. VOITEK: I wrote him, too. But anyway, he
7 had a commitment, Senator Roskam did; but they do all want
8 to know the results of the hearing, and they will be
9 studying the results.

10 The next comment again, I do think it was a
11 fatal flaw because, Brad, I didn't receive a notice and I
12 e-mailed you. So my question is how many visits and
13 inspections has the IEPA made to the Reliant Aurora plant?
14 Do you guys inspect?

15 MR. ROSS: Well, I know as being categorized as
16 a major source, they are required to be inspected at least
17 once annually.

18 MS. VOITEK: Did you guys do it?

19 MR. ROSS: I'm sure we did.

20 MS. VOITEK: How many surprise inspections? Do
21 you ever come unannounced?

22 MR. ROSS: Yes. We have a history of, if there
23 is a reason to come unannounced.

24 MS. VOITEK: Are there any? Did you have

1 unannounced visits in the last --

2 MR. ROSS: I'm not aware of it.

3 MR. MASON: Not to this facility. Not to my
4 knowledge.

5 MS. VOITEK: Think about it.

6 Could someone define in the draft permit
7 what are good combustion practices? It's not very clear.
8 You know, there is a Nurse Practice Act. I'm wondering if
9 there is a Combustion Practice Act, or what is it? Is it
10 the honor system?

11 MR. MASON: I would rather them answer that
12 since it's their --

13 MS. VOITEK: Okay. But you are the guys doing
14 the combustion practice stuff.

15 MR. MASON: I have my interpretation, but
16 it's --

17 MS. VOITEK: Okay.

18 MR. ROSS: Could you maybe point to where in the
19 permit so I can --

20 MS. VOITEK: Verena, do you have it?

21 MR. ROSS: I want to read it in context. Do you
22 know where it is?

23 MS. VOITEK: I don't have it with me.

24 MS. OWEN: Hold on.

1 MR. ROSS: I mean usually those --

2 MS. VOITEK: It's in there, though, that --

3 MR. ROSS: That kind of wording would be
4 accompanying some other condition.

5 MS. OWEN: 7.1.5(a).

6 MR. CASHMAN: That's for --

7 MS. OWEN: Air pollution control practices.

8 MR. CASHMAN: 7.1.5(a) is verbatim pursuant
9 to 40, Code of Federal Regulations 60.11(d). That entire
10 paragraph is word for word from that regulation.

11 MR. ROMAINE: And that's the NSPS?

12 MR. CASHMAN: That's the New Source Performance
13 Standards, correct.

14 MR. ROMAINE: That applies to combustion
15 turbines.

16 MR. CASHMAN: That applies to any sources
17 subject to the NSPS?

18 MS. VOITEK: But how do you define them?

19 MR. ROMAINE: I think actually the term that's
20 used here is good air pollution control practice.

21 MS. VOITEK: There is good combustion practice,
22 too; isn't there?

23 MR. CASHMAN: Well, I'm not finding that.

24 That's what I'm looking for in this paragraph. I'm not

1 finding it.

2 MS. VOITEK: You know what, I will look for it
3 and I will send it to you guys. I will highlight it.

4 MR. ROMAINE: It is a general term that is in
5 the relevant federal regulations, the New Source
6 Performance Standards that apply to this -- these
7 turbines. It is something that's probably better defined
8 by what is not good air pollution control practices than
9 what is. In general I guess my understanding of this
10 particular rule has been it provides the USEPA, the
11 Illinois EPA, in this case the public, the ability to go
12 after a facility if there have been clear instances where
13 they have not used good air pollution control practices.

14 So if a source has allowed -- the company
15 has allowed a turbine to continue to operate when the
16 burners were malfunctioning, when the air-to-fuel ratio
17 was out of balance, if they don't maintain the unit so
18 that as a result it gradually ends up in noncompliant
19 emissions, those are all provisions that Illinois EPA or
20 the enforcement authority could pursue the source for
21 improper operation.

22 I don't think it's something that we go
23 after sources to verify whether they are operating
24 properly. It's that it gives us the ability to go after

1 them if they operate improperly. I agree, though, it is a
2 very amorphous term.

3 MS. VOITEK: Very ambiguous. I also want to
4 know when the plant is running, and I don't want to find
5 out when we do a FOIA. I would like to know how I can
6 find out. Can I just call you and say, "Are you up and
7 running right now"?

8 MR. MASON: Please, yes.

9 MS. WITTNEBEN: You can call us.

10 MS. VOITEK: I will ask them. There are times
11 also when I hear a strange noise, and I'm not sure what it
12 is. But I'm not going to blame you guys because I'm not
13 sure.

14 I have another question. It was noted in
15 the FOIA that we got that Susan Zingle obtained that there
16 were several occasions where emissions exceeded and you
17 guys failed to report these emissions that were exceeded
18 and you had violations. What's the procedure for
19 reporting emissions when they exceed?

20 MR. KUSH: Do you want me to go ahead? I can go
21 ahead and take a --

22 MS. VOITEK: Why weren't they reported I guess
23 that's really what I'm asking.

24 MR. KUSH: Well, it is our policy and practice

1 to report exceedances as soon as they occur. There is a
2 30 day period within the permit with which we have to
3 report. During the initial startup of the plant in 2001,
4 there were certain occasions where we, we slightly
5 exceeded some of our one-hour limitations. There was a
6 question about whether those -- those need to be reported.
7 We had some discussions with the IEPA staff, we
8 subsequently reported those -- these after the 30 day
9 period and did receive a violation notice for those cases.

10 I can tell you that we went back and
11 reviewed our QAQC procedures with our employees to ensure
12 that everything is reported in the future. And most of
13 these occurred again within the initial -- the initial
14 startup operations of the facility, and we have not had
15 any late reporting instances during 2002 and we operated
16 during that a full year.

17 MR. ROSS: And I would add to that that the
18 company is in ongoing discussions with our compliance and
19 enforcement section regarding what emissions need to be
20 reported and when, what time frame they need to be
21 reported.

22 MS. VOITEK: I have another concern, and it's
23 not in the permit but it's about the barium and the radon
24 that, as you guys -- What do you do with all that when

1 you like cool the turbines down, the six smaller units?
2 Where does that go? You guys have deep wells that are
3 like way, you are pulling water out, where -- Where is
4 that going?

5 MR. MASON: Barium and radon in the water?

6 MS. VOITEK: Yes. There is radon in that water
7 and there is barium in that water that you are pulling on
8 those deep wells, and I don't know where it's going.

9 MR. MASON: Okay. I didn't realize we were
10 pulling out any harmful levels of radium or barium.

11 MS. VOITEK: Yes, they are. It's actually --

12 MR. MASON: I'm ignorant to that effect. There
13 is two processes of where the water goes. I can answer
14 that.

15 MS. VOITEK: Okay.

16 MR. MASON: We use it, one, for producing our
17 demineralized water. It can be used for water injections
18 on our LM6000s. And the other is for cooling water. All
19 of our process water either goes to the Fox Metro for
20 treatment, or it goes through our cooling tower for
21 cooling.

22 MS. VOITEK: And that's what I'm wondering if
23 it's going up the cooling tower and how much.

24 MR. MASON: Yes. Our blowdown rate is

1 probably -- Depending on the temperature and the humidity
2 of the air, it can vary from 10 to 40 gallons
3 approximately.

4 MS. VOITEK: And what about the smaller
5 turbines, do you ever -- When is the fuel-water ratio in
6 effect?

7 MR. KUSH: You had a question about the water
8 and the fuel ratio. I will just wrap it up with attention
9 to the last question that was asked about the violation
10 notice. There is a federal requirement to monitor your
11 water-to-fuel ratio, which is used as a estimation of your
12 NOx emissions. Since we are an acid rain source and we
13 are required to put on continuous monitors, we have
14 elected to use the continuous NOx monitors, which is a
15 direct measurement of our NOx emissions, as an alternative
16 monitoring method for NOx in lieu of this estimation of
17 the water-to-fuel ratio. That was approved in the
18 construction permit by the Illinois EPA, that that
19 water-to-fuel ratio monitoring is a federal requirement.
20 IEPA has a delegated authority from the USEPA to approve
21 certain federal requirements. When we had our
22 construction permit issued, and they approved this use of
23 a direct continuous emission monitor, it was our
24 understanding that that also applied as a federal

1 approval.

2 So subsequent to that, we -- We have
3 learned that Illinois EPA cannot directly approve an
4 alternate monitoring method for USEPA, that USEPA retains
5 that right. We were notified through a violation notice
6 that we did not get the required USEPA approval to use
7 CEMs. But once we learned of that, we have applied to
8 USEPA to just -- It's basically asking permission to do
9 what we are already doing which is using a better, more
10 robust method in lieu of this water-to-fuel ratio
11 monitoring.

12 And we have talked with the USEPA. We
13 have -- We haven't gotten our written approval back yet,
14 but we are expecting it soon. This is an alternate
15 monitoring approval that's routinely done for many
16 sources. And again, it's just, it's a -- It's just a --
17 It's a second approval for a process that was already
18 approved for our construction permit.

19 MR. ROMAINE: I would just like to confirm that
20 that again we are dealing with the Federal New Source
21 Performance Standard. The Federal New Source Performance
22 Standard was adopted before it was expected that turbines
23 would be equipped with emission monitoring for nitrogen
24 oxide, so they allowed this operational monitoring as an

1 alternative form of monitoring. Continuous emission
2 monitoring is a much more exact and precise means to
3 determine compliance.

4 In addition, this facility complies with
5 the NSPS, the New Source Performance Standards, with a
6 wide margin of compliance. The role of the NOx monitor,
7 the nitrogen oxide monitor, is to verify compliance with
8 the emission limitations that were established in the
9 construction permit as well as for the Federal Acid Rain
10 Program and for several units the NOx trading program.

11 MS. VOITEK: And I just have two more questions.
12 This is to the IEPA. I continue to be concerned over the
13 cumulative effects over the year's worth of emissions that
14 is being emitted in three months. I think the IEPA has
15 failed the unsuspecting public regarding the air that we
16 breathe during the smog days of summer, during the ozone
17 alert days. So that's one of my concerns.

18 And my last thing is to you guys and to you
19 guys. Yesterday I had a grandchild. And one of the
20 reasons I'm here is I had a grandchild number six, and I'm
21 here because of that, those children that are coming in
22 the generations to come. And I hope you guys, when you
23 put anything into the air or when you make decisions, you
24 the IEPA, that you guys keep in mind the children and

1 their lungs and the air that they breathe. Thank you.

2 HEARING OFFICER JAGIELLO: Ann Wittneben.

3 MS. WITTNEBEN: That's me. I'm Jim Wittneben's
4 spouse. We live together. I don't know for sure, but I
5 think we live about a quarter to a half a mile by the way
6 the bird flies to the plant. We can see it. We can hear
7 it. We can feel it. I would like to know where the
8 machinery is or the equipment that they use to make these
9 measurements. Where is it? Where is the air tested?

10 MR. KUSH: You are talking about the noise or
11 the emissions?

12 MS. WITTNEBEN: No. I'm talking about the
13 pollution or the emissions given off by the plant. Where
14 are those measurements taken? Could you come to my back
15 yard with your meters and show me that the air that's in
16 my yard is safe to breathe?

17 MR. MASON: We take measurements directly out of
18 the flue stacks. They sample directly out, which is the
19 highest concentration you are going to get. It's taken
20 directly out of the stack and run through analyzers, and
21 it immediately analyzes the data sent to our control room.
22 And it is recorded and viewed at by the Environmental
23 Department.

24 MR. KUSH: And there is -- The information is

1 submitted quarterly to the USEPA, and it is available on
2 the USEPA Web site in quarterly brackets. I don't have
3 the Web site address here.

4 MR. ROMAINE: I can provide it to you later.

5 MS. WITTNEBEN: What about do I have to worry
6 about my groundwater or my well water?

7 MR. MASON: I could --

8 MR. ROMAINE: In what respect? I guess what's
9 the -- Are you on a local well?

10 MS. WITTNEBEN: Yes. Yes.

11 MR. ROMAINE: Do you have a private well?

12 MR. MASON: How deep is your well?

13 MR. WITTNEBEN: 155 feet.

14 MR. MASON: We are pumping -- Our well is a
15 deep well. It's -- We'll say it's right at 1200 feet,
16 something like that. We are pulling from a lower strata.
17 I'm told by the geologist it originates somewhere up in
18 northern Wisconsin. I don't know that for a fact, but it
19 is a deep strata, the limestone strata.

20 MS. WITTNEBEN: Okay. I think I heard you
21 mention before that recently there hasn't been any
22 violations that haven't been reported within the time
23 period, required time period. How many violations have
24 been reported total?

1 MR. KUSH: Back for our first year of operation,
2 there were -- and we are talking about each, each turbine
3 has a one, a one-hour limitation on -- I'd say several
4 occurrences, that's less than ten. I believe it was eight
5 or nine. I'm trying to remember the number during the
6 year 2001. We did it -- We just slightly exceed the
7 one-hour limitation which eventually was reported to say
8 that about half of those were due to turbine testing
9 during -- In the permit there is a 180-day shakedown
10 period that allows you to do some of this testing. We
11 still have to report emissions during that time period.
12 And that was I think one of the points of confusion,
13 whether we had to report that if it occurred during that
14 period.

15 The other four or five, again, were just a
16 one hour -- were exceedances over the limitation for a
17 single turbine at the time was due to some malfunction of
18 the water injection system on the smaller turbines, and
19 water injection is used on the smaller turbines as a form
20 of NOx control. So if that isn't operating, you will
21 start to get higher, higher levels of NOx.

22 For the year 2002, I believe we had two
23 exceedances that were very small. And they were -- And
24 again one was related to some unit testing or tuning, and

1 one was a water-injection malfunction. But again, a very
2 short, very limited. And I think from my standpoint it
3 speaks well that we worked out any initial problems during
4 the first six months of the plant operation. And so we
5 only had two of those minor exceedances for the whole year
6 of 2002.

7 MR. ROMAINE: I have a copy of the deviation
8 report for 2002 if you would like to look at it during the
9 break.

10 MS. WITTNEBEN: Okay. This is for the IEPA.
11 The self-check that you allow them to do. Why do you
12 allow them to do their own monitoring? Isn't there a
13 chance for them to change data, to provide incorrect data?

14 MR. CASHMAN: Do you know what self check you're
15 specifically referring to? They have CEMs.

16 MS. WITTNEBEN: The question of surprise visits
17 came out and didn't seem to be there, one, because there
18 wasn't any need to. You know, the health department, they
19 pull surprise visits on places where I eat. Why don't you
20 monitor them more frequently than once a year?

21 MR. ROSS: I would say, maybe Chris can follow
22 up on this a little bit, I would say this particular
23 source has one of the most state-of-the-art monitoring
24 systems available today on it in that they have continuous

1 emission monitors on each of their stacks I believe.

2 MS. WITTNEBEN: Are they connected to your
3 building in some way so that you can see what's coming out
4 of them, or is it -- How new is it? Is it still a chance
5 that something can go wrong that something hasn't been
6 found yet because it is so new, state-of-the-art? I mean
7 nothing is perfect.

8 MR. ROMAINE: No. The approach for continuous
9 emission monitoring does rely upon the source's conducting
10 their own monitoring. That is necessary at a minimum
11 because of the level of financing that's provided for
12 state agencies to do that monitoring.

13 In addition, for a facility like Reliant
14 given its operating schedule where it does not operate
15 routinely, we are not able to be there every hour when it
16 might operate.

17 MS. WITTNEBEN: All right. But it also means
18 that you don't have to go so often if they do have a
19 limited amount of time so --

20 MR. ROMAINE: The monitoring devices are
21 designed to provide reliable results. They have to be
22 calibrated once a day with a cylinder gas to assure they
23 are providing reasonable results. They have to be checked
24 with a more rigorous test on a quarterly basis, and then

1 there is also a relative accuracy test assessment that has
2 to be conducted every year or two depending on how much
3 the unit operates. That is the accepted approach for
4 doing continuous emission monitoring.

5 If we find a source that has been guilty of
6 malfeasance in the way they conduct in their continuous
7 emission monitoring, it is a serious enforcement matter.
8 At that point --

9 MS. WITTNEBEN: How would you find that if you
10 don't --

11 MR. WITTNEBEN: If you don't make a surprise
12 inspection, you can't check to see if they are calibrating
13 correctly.

14 MR. ROMAINE: I think the USEPA has established
15 this protocol, and it's been accepted at all power plants
16 as an appropriate methodology. We are also not in a
17 position to go up the stacks and conduct independent
18 measurements.

19 MS. WITTNEBEN: Then I don't -- As a citizen,
20 I'm not comfortable with that. I thought you were there
21 to protect me.

22 MR. ROMAINE: Then I guess I don't want to tell
23 you that we are doing that. Our goal is to make sure that
24 the companies keep track of the emissions properly and

1 they perform the necessary monitoring and recordkeeping
2 and demonstrate that they have operated properly. And if
3 they don't, then there is much more severe consequences.

4 MS. WITTNEBEN: That is another question. What
5 is the penalty for having a violation? Are they charged
6 for it, or do they just get a slap on the wrist?

7 MR. ROMAINE: The evaluation has to be made
8 whether it's worth pursuing a financial penalty for the
9 nature of the violation if it's a chronic problem. If
10 they are taking appropriate actions, I don't know if a
11 decision has been made on the most recent exceedances in
12 2002. That process is ongoing with this facility. It
13 would be inappropriate for me to speculate what the
14 outcome would be.

15 I would comment that the issues have been
16 raised with regard to performing continuous emission
17 monitoring as compared to water-fuel reporting. If it's a
18 question of reporting, I would consider it something of a
19 rather trivial nature. I hate to say that. But USEPA has
20 approved use of NOx continuous emission monitoring as a
21 much better approach to evaluate compliance with the New
22 Source Performance Standard. So I don't think there will
23 be any further action taken on that.

24 In terms of the other issues, what Reliant

1 reported to us is that they had one of their smaller
2 turbines that emitted 42 pounds per hour compared to an
3 emission limit of 41 pounds per hour for a period of one
4 hour because the water injection system had malfunctioned
5 slightly. I don't believe that's likely to be pursued.

6 And then they were conducting testing on a
7 unit for three hours. Again, I don't think we have in
8 terms of the circumstances in 2002 a lot; but I don't
9 really want to say more than that.

10 MR. ROSS: I would just like to add that this
11 company by the permit and by regulations is required to
12 submit four monitoring reports a year. That is, we
13 receive a report from them every three months in which
14 they summarize the monitoring done at the site. And in
15 particular, they notify us of any incidences, any
16 deviations from normal monitoring. And those reports are
17 certified for truth and accuracy and signed by a
18 responsible official.

19 MS. WITTNEBEN: By who? By who? Somebody at
20 the IEPA?

21 MR. ROSS: Certified by -- for truth and
22 accuracy by the facility and signed by somebody at the
23 facility.

24 MS. WITTNEBEN: Okay. I've got that paranoia

1 in me.

2 MR. ROSS: I understand. I'm just notifying
3 you. I'm letting you know of the process.

4 MS. WITTNEBEN: Yes.

5 MR. ROSS: And what we get from them. So that
6 we get these reports four times a year, and those are
7 available for public review.

8 MS. WITTNEBEN: Okay.

9 MR. ROSS: But that's how it works is --

10 MS. WITTNEBEN: Maybe just one more question.

11 Since I live so close, can you tell me for
12 certainty that I'm not hurting myself by living so close?
13 Should I move? Would you live there? Is the air that
14 clean?

15 MR. ROMAINE: The question of whether I live
16 there is a rhetorical question. In terms of whether the
17 air is clean or not, we do continuous or ambient
18 monitoring that gives information on air quality levels at
19 various locations throughout the state. Based on the
20 information in this, there is nothing to suggest that the
21 air quality in that area is significantly different than
22 other comparable areas of the state.

23 MS. VOITEK: Where did you take the ambient air
24 quality samples?

1 MR. ROMAINE: Well, now, I guess the other piece
2 of information is that as part of the original
3 construction permit there was modeling performed to
4 address the impacts of this facility and other new
5 facilities. And those did not show substantial changes in
6 air quality levels in the area.

7 MS. WITTNEBEN: Substantial but there was some
8 changes?

9 MR. ROMAINE: Certainly. But those changes
10 don't I guess -- I will have to go down to numbers and
11 putting information on it. In terms of nitrogen oxides,
12 the ambient air quality standard is 100 micrograms per
13 cubic meters. Is that right or is it hundreds parts per
14 million? Hundred micrograms per cubic meter I think.

15 Based on other comparable monitoring
16 stations in the state, ambient levels are about
17 40 micrograms per cubic meter, so they are about
18 40 percent. And this plant based on modeling at the
19 maximum permitted emissions did not have a significant
20 impact except for a very small area immediately to the
21 north of the facility.

22 So in other locations the air quality is
23 essentially the same as it is now as it was before the
24 plant was built.

1 MR. KUSH: Just a comment. Those ambient levels
2 that he's talking about were judged by -- to be protective
3 of public health and welfare. So if you are under those
4 what are called national ambient air quality standards,
5 that's a -- that's the judgment that the government makes
6 that the operation of the facility at the maximum
7 permitted emission levels will be --

8 MR. ROMAINE: Right. Just to follow up on --

9 MS. WITTNEBEN: Let me finish my thought. You
10 said north of the facility?

11 MR. ROMAINE: That's correct.

12 MS. WITTNEBEN: Could you repeat that again?
13 What was north of the facility?

14 MR. ROMAINE: There was a small area where the
15 impact was slightly more than trivial north of the
16 facility based on modeling.

17 MS. WITTNEBEN: Why would that be?

18 MS. VOITEK: Right by Steve Berning's property?

19 MS. WITTNEBEN: Burcos?

20 MS. VOITEK: No, Berning. Steve Beuring, those
21 two little houses were right --

22 MR. KUSH: What you said was that was a --
23 something that was a measurable increase but yet still
24 below the ambient air quality standards as you said.

1 MR. ROMAINE: Well below.

2 MR. KUSH: As you said at the levels to protect
3 the health and welfare.

4 MR. WITTNEBEN: From the model or from the
5 actual measurement?

6 MR. ROMAINE: That was a combination of
7 representative actual measurements and the modeling for
8 the facility because it hadn't been built yet.

9 MS. WITTNEBEN: Why was it to the north? I'm
10 just curious. Why did it happen to the north?

11 MR. ROMAINE: Due to the nature of stacks,
12 prevailing winds, meteorology.

13 MS. WITTNEBEN: Okay. So --

14 MR. ROMAINE: Location of property lines maybe
15 are close to the north.

16 MS. WITTNEBEN: Okay. So the winds are going to
17 be coming from the north, then more emissions may come my
18 way. And if they are monitoring on that moment, then
19 there might be some slight deviations and they might
20 exceed that then?

21 MR. WITTNEBEN: They monitor before, put it
22 through a model, and don't monitor after, is what I just
23 heard.

24 MR. ROMAINE: That's correct.

1 MS. WITTNEBEN: Wow.

2 MR. ROMAINE: I guess to follow up on that the
3 modeling is a worst case evaluation because it is
4 evaluating the facility under the permitted emission
5 rates, not under the actual emission rates.

6 MS. WITTNEBEN: Okay. One final question. What
7 if the permit isn't approved? What happens? Do they go
8 out of business?

9 MR. ROSS: Well, if we fail to issue an
10 operating permit for the facility, then if they continue
11 to operate, they would be in violation.

12 MS. WITTNEBEN: Okay. Thank you.

13 HEARING OFFICER JAGIELLO: John Kush. Mr. Kush,
14 I know you have spoken so --

15 MR. KUSH: Yes, that was, I just checked that to
16 cover myself at the start.

17 HEARING OFFICER JAGIELLO: Now, I have a card
18 for a Ron, there is a Ron Bedard and a Ronald Bedard.

19 MR. BEDARD: Yes. That's a duplicate. Same
20 person.

21 FEMALE VOICE: There are two of them.

22 MR. BEDARD: She put my name for me on her way
23 in, and they grabbed me -- Bruce got me on my way in.

24 HEARING OFFICER JAGIELLO: I thought maybe there

1 were two because there is two different addresses on
2 these, so I'm not sure.

3 MS. VOITEK: I wasn't sure where he lived.

4 MR. BEDARD: I don't have two families.

5 HEARING OFFICER JAGIELLO: If you would please
6 stand up front so the reporter can hear you.

7 MR. BEDARD: My name is Ron Bedard. I guess my
8 questions will be on the technical aspect of things. I do
9 work in the air section or air sector, but I am here
10 tonight as a private citizen. I live in Aurora and I'm
11 interested in this plant. Usually I'm on the side of
12 trying -- of asking for permits from the Agency, not
13 commenting on someone else's permit. But that shouldn't
14 stop me from being interested in it as a private citizen.

15 Over the years that I have been dealing
16 with the Illinois EPA, I must tell you I have noticed a
17 significant, significant improvement in their coherence.
18 As a team, they have seemed to grow and come together and
19 gel over the past five years. And from the standpoint of
20 people trying to obtain permits, it's much easier to deal
21 with them, much more satisfying to deal with them now than
22 it was five years ago. So my congratulations to whoever
23 is bringing the team together. I think they are doing a
24 good job.

1 I will add my comments, though, to the
2 process of making permits. I came in just a little late.
3 I assume after this draft permit and you digest all of the
4 comments we are making, there will be a proposed permit?

5 MR. ROSS: Correct.

6 MR. BEDARD: So that there will be an
7 opportunity for these comments to be incorporated into it
8 in a formal way?

9 MR. ROSS: That's correct.

10 MR. BEDARD: I think that's great, because I,
11 too, was sad to see what I -- what looked like sacrificing
12 the public input for the expediency of having to get all
13 of these permits issued. I guess they were supposed to
14 have all been done five years ago. But one thing and
15 another, and now you hope to have them all done by the end
16 of next year?

17 MR. CASHMAN: This year.

18 MR. BEDARD: This year. Okay. On to a couple
19 of questions. I did try to get some of the compliance
20 certification testing from the Agency, I submitted a FOIA
21 request. And a concern was I was told I could not have
22 all the documents because there were too many. And I
23 thought that -- I mean I understand the time constraints,
24 but I thought that a rather trivial excuse for not being

1 able to get the documents.

2 From the documents that I did get -- Here
3 they are. I was able to determine that Unit 1, 4, 6, 9,
4 and 10 have had their certification testing completed.

5 And how about Units 2 and 5? Are they going to be done?

6 MR. MASON: They have all been tested.

7 MR. BEDARD: I'm sorry?

8 MR. MASON: They have all been. Units 1 through
9 10, they have all been tested.

10 MR. ROMAINE: I guess I need to interrupt.
11 When you say certification, what are you referring to,
12 Mr. Bedard?

13 MR. BEDARD: CEMs certification testing.

14 MR. MASON: Yes.

15 MR. BEDARD: So they have all have been done?

16 MR. ROMAINE: Yes.

17 MR. BEDARD: The other thing I found difficult
18 is in the construction permit and the operating permit
19 there are several limits, okay, expressed for pounds of
20 NOx and pounds per hour. And I found it impossible to
21 calculate what the real limit should be. I know there are
22 limits expressed in tons per year, but there were formulas
23 given for the standards.

24 I guess the way you calculate how much NOx

1 you emit in pounds is you take a stack test, and you know
2 what the concentration is, you know what the volume is, so
3 you calculate your pounds of NO_x through that.

4 MR. MASON: Fuel formula.

5 MR. BEDARD: The fuel formula?

6 MR. ROMAINE: No, that's not correct.

7 MR. BEDARD: That's not correct. How do they do
8 it?

9 MR. ROMAINE: There is a continuous emission
10 monitor in the stack that takes ppm readings of the
11 concentration of NO_x in the exhaust.

12 MR. BEDARD: Uh-huh. And then what?

13 MR. ROMAINE: Then those values are converted to
14 parts per million or expressed in parts per million.
15 There is a methodology in the monitors that uses
16 information on fuel flow, and something that's called an
17 F factor to convert that into an hourly emission rate.

18 MR. BEDARD: When I look --

19 MR. ROMAINE: That calculation is performed on
20 an hourly basis by the continuous emission monitor.

21 MR. BEDARD: When I look at the formula for
22 calculating the F factors, okay, I didn't find -- I found
23 enough information to calculate a maximum F factor, but I
24 didn't find enough information to calculate what the

1 factor should be as they are kind of running along every
2 day. Is that possible to put enough information in a
3 permit so that the average citizen can look at it and get
4 some idea of what the limits should be?

5 MR. ROMAINÉ: I don't understand why the limit
6 would change.

7 MR. BEDARD: Well, the limit is based on, let
8 me -- The limit is based on the manufacturers' rated heat
9 rate at the manufacturers' rated load. Is that a
10 constant, or does that change with the load?

11 MR. ROMAINÉ: I guess then we are getting into,
12 what you are specifically referring to is the compliance
13 with the New Source Performance Standard.

14 MR. BEDARD: Okay.

15 MR. ROMAINÉ: And the limit of the New Source
16 Performance Standard is something on the order of 75 ppm
17 NOx, a little bit higher than that, where these turbines
18 are required because of limitations in the construction
19 permit to operate at substantially below that number.

20 MR. BEDARD: Okay. That's good to know, but
21 it's difficult to find as you read through the permit.

22 MR. ROMAINÉ: Right. It is not necessary to
23 perform the compliance calculation to determine compliance
24 within NSPS within an hour-by-hour basis.

1 MR. BEDARD: Okay. And my final question is
2 they -- These performance reports, okay, these are going
3 to be used -- Are the performance reports going to be
4 used to determine compliance?

5 MR. ROMAINE: I guess what do you mean by that?

6 MR. BEDARD: Well, at the end of the year, you
7 are going to have to determine whether they have been in
8 compliance or somebody is going to have to determine
9 whether they are in compliance with the permit limits.

10 MR. BEDARD: What's the process for doing that?
11 Regardless of who compiles the numbers, what's the process
12 for doing that? Is it not to take their continuous
13 emission monitoring data and convert it to tons of NOx and
14 tons of carbon monoxide?

15 MR. CASHMAN: Actually they are doing that on a
16 daily basis, not just on an annual basis. They are doing
17 that on a daily basis to show compliance to that annual
18 limit.

19 MR. BEDARD: And for the citizens who are also
20 trying to enforce this permit, how do we -- What's our
21 access to the data? A FOIA request?

22 MR. ROMAINE: Certainly a FOIA request is one
23 means. Some of this emission data is available on the
24 USEPA's Acid Rain Web site. We are in the process of

1 developing an expanded computerized system that would make
2 more of the emission data and compliance information
3 available directly on our Web site without the need to go
4 through the Freedom of Information Act process but that
5 effort is still ongoing.

6 MR. BEDARD: But that's on the come?

7 MR. ROMAINE: Yes.

8 MR. BEDARD: So when they start up in the
9 spring, how would the average citizen get the data that
10 shows whether or not they are in compliance?

11 MR. CASHMAN: I think you would need to go
12 through the Freedom of Information Act.

13 MR. BEDARD: And I already told you my
14 suspicions of the FOIA request. Suppose we are told we
15 can't have that because there are too many pages, now what
16 do we do?

17 MR. ROMAINE: Do you have a copy of the test
18 report?

19 MR. CASHMAN: There is one. Do you want to give
20 him that?

21 MR. ROMAINE: The problem with the Freedom of
22 Information Act request is you have to be cautious in the
23 way you phrase it. If you asked for the copies of test
24 reports, I assume they were happy to give them to you.

1 But once you go above a certain number of pages, then we
2 have to charge you for the effort. This is one test
3 report for two units. So you are talking about several
4 inches of copying, and that is not something that we have
5 the resources to make available to every member of the
6 public.

7 MR. CASHMAN: That's exactly what they do. They
8 take a ruler out and measure the inches. And if it's over
9 so many inches, then they notify you that they won't be
10 able to send it to you due to cost constraints or resource
11 constraints; but you still have the opportunity to come
12 down and view these, make copies.

13 As Chris states, one way to get around this
14 measuring of the inches is maybe to ask for the results
15 page of these tests instead of all the data that, you
16 know, accompanies these things. The conclusions like he's
17 got the results page right there.

18 MR. ROMAINE: (Indicating.)

19 MR. ROSS: So if you just specifically ask for
20 those, then they would be able to copy those and send them
21 to you no problem.

22 MR. BEDARD: Okay.

23 MR. ROSS: And just one aside I want to make
24 about the FOIA unit is I have recently met with them and

1 we will be, in an effort to serve everyone better, we are
2 developing a FOIA request form. And we will be putting
3 this on our Web site and also we will be able to fax it or
4 mail out to anyone. That's coming soon. I would say
5 within anywhere from four to six weeks that will show up
6 on our Web site.

7 And we will also have additional
8 information on our Web site and available regarding our
9 FOIA process. We are developing a frequently asked
10 questions sheet on the FOIA process along -- and in that
11 sheet I've specifically asked them to address cost
12 constraints and how to get around those such as
13 specifically asking for portions of documents rather than
14 entire documents.

15 MR. BEDARD: Well, sometimes you will find
16 citizens groups willing to -- willing to pay the fee.

17 MR. ROSS: Yes.

18 MR. BEDARD: If it were offered.

19 MR. ROSS: Well, I'm not sure what they said to
20 you.

21 MR. BEDARD: They said I couldn't have them
22 period.

23 MR. ROSS: And that's probably improper. Well,
24 I'm sure that's improper.

1 But one thing these new steps we are taking
2 will do is help clarify the process to everyone, and you
3 will know your rights better so that you will be able to
4 argue with whoever told you that. You could just simply
5 refer them to these documents and say, "It says right
6 there I can have this." So it would be informative and
7 useful to you as well as informative and useful to them,
8 just the boundaries that they need to comply by.

9 And again, these documents should show up
10 on our Internet site and be available upon your request
11 within four to six weeks. This is a concerted effort we
12 are making in order to serve everyone better since we have
13 noticed an increase in FOIA requests.

14 MR. BEDARD: Since they are going to publish
15 them, your results on their Web site, have you thought to
16 make any provision for people to motor over to your place
17 and have a selected set of this data in the visitor's
18 lounge or something like that available?

19 MR. MASON: No, sir, I have not.

20 MR. BEDARD: Would you?

21 MR. WITTNEBEN: I don't think that you want
22 people on the property.

23 MR. BEDARD: I'm just saying would you consider
24 it.

1 MR. MASON: I do not have the means and people
2 available to make that service or provide that service. I
3 would be hesitant to do that, not for fear of anybody --
4 of what you may find, but just in the process of having
5 that documentation out in a manner that you can come
6 through and have sitting there as a costly -- which is a
7 costly effort just as like with the IEPA. So to my
8 knowledge, I don't think we have done that anywhere.

9 MR. KUSH: Again, there are places, you know,
10 this is public information. And it's available from the
11 Agency. And some of the information is available on the
12 Acid Rain data base Web site, and it comes in quarterly
13 periods.

14 MR. BEDARD: You submit this data to the EPA
15 every quarter, is that --

16 MR. KUSH: Well, we submit the monitoring data
17 to the USEPA quarterly. We do that electronically. We do
18 submit excess emission and monitor downtime reports to the
19 IEPA quarterly, which doesn't show you all of the
20 information. It shows you periods of what you may call
21 deviations or periods when the monitors weren't working,
22 periods where we were in -- where we were above our
23 permitted emission levels. And that's as well as the
24 initial tests that I believe you obtained a copy of some.

1 MR. BEDARD: I have some, some summaries here.

2 MR. MASON: I would defer this to the Agency
3 that we have to report our results to.

4 MR. BEDARD: And that's all I have.

5 MR. ROMAINE: Mr. Goff, Mark Goff.

6 MR. GOFF: Mark Goff, and I'm a resident of
7 Warrentville. Actually, again, thank you for having this
8 hearing. Obviously, I wish some of the -- more of the
9 members of the Aurora municipality would obviously be here
10 since they are the ones that basically put this upon us.

11 It's kind of curious. My question -- One
12 of the questions is why isn't some of the council members
13 or city representatives here from Aurora since the
14 property resides in Aurora? And Aurora is the one
15 zoningwise and everything else that permitted this here.
16 So I'm obviously asking, has anybody been invited by the
17 City of Aurora to even be represented?

18 MR. FROST: Yes. We do notify the city that
19 it's located in and typically --

20 MR. GOFF: Can you move up because --

21 MR. FROST: Yes.

22 MR. GOFF: Are you afraid of the public here?
23 Or I don't understand.

24 MR. FROST: No. I just --

1 MR. GOFF: I can't hear you over there.

2 MR. FROST: I was working the registration
3 table, and I don't want to --

4 MR. GOFF: Okay.

5 MR. FROST: Typically we notify the city it's
6 located in and the municipalities within three miles
7 around is our typical practice. It is a state government
8 hearing. We cannot force any local municipalities to
9 attend our hearings. We can invite them but, you know,
10 that's up to them to determine whether or not -- Just as
11 it's up to you guys to determine whether or not it's worth
12 your time to come here.

13 MR. GOFF: And, obviously, this is a legally
14 held meeting. So as far as making statements that people
15 have been invited can be backed up by the EPA, is that a
16 true statement in some manner?

17 MR. FROST: Oh, yes.

18 MR. GOFF: A list that may be provided to like
19 Warrenville or whatever?

20 MR. FROST: Yes. I certainly can provide you
21 with a list of everyone.

22 MR. GOFF: I really would like to see that one.

23 Along with the public notice type stuff,
24 again with the Aurora City Council, I just thought that

1 they are so proud of this that they would like to be here
2 for this.

3 The other thing, too, is when we did the
4 original powwow or the pony show that happened, obviously,
5 there was a sign-up sheet. I know numerous residents on
6 my street signed up and actually participated in the
7 meeting. I'm the only one on the street that got it, so
8 I'm boggled to how that even happened. There is a
9 videotape, if anybody is interested, so you can see the
10 number of people that were there, obviously, the comments
11 were made, and the whole ball of wax to really get a true
12 lay of the land. But we all know that the people that
13 were here come and go, and the EPA, with Reliant,
14 whatever, so unless this stuff is put in writing, you
15 really don't have too much to stand on.

16 The other question I had was on the public
17 notice as far as the newspapers in the area. Obviously,
18 we have numerous newspapers. I personally do not get the
19 Aurora papers. I do have a neighbor that gives me the
20 Post and Press. I can assure you that the -- there was no
21 representation in any of those two papers regarding this
22 meeting.

23 MR. FROST: The newspaper that we published in
24 was the Aurora Beacon or Beacon News.

1 MR. GOFF: But you just made a comment that it's
2 a three or five mile radius of the plant.

3 MR. FROST: I said that's our direct mailing
4 notification. We directly mail a notification to the
5 mayor and clerk -- our typical -- typically what we do is
6 directly mail out to the mayor and clerk because you can
7 get that that information easily, and that's what's
8 required under the law, to municipalities within a three-
9 mile radius.

10 Then we put it in a newspaper of general
11 circulation for the area, in this area, we -- and we go
12 through a press -- the Illinois Press Association. We use
13 their book to determine that. The largest newspaper and
14 the daily newspaper in this area is the Aurora Beacon
15 News. And that's the city that this facility is located
16 in. So we don't have the resources to put the notice in
17 every newspaper that anyone who is -- or for that matter
18 to put it in into the Sun-Times or the Tribune. And you
19 know that's just one limitation we have. There is only so
20 many resources that the state has.

21 MR. GOFF: Do these guys when they file a
22 permit, do they incur any costs upon filing? I mean paid
23 to the government agency.

24 MR. FROST: They have permit fees that they have

1 to pay annually.

2 MR. GOFF: Can you rough them out what that
3 might be?

4 MR. ROSS: They have an annual --

5 MS. OWEN: I think it's \$3900.

6 MR. ROSS: \$3900.

7 MR. GOFF: Wouldn't there be enough in there to
8 take out an ad in a couple additional papers besides just
9 one? It's a unique property because it sits on the border
10 of two, really almost three municipalities. Okay? So we
11 keep coming back to the Aurora thing.

12 MR. FROST: Our notice procedure, the actual
13 notice procedures only require us to notify the clerk and
14 the mayor of the city that the facility is located in.

15 MR. GOFF: Got it.

16 MR. FROST: We as a standard procedure notify
17 surrounding communities because that is a concern not just
18 in this location, it's not an uncommon concern. It's a
19 common concern that cities tend to locate their commercial
20 and business districts away from their residents and maybe
21 close to the next town's residents.

22 MR. GOFF: Put your trash on the out limits,
23 right. Got it.

24 And again, just on that public notice, I

1 can tell you during one of the city council meetings a
2 member did make a physical statement -- actually I think
3 it was a zoning board meeting, that they requested some
4 additional information or initial information from the
5 peaker plant and was told no period. There was no
6 information gathered at all. So I can't say that as a
7 fact. I just saw it on a public videotaped meeting.

8 I think all of this stuff is, obviously,
9 appropriate. I mean one of the things that kind of caught
10 me funny just a minute ago, the EPA is responsible for
11 trees, the environment, and the whole ball of wax; right?
12 Is that a true statement or am I misunderstood on that?
13 Are trees part of the issue, EPA?

14 MR. ROMAINE: A --

15 MR. GOFF: All right. I will save you some time
16 where I'm going to go with this. You make a deal that,
17 obviously, you have to file a form, you have to submit a
18 form, put it in an envelope, all this other shit. Do you
19 guys understand what electronic media is all about? And I
20 basically challenge you to tell me that that report wasn't
21 generated, most likely 100 percent electronically, and
22 either e-mailed to you or they have backup information on
23 this stuff as far as their documentation and everything
24 else. Why can't these documents easily be put up on the

1 Web site where we are not getting your tree-killing two-
2 and three-inch binders, have it available so the public
3 can see it? You talk about the public is policing it.
4 Make it readily available to the public in a proactive,
5 not a reactive, mode. That's all.

6 MR. FROST: The documents that the Agency
7 generates are put up on the Web site. I can give you that
8 Web site at the break. It's easy enough.

9 MR. GOFF: Why couldn't the gentleman get his
10 documents?

11 MR. FROST: And as Chris explained before, other
12 reporting that the Agency -- The Agency is currently in
13 development of -- to put a lot more information up on our
14 Web site. And really, I think that we -- that the state
15 of Illinois in general -- not the Illinois EPA but the
16 state of Illinois in general is more forward in electronic
17 documentation than many other states.

18 MR. GOFF: I don't live there, so I only care
19 about here where I'm at right now.

20 MR. FROST: I understand that.

21 MR. GOFF: Aurora only cares about their
22 property and, obviously, not the adjacent property. So I
23 understand what you are saying.

24 MR. FROST: We are putting our draft permit

1 documents, our draft permits up on the Web site.

2 MR. GOFF: Okay. Wish you luck.

3 We were told, obviously, when the initial
4 pony show with the Reliant sales guy, and his lips were
5 moving at all times, basically came up and said that the
6 site is totally a high-tech site, state-of-the-art
7 measuring equipment and everything else. Coming from an
8 electronic world, I find it hard to believe if Reliant
9 was, quote, the good neighbor policy, wanting to get
10 information out, nothing to hide, no stealth mode, they
11 can easily put these, as he referred to, these daily
12 readings, could easily be put on an interactive Web site
13 that would be available to the public so the public could
14 dial it up at any time and do the Homer routine at home
15 and basically see the little gauges to know where
16 everybody is at.

17 The other thing, too, that would also
18 answer the question whether the plant is on line or not so
19 people don't have to make phone calls, look at the Web,
20 either the "we are open for business" or "we are closed
21 for business right now." I think those are very easy
22 implementation practices that would not cost anybody any
23 big bucks and yet very capable of getting the information
24 out to the general public. I put that in your suggestion

1 box, if that's -- It wasn't formed as a question, but
2 that's a suggestion.

3 MR. FROST: That's certainly something you can
4 address with the company, but that's not under the
5 authority of the EPA. I mean that's -- What you are
6 stating is there are suggestions for the company. And
7 anything that they had suggested to you at previous
8 meetings coming from them is not stuff that we are --

9 MR. GOFF: No. All I'm saying is all I want to
10 do is clarify it's a high tech site, so we are not back to
11 chisel and tablets.

12 MR. FROST: All I'm saying is we never made that
13 statement, the Illinois EPA.

14 MR. GOFF: Okay. Then let's come back to the
15 EPA side of things. Obviously, this is for the purpose of
16 the government agency to police it and also for the
17 general public to have some activity into policing it. We
18 have already gone through a couple steps where it's so
19 hard to get information, you have to fill out a form, kill
20 a tree, we will mail it to you, and you may have to pay
21 for some of that. Okay?

22 All we are stating is some of the stuff
23 could, obviously, be done electrically, electronically.
24 And whether they give you the sensory information, we all

1 know that everybody is scaling down, especially the
2 government. I would think a computer could, obviously,
3 pick up this data from these remote sites, go down to your
4 central facility, wherever your data center is, and
5 obviously you can strategically status monitor all these
6 facilities remotely anywhere in the world. The technology
7 is there, guys. So it's not a big deal.

8 And then obviously to provide that same
9 information out to the general public through the EPA
10 portal. It doesn't have to come out of these guys
11 directly.

12 MR. FROST: As --

13 MR. GOFF: Yes.

14 MR. FROST: As Chris mentioned before, we are
15 working on it.

16 MR. GOFF: But quarterly, I mean, the horses are
17 already out of the barn, you know, quarterly.

18 MR. GOEBEL: It's after the fact.

19 MR. GOFF: Again on the tree stuff and again
20 this is probably, obviously, more of a Reliant thing.
21 Again, coming back to the pony show that was given and the
22 nice pictures that were shown of the environment, the
23 trees. By the way, we haven't seen seagulls since you
24 guys have gone in. So the seagulls that were on the

1 photographs, they are not there yet. But anyhow, there
2 was also the other thing, too, about the soccer fields.
3 Where were they planning on putting these soccer fields?
4 And I can tell you looking at the property, it would look
5 to me that it would be placed on the north side where you
6 guys just talked about there is an extra high or some
7 other circumstance that those readings are off the scale
8 or beyond the scale or whatever compared to the other
9 points of interest on the property.

10 MR. ROMAINÉ: First of all, we never said any
11 readings were off the scale. All we said is they were
12 more than trivial.

13 MR. GOFF: Okay.

14 MR. ROMAINÉ: And I think --

15 MR. GOFF: A hand grenade is trivial for me.

16 MR. ROMAINÉ: The soccer fields are not on the
17 north side of the plant, they are on the west side of the
18 plant.

19 MR. GOFF: They are not there period.

20 MR. ROMAINÉ: What is the status of the park
21 development?

22 MR. MASON: The soccer fields are complete.
23 There is two man-size soccer fields. The grass is -- The
24 park service wants to let them mature one more year. We

1 provided a parking area for them. As you enter our plant
2 road, you look to the right. There is a large parking
3 area. Further to the right is two -- is a somewhat flat
4 area with slope is for two soccer fields. It has been
5 turned over, released to Aurora park service. Next year
6 they start mowing it or this year I should say.

7 MR. GOFF: All right. I fly over the area and I
8 tell you what --

9 MR. MASON: If you look to the side of --

10 MR. GOFF: I know exactly where you are talking
11 about.

12 MR. MASON: Those are two areas destined for two
13 man soccer fields.

14 MR. GOFF: They need some additional work.

15 I guess that's basically it. I'm just,
16 obviously, disappointed in the EPA's proactiveness in the
17 way I hear it as far as letting their own property manager
18 monitor and turn in only the reports that they feel would
19 be appropriate to you based upon, quote, the rules. They
20 could obviously be skewed. I would, obviously, be curious
21 to the comment of who certifies these reports, hope it's
22 not Arthur Anderson or something like that. And I don't
23 know. Thanks.

24 HEARING OFFICER JAGIELLO: Mr. Stull,

1 Christopher Stull.

2 MR. STULL: Thank you. I can stand or I have
3 been told I have a fairly loud mouth and most people can
4 hear me from where I'm sitting. My name is Christopher
5 Stull. I'm one of the alderman from the City of
6 Warrenville. The Warrenville city council voted and
7 appointed Alderman Mark Lamberg who sits behind me to come
8 to this meeting to give to the IEPA the official position
9 from the City of Warrenville relative to the issue of the
10 CAAPP permit. The location of where this property sits is
11 at a confluence of three communities, because you have
12 Naperville, Aurora, and Warrenville all in one spot. Once
13 Warrenville found out about the hearing, and I do
14 apologize to anyone that may take offense, we stumbled on
15 it by accident, a resident found it in an Aurora
16 newspaper, called Mayor Vivian Lund and said, "Were you
17 aware there is a hearing?"

18 She said, no. She put it in my inbox. I
19 made the announcement to the City of Warrenville over our
20 public access television channel, that's how we found out.
21 We assumed we were not notified directly because the plant
22 is in Aurora technically. So I called Scott McCleary,
23 legal counsel for the City of Aurora, to ask him if he
24 would be at this hearing. His answer to me is "What are

1 you talking about?" Aurora is not here because Aurora did
2 not know. This a regular meeting night for the Aurora
3 city council. That's why no one is here.

4 I did not call the City of Naperville
5 because I have never had any experience in the past with
6 the Naperville city council being involved directly with
7 this area. The attitude of Naperville has been if it's
8 north of the tollway you are pretty much on your own.

9 The City of Warrenville is not taking a
10 position opposed to either Reliant or the IEPA. Our
11 official city position is that we wish to work with both
12 of you. So we have several offers to make to the two of
13 you. One of the offers that we wish to make to both
14 Reliant and the IEPA, and I hope you would take it
15 seriously, would address some of the concerns that the
16 residents have addressed here tonight.

17 One of the problems that I have heard in
18 the past two and a half hours is we cannot get
19 information. We must submit a FOIA request. We must be
20 specific or our request is going to be denied until we
21 narrow it down. Pardon me for using common sense; but if
22 someone doesn't know what they are looking for, how can
23 they specifically tailor the request? My suggestion is
24 this: A hard copy of whatever report is generated either

1 to or by the IEPA can be deposited at the City of
2 Warrenville in our city hall. We will make it available
3 for public inspection during normal business hours to any
4 resident of any town that wishes to come in to our city
5 hall.

6 Someone on the table, and I'm sorry I don't
7 remember which gentleman it was, suggested that a form was
8 being prepared to assist people in preparing a FOIA
9 request. Give us that form. We will keep it with the
10 hard copy. We will not provide copying services. I'm
11 sorry, we are a small town. We can't do that. But you
12 can at least look at the hard copy of the report, note the
13 section, note the pages you want, have the form there
14 available for the FOIA, and fill it out on the spot.
15 That way you have some chance of getting exactly what you
16 are looking for, and your request is much less likely to
17 be denied because it's overbroad. That to me makes sense.
18 That is one thing the Warrenville city council is offering
19 to the IEPA and to Reliant.

20 Obviously, the concerns of the City of
21 Warrenville are three-fold: Number one, lighting; number
22 two, sound; and number three, particulate air pollution.
23 It's my understanding that this CAAPP permit only
24 addresses the question of particulate air pollution, is

1 that correct?

2 MR. ROSS: No.

3 MR. CASHMAN: No.

4 HEARING OFFICER JAGIELLO: What else does it
5 cover?

6 MR. ROSS: All criteria pollutants.

7 MR. STULL: Does that include also the sound and
8 the light?

9 MR. ROSS: No.

10 MR. CASHMAN: No.

11 MR. STULL: Then as far as we are concerned --
12 and pardon our lack of technical knowledge, we don't have
13 the experience you do -- this is just for what we would
14 call air pollution, whether we are being technically
15 correct or not?

16 MR. ROSS: Correct.

17 MR. STULL: That being the case, the interest of
18 the City of Warrenville is not to act as a enforcer, it is
19 not to act as any kind of opponent or advocate for anyone.
20 What we see our role as is providing information,
21 information that you have that our citizens want. We are
22 willing to help you do this.

23 We make the same offer to Reliant. We want
24 to work with you. We are not opposed to you. So if you

1 have information and data that is public information and
2 public data, rather than having people contact you
3 directly, if you wish to deposit that information at the
4 Warrenville city hall, we will make that available to the
5 citizens who are looking for it.

6 The reason we are making this offer is
7 because of our lack of technical background and skill. We
8 called the weather service. We asked them where does the
9 wind blow. They said generally in our part of the country
10 the wind blows from the west southwest to the
11 east northeast. We looked at a map. It's not very
12 scientific, but the east northeast of the peaker power
13 plant in Aurora is Warrenville. Almost all of any
14 particulate matter that's going to fall is going to fall
15 in Warrenville, almost all of it. That's why we are
16 willing to make this offer even though this plant is not
17 technically in Warrenville. Aurora managed to site it in
18 a location where they won't feel any of the negative
19 effects.

20 One of the other concerns that Warrenville
21 has is this, and this is not directed to the IEPA, this is
22 directed to Reliant. We understand -- And I believe
23 Mr. Goff addressed the question of soccer fields that
24 Reliant has built. And if I'm understanding correctly,

1 those were turned over to the Aurora Park authority. We
2 understand that that had to be done because there are
3 underlying boundaries in districts that require land
4 that's dedicated to go to the underlying area. One thing
5 we would ask if it is possible, and we don't know if this
6 is, would it be possible to have some type of agreement
7 where those fields would also be utilized by the
8 Warrenville Park District. Since it's our kids and
9 families that will feel the primary effects of this plant,
10 at the very least we will have a field we can play soccer
11 on. Aurora is getting the benefit of your fields yet few,
12 if any, of their people are feeling the negative effects
13 of their operation.

14 Now, obviously, Warrenville would wish that
15 the plant had never been there. But it is there, we
16 realize that's reality. We also realize that you can have
17 all the monitoring in the world and the air quality is
18 never going to be the same as it was. We also know that's
19 reality. But what we would like to do is be able to keep
20 a handle on the reports that are generated. Now, what we
21 don't know, and what I'm asking you, is specifically what
22 kind of reports do you receive? Do you receive them
23 quarterly? Do you receive them semiannually, or do you
24 receive them annually? How do you receive reports on air

1 quality from Reliant?

2 MR. ROSS: We receive many reports from Reliant.
3 They are required to submit quarterly reports regarding
4 their monitors. They are required to submit semiannual
5 reports. They are required to submit annual compliance
6 certifications. They are required to submit an annual
7 emissions report. They are required to submit a report on
8 all deviations. So they have many, many reporting
9 requirements; and we receive a lot of documents from
10 Reliant.

11 MR. STULL: I assume that some of those
12 documents are by their very nature redundant?

13 MR. ROSS: Yes.

14 MR. STULL: Is there some way that the IEPA
15 could make a determination as to which documents would
16 greatly assist the public in getting the answers to some
17 of their basic questions and have those documents sent or
18 at least a copy of them sent to the Warrenville City Hall
19 to cut down the number of requests that you would receive?
20 Because if they can come to us and get copies of those
21 reports and see them, I think that's going to make your
22 lives easier. And it's going to give them a much greater,
23 more broad access to complete information. And if it is
24 public information, I don't see the down side to doing

1 this unless the IEPA is not in a position to say that they
2 can send a copy of the reports to us as a municipality.

3 MR. ROSS: We can look into doing that. The
4 typical procedure is to have anyone who wants a copy of
5 documents to FOIA them. So in order for us to send these
6 documents directly to you as you are requesting, we would
7 have to make some kind of exception to that procedure
8 requirement. And I'm not sure of our ability to do that.
9 I would need to go back and discuss the legal requirements
10 there, the resources we have available and whatnot.

11 So I don't think I'm prepared to give you
12 an answer to that here tonight, but we can go back and
13 look at that and discuss it.

14 MR. STULL: This may be something the lawyers
15 have to resolve. All I would ask is if that is something
16 that you could consider asking whoever you need to ask to
17 contact our city's legal department and maybe perhaps we
18 can have a perpetual standing FOIA. Maybe we can
19 automatically send you a FOIA every 30 days if that's what
20 you wish. However we can structure it so that we can have
21 that data appropriate at our city hall. I think it would
22 vastly cut down on the number of public requests you are
23 going to receive. It's going to save staff time for you.
24 It's certainly going to save the people of the State of

1 Illinois taxpayer dollars because you are making a lot
2 less copies. And I think that's a better way to get
3 information to the people, and we are willing to go
4 through this.

5 MR. ROSS: I'm not saying this to be trite, but
6 I think it would help us if you would submit something, a
7 proposal in writing to us, that we could take forward and
8 discuss with the appropriate people that we have this
9 request from Warrenville that we forward this information
10 like you are saying, a perpetual FOIA request, and so that
11 I can have that in my hand and say, "Here's what's been
12 requested, let's discuss."

13 MR. STULL: And on the card that I have filled
14 out I have given the city that I represent and my address,
15 I believe. And if you could send the information to me
16 and as to whom we are to direct that request.

17 MR. ROSS: You can direct it to me. I can give
18 you my card.

19 MR. STULL: Great. Perfect. Then we will do
20 so.

21 MR. ROSS: Okay.

22 MR. STULL: And that's really all that I have.
23 I thank you for hearing the position of the City of
24 Warrenville. Unfortunately, Alderman Lamberg and I have

1 to leave. We have another place we have to go. And thank
2 you very much for hearing us this evening.

3 MR. GOEBEL: Thank you. My name is Chris
4 Goebel. I'm a resident of Aurora. One of the things
5 that -- Most of the items have been covered pretty much.
6 I just want to reiterate some things. In summary, we do
7 live in a changed world. And I think that was, you know,
8 alluded to earlier by this gentleman next to me to my
9 right. And what it comes down to is the plant is here,
10 the City of Warrenville just said that. We are here only
11 to discuss air pollution and meeting standards.

12 I have got a question for the director of
13 permits. Is that the correct title?

14 MR. ROSS: Permit section manager, acting
15 actually.

16 MR. GOEBEL: Permit manager, okay. The permits
17 the Title V, why are they five years?

18 MR. ROSS: Why are they issued for five years?

19 MR. GOEBEL: Why such a long time frame? Our
20 cars are only issued for two years. Why are the plants
21 issued for five years?

22 MR. ROSS: Well, the Title V program is a
23 nationwide program, part of the Clean Air Act. And it's
24 mandated in that program that we issue these permits for

1 five years, so the Illinois EPA doesn't have any leeway on
2 the time frame.

3 I believe the thought process there was
4 that they are required to submit annual compliance
5 certifications and all these other reporting requirements
6 that I discussed, so there are periodic checks on
7 compliance and the appropriate reporting to follow up.
8 But just a five year time frame was decided on, hey,
9 that's kind of an appropriate amount of time has passed
10 where the company needs to go back in and do this
11 plant-wide inventory again to make sure everything is
12 accurate that was submitted in the previous application.

13 So it's kind of a time frame that was
14 decided upon by all the stakeholders in this process, the
15 public, the governing bodies, EPA, USEPA, Illinois EPA,
16 the regulated sources, that this was a period in which
17 they would actually go back in, do this plant-wide
18 emissions inventory, and then notify us of any changes
19 that have occurred. And also we would update the permit
20 to include any new regulations, whatnot, that's changed
21 along that line. And so that was just a part of the Clean
22 Air Act amendments and all the discussions that went into
23 those amendments, and that's the period they decided upon.

24 MR. GOEBEL: So then, to forgive my ignorance,

1 as a private citizen, the five-year plan so to speak, is
2 that a -- Are there any changes foreseen down the road
3 that that's going to be a five-year time license, or what
4 is the appropriate term for calling that window from this
5 date to this date in five years? Is there talk about that
6 maybe being reduced?

7 MR. ROSS: No. These permits will be issued
8 given a five permit -- or five-year term for the
9 foreseeable future. That's in the Clean Air Act
10 Amendment. Title V permits are required to be issued for
11 a term of five years.

12 MR. GOEBEL: Well, you have to forgive my
13 ignorance. I'm not a full-time person that monitors this.
14 I'm just a home owner that lives nearby.

15 MR. ROSS: Let me just to make it clear, we
16 don't have the option to issue these things for a shorter
17 period. We can't issue a Title V permit for two years,
18 three years.

19 MR. GOEBEL: Okay. I wasn't questioning that.
20 I was saying was there anything foreseeable that was
21 changing that.

22 MR. ROSS: No. I haven't heard any discussion
23 along those lines.

24 MR. GOEBEL: The next issue about the reports.

1 As it was mentioned earlier in the meeting is that as
2 citizens how does a citizen come up and say, "Well, you
3 know, how do we check the emissions of the plant?" I
4 think it's backwards, you know, to phone a plant and
5 say, "Are you operating," and the security guard answers
6 the phone, "Yes, we are on," you know, and hang up the
7 phone. But I think what we are looking for is we live in
8 a changed world.

9 As the government's responsibility to a
10 citizen, I learned going to high school some 20 some years
11 ago, sitting in the classroom, that it's the government's
12 responsibility to protect the citizen. And it's their
13 responsibility as an individual agency, for example, the
14 EPA, with respect to air pollution. So why can't the EPA
15 proactively rather than reactively respond to and provide
16 information about a large pollution source which is
17 nearby?

18 So maybe that's beyond the scope of this
19 meeting. But I will challenge this to the EPA or the IEPA
20 or national or state or whatever it is, that can't the EPA
21 be some ways more proactive rather than reactive in
22 supplying this information? Like the City of Warrentville
23 representative was mentioning earlier, it just has to go
24 through a whole legal body to generate a simple request to

1 get information and provide it.

2 MR. ROMAINE: Well, I still think the answer is
3 we are being proactive. We are working on developing a
4 program that provides these types of reports to interested
5 people over the Internet. We are doing that as an Agency-
6 wide basis addressing our land programs and our water
7 programs and our public water supply programs and air
8 programs. This is a massive undertaking, but we have
9 started the process.

10 MR. GOEBEL: Well, Chris I would challenge you
11 that in the EPA's opinion or the IEPA's opinion that while
12 that is proactive, in my opinion, it is still reactive
13 because it's the government body just dumping these
14 reports available. It's not something that we can
15 automatically get information on.

16 It was also mentioned, too, earlier is that
17 I would think it would also be in the EPA's best interest
18 is that being aware of, you know, some of the very
19 high-tech controls and electronics that might be available
20 for monitoring the plant, that couldn't the EPA monitor
21 the information coming out and use that as part of
22 their -- instead of having to physically go to the plant
23 and look at the data, they can have the data there
24 available electronically.

1 It would certainly be I think an advantage
2 to a nearby resident if, let's say, some abnormal
3 operating condition happens, that maybe a nearby resident
4 could see via monitoring that, oh, maybe CO emissions have
5 gone way up before the generator is turned off, that maybe
6 that information is somehow provided quarterly, is the
7 horse is already out of the gate. So it's a challenge.
8 I'm challenging this big amorphous government body to
9 somehow rethink how things are being done.

10 MR. ROMAINE: So you don't want us to put this
11 information on the Internet?

12 MR. GOEBEL: Oh, no. We do.

13 MR. ROMAINE: Then we are doing what you wanted.
14 We just --

15 MR. GOEBEL: Not quite. I don't think quite.
16 It's what the city manager mentioned earlier, you have to
17 be able to know exactly how to ask the question in the
18 right way in the specific terms to get the information you
19 are looking for in real time because you got the
20 information in real time, that can be provided in
21 emissions. Can't that be available to nearby residents?

22 Fortunately, I don't live really close or
23 most of the times downwind; but for the benefit of the
24 residents nearby, it would be certainly information that

1 would be well worthwhile. I wouldn't want my kids to be
2 playing at the soccer field on a hot summer day when the
3 plant is operating. No way would I do that even if they
4 are on a soccer team.

5 MR. ROMAINE: I think you are making assumptions
6 about impacts of emission that aren't present. You are
7 assuming that this facility is a large facility. This
8 facility is actually a relatively small source of nitrogen
9 oxide emissions.

10 MR. GOEBEL: I don't think I'm making an
11 assumption that the facility is small. I'm just taking
12 the EPA's designation.

13 MR. ROMAINE: You are make the assumption that
14 it's unsafe to play soccer on the soccer field.

15 MR. GOEBEL: What I'm saying is that the
16 facility is classified as a large polluter, is it not?

17 MR. ROMAINE: It's classified as a large
18 polluter, but it's not a large polluter as large polluters
19 go. And based on its actual emissions, it is not a large
20 polluter.

21 MR. GOEBEL: So it's not a 100-year-old coal-
22 fired plant?

23 MR. ROMAINE: In 2002 its emissions will be less
24 than 100 tons of NOx and CO.

1 MR. ROSS: Perhaps another way to phrase that
2 would be its permitted emissions require it to obtain this
3 Title V permit. Its actual emissions are actually well
4 below the trigger levels that would require it to get a
5 Title V permit. That puts it in perspective.

6 MR. GOEBEL: So when does the permit status,
7 what are the time frames of the permit status as they are
8 coming up? I mean what's the window that the plant has to
9 be approved and within licensing? How, what are the time
10 frames for that?

11 MR. ROSS: I'm not sure I follow the question.
12 The permit will be valid for five years.

13 MR. GOEBEL: The company has submitted for a
14 permit.

15 MR. ROSS: Right.

16 MR. GOEBEL: When I -- And I think you
17 mentioned earlier that those are going to be done at the
18 end of the year or sometime this year. So when do we know
19 the plant has been approved under permit?

20 MR. ROSS: What is the timeline for issuance of
21 this permit for final action?

22 MR. GOEBEL: Just give me a few milestones down
23 the road, please.

24 MR. ROSS: Right now the permit is in final

1 draft stage. When the hearing is over tonight, there will
2 be a 30-day period. And at the end of that 30-day period
3 the hearing record will close. At that time we will
4 generate a proposed permit, which we will send to the
5 USEPA Region 5 for their review, which simultaneously will
6 pop up on our Web site, this proposed permit. The USEPA
7 has 45 days to review this permit and comment on it to us.
8 And if they have comments, then we will work with them.
9 So sometimes this 45 days period can drag on if there is
10 significant comments from the USEPA, it can drag on
11 60 days to 90 days or whatever.

12 At the end of that period we will generate
13 the final permit, if we make a determination to issue it,
14 and then shortly thereafter it will be issued. So what
15 you are looking at is 30 day period, a month, probably
16 another at least another 45 days, probably another
17 60 days, another two months. So a total of my guess would
18 be three to four months before this permit is issued.
19 That's the time frame we are looking at. So it's
20 certainly not a quick process.

21 MR. GOEBEL: Anything government usually takes a
22 long time except when this plant was sited.

23 MR. ROSS: Well, I agree.

24 MR. GOEBEL: It happened pretty damn fast, let's

1 put it that way.

2 MR. ROSS: Well, I wasn't part of the
3 construction permit process. But again, my take would be
4 this Title V permit -- The facility is already permitted.

5 MR. GOEBEL: Correct.

6 MR. ROSS: Given that, the public should want to
7 see them under a Title V permit as soon as possible. That
8 should be the public's goal. This Title V permit is the
9 primary compliance tool. And a lot of these tools don't
10 kick in until the permit is issued. So that's the key
11 that you have to keep in mind.

12 MR. GOEBEL: What you are saying then is that if
13 the plant isn't under Title V, then what?

14 MR. ROSS: Well, some of these reporting
15 requirements they don't need to comply with.

16 MR. GOEBEL: I see.

17 MR. ROSS: The annual compliance certification,
18 that requirement to submit that document to us doesn't
19 kick in until this Title V permit is issued. The semi-
20 annual monitoring reports, that requirement to submit
21 those monitoring reports to us, doesn't kick in until this
22 Title V permit is issued. And there are many other
23 requirements that come along with a Title V permit. The
24 enforceability of the permit by the public, the ability of

1 the public to go after the company for a violation or
2 perceived violation, you don't have that ability until
3 this Title V permit is issued. So the issuance of the
4 Title V permit is a key aspect in ensuring this company
5 stays in compliance, or there is -- It's a key compliance
6 check on this company.

7 MR. GOEBEL: So without Title V, there is
8 really -- You have a lot less power or virtually no power
9 to enforce things.

10 MR. ROSS: I would say the public's power is
11 limited in that they would need to come through us
12 necessarily. And the fact of the matter is and this is
13 well-known, the Title V -- the whole Clean Air Act
14 Amendments in the generating of Title V is -- The whole
15 purpose of the program is to have this one document to be
16 used as a compliance tool for the public for the Illinois
17 EPA, for the USEPA, to check compliance with companies.
18 It's to keep companies in compliance and for them to do
19 self-checks. It's saying "Companies, pay attention to
20 your operations and report to us periodically and do this
21 extra monitoring. Now that you have the Title V permit,
22 you are required to do these extra self-checks or whatnot.
23 But along with these self-checks, you are required to
24 certify their accuracy by a responsible official bound by

1 law. All these reports and monitoring reports and annual
2 compliance certification reports, they all need to come to
3 us now with this key document called a certification,
4 which certifies truth and accuracy of these documents."

5 So that again is a compliance tool. And
6 something that, I'm not a lawyer, but somebody at the
7 company is putting their name to and certifying these
8 documents to us. And they are held responsible. Hence,
9 the term responsible official.

10 MR. GOEBEL: Corporate officer.

11 MR. ROSS: I mean there are criminal and civil
12 penalties. But there are criminal penalties involved.
13 They can be held criminally accountable for the accuracy
14 of these documents.

15 I mean that's one of the main reasons I
16 wanted to come here tonight was to convey this message
17 about the importance of Title V to the public and --

18 MR. GOEBEL: Well, at least I come through the
19 understanding now is that Title V is something we want to
20 be under to cover us.

21 MR. ROSS: Exactly. Right.

22 MR. GOEBEL: The way I kind of perceive the EPA
23 is like Star Wars, the big death star, and it's impervious
24 to attack. And the only way you can get your required

1 information is like to be Luke Skywalker and file that
2 missile in the right exact spot, and then you get the
3 documents and information that you are looking for. And
4 if you don't get it exactly in the right spot in exactly
5 the right way in the right sequence, you get nothing, or
6 you get garbage.

7 MR. ROSS: Just -- And this is just general
8 information, take it for what it's worth. But I have been
9 familiarizing myself with the FOIA process over the last
10 month or so as I have become acting permit section
11 manager. And they receive over 150 FOIA requests a month.
12 Now, there is three full-time people in that unit. So you
13 can imagine the workload that they have to go through
14 getting 150 FOIA requests per month. And most of these --
15 Well, I wouldn't say most of them.

16 MR. GOEBEL: Paper churners.

17 MR. WITTNEBEN: Boy, can I save you money. I
18 can save you money.

19 MR. GOFF: Try the 21st Century. It is easier.

20 MR. ROSS: Pardon?

21 MR. GOEBEL: That's my point, this is a changed
22 world, and that somehow the EPA needs to somehow go back.
23 And I challenge you as manager of this program to go back
24 and think of, you know, how can we do this differently.

1 MR. ROSS: Well, that's what we are working on.

2 MR. GOEBEL: Taking the information and
3 provide it.

4 MR. ROSS: I have met with them several times
5 recently, and that's -- We have come to initial first
6 steps will be the development of this form, putting them
7 on our Web site, development of frequently asked
8 questions, questions that they generally get from the
9 public. The public is only one body that submits FOIA
10 requests. We get FOIA requests from USEPA, from lawyers,
11 from --

12 MR. GOEBEL: Cities.

13 MR. ROSS: Anybody you can think of we get FOIA
14 requests from. And a lot of people, unfortunately, give
15 us broad-based requests where they are requesting just
16 enormous amounts of documents. And we have to spend a lot
17 of time -- I mean this gentleman, unfortunately, was --
18 seems may have been turned away. But I know for a fact
19 they spend a lot of time on the phone or sending e-mails
20 back and forth with people trying to assist them in how to
21 be more specific in their request so that they get what
22 they want and they don't get turned down. And
23 unfortunately, he may have spoken to the wrong person. I
24 don't know what happened there. But I do know they spend

1 a considerable amount of effort in trying to get the
2 information that people really want to them. And,
3 hopefully, at least these initial first steps will serve
4 that purpose somewhat. And then we will follow that up
5 with more.

6 But the Illinois EPA -- and this has been
7 stated many times -- operates under a very limited budget
8 currently. And we have to make the best with the
9 resources we have available to us. There is no way we are
10 going to get, like I said, we have got three people
11 working in the FOIA unit. Under our current budget, you
12 know, we should probably have six, double that. Is there
13 any hope of getting that in the foreseeable future? No
14 way. Absolutely not.

15 So we will try and use the Internet more.
16 We will try and come into the 21st century, and we are
17 going to do this. This FOIA request, we are going to make
18 it interactive so you fill out what you want to and send
19 it right over the Internet to us.

20 MR. GOEBEL: Right. You can go on a Web site
21 like this school and find out how much energy is being
22 used because that information is being provided. Like the
23 same type of thing would be provided, you know, as a goal
24 downstream.

1 MR. ROSS: Right.

2 MR. GOEBEL: But you will never get there until
3 you set a goal and then reach steps to get there.

4 MR. ROSS: Well, Chris mentioned our ACES
5 program. That's the acronym. What it stands for I've
6 lost track. Everybody refers to --

7 MR. GOEBEL: Just referred to as Joker.

8 MR. ROSS: But that's a massive, like he stated,
9 electronic initiative of the Agency. They have a lot of
10 information available to the public. That's one of the
11 primary goals. They set down goals, what are they trying
12 to accomplish. One of the primary goals of the ACES
13 program is to have information electronically available to
14 the Agency and for companies like Reliant and other
15 companies to be able to submit electronic applications to
16 us and us issue electronic permits so we don't kill as
17 many trees and do everything electronically to the best of
18 our ability. And this effort has been ongoing for the
19 better part of two years I believe. And we are getting
20 funds a lot -- They ran into some funding problem. I
21 know that. But we are getting a lot of funds from the
22 USEPA. And it's hard coming up with money to keep the
23 process rolling, but they are keeping it rolling. And it
24 is moving forward. And I envision that you will start

1 seeing some of the results later this year and into next
2 year. You will start seeing some of the benefits of the
3 ACES program.

4 MR. GOEBEL: Thank you very much. One last
5 thing for the -- as far as notification because the plant
6 was sited at the very far corner of Aurora, very far
7 corner, northeast quadrant, you could walk a few hundred
8 feet and be in a different community and like four corners
9 of Arizona and New Mexico and all, the -- For example, I
10 get two newspapers, the Tribune and the Daily Herald. And
11 I read them both. Nothing was in there about that.

12 MR. FROST: And like I said, I explained to
13 you --

14 MR. GOEBEL: Nothing was even in the 60504
15 either, which is a free newspaper. I get that, too.

16 MR. FROST: I told you why I choose the
17 newspaper. We do not -- absolutely do not have the funds
18 to advertise in the Tribune or the Sun-Times. You are
19 talking about an inch rate -- And our notices for
20 hearings tend to be 14 inches. One inch costs in the
21 range of \$500.

22 MS. WITTNEBEN: Raise the EPA fees, permit fees.

23 MR. GOEBEL: That's another change thing.

24 MR. FROST: We do have fees. And the fees fund

1 our Bureau of Air, and they are the resources that fund
2 our Bureau of Air. And we still have to conserve those
3 resources. We don't have unlimited resources.

4 MR. GOFF: The filing agent should or the filing
5 participant should pay for that. Just like you ask for a
6 zoning variance for your house.

7 MR. ROMAINE: Excuse me. That is correct. We
8 agree completely. However, we do not set the fees. Those
9 are set by the Illinois legislature for us. If you would
10 like the Illinois legislature to raise the fees, take it
11 up with your representatives.

12 MR. GOEBEL: At least on the last thing like on
13 the card you ask for the address, ask for the E-mail
14 address, it will save you more time and effort. I'm
15 sorry, I don't think you heard me.

16 MR. FROST: I'm sorry.

17 MR. GOEBEL: On the card you ask for people who
18 are speaking, ask for address, just ask for the E-mail
19 address because it saves you time and money and follow-up.
20 And then we get notified about it quicker. So how I found
21 out about it was word of mouth.

22 MR. FROST: I believe that we have new cards.
23 I'm trying to use -- go through my old cards. You can
24 tell those cards are fairly old. And I believe that our

1 new cards do request that because that is something that
2 we are going to try to do.

3 MR. GOEBEL: This is a changed world. Thank
4 you.

5 HEARING OFFICER JAGIELLO: Okay. Thank you.

6 Mr. Nakowicz, you had no questions? Okay.

7 Miss Owen, I can tell you are anxious. I
8 will tell you what, we are going to go till 10:15. We
9 have 15 minutes, and then we are going to call it.

10 MS. OWEN: So you let people talk about things
11 that have nothing to do with the permit. I have lots of
12 issues. I have the permit and the application.

13 HEARING OFFICER JAGIELLO: You can talk. 10:15
14 we are going to call it, and that's going to be it.

15 MS. OWEN: Why wasn't that information in a
16 repository concerning the hearing?

17 MR. FROST: There was an information repository
18 both at the Aurora Public Library and the Eola branch.

19 MS. OWEN: Why wasn't the hearing on the Web
20 site?

21 MR. FROST: It was notified on -- I don't know.
22 It was notified -- It was on the Web site --

23 MS. OWEN: Thank you.

24 MR. FROST: -- that I put in the public notice.

1 MS. OWEN: Quickly, let's look at the
2 application for just a second. 4.1, Reliant Aurora
3 submitted a compliance certification. You have got that?
4 It's application page 4-1.

5 MR. ROSS: Yes.

6 MS. OWEN: Would they be required to supply you
7 with this compliance certification in the application
8 process?

9 MR. ROSS: Correct. Yes.

10 MS. OWEN: My copy does not have a signature
11 page, does yours?

12 MR. ROSS: No. Our copy -- It seems like page
13 5 of 5 --

14 MS. OWEN: 5 of 5 is not in this.

15 MR. ROSS: -- is missing.

16 MS. OWEN: This application was not complete
17 when we received it. The compliance certification is one
18 of the first things the public looks at to see if the
19 source is in compliance. And the answer they gave is,
20 "Yes, we are in compliance but --"

21 And I don't blame them for not signing it
22 because they were not in compliance. If they are not in
23 compliance, there should be a compliance plan in the
24 permit. I don't see one.

1 MR. ROSS: I think our assessment is that the
2 facility is in compliance.

3 MS. OWEN: But will you go look for the
4 signature page?

5 MR. ROSS: Yes. We can go back and look for it.

6 MS. OWEN: This application was not complete
7 without the signature page on the compliance
8 certification.

9 MR. ROSS: Yes.

10 MS. OWEN: Thank you. We are going to rush
11 through this permit, so get it out and read along if you
12 want to.

13 MR. ROSS: Okay.

14 MS. OWEN: One of the issues is in general that
15 the conditions in the permit have to be practically
16 enforceable, which means that we have to have a clear
17 explanation on how a limit or requirement applies to the
18 facility because only that makes it possible for us to
19 determine if it's in compliance.

20 All permit terms must be available for
21 comment because anything that's off permit in discussion
22 between you and the source bypasses the public. And there
23 are terms in this permit that are not defined, and I
24 consider them off permit. And we will rush through these

1 and, hopefully, you have the time to look at them.

2 I'm skipping big time. A quick question.
3 5.2.9, the CAM plan. This CAM plan is needed because of
4 the water injection. That's incorrect.

5 It's C-A-M.

6 MR. ROSS: Right. Compliance Assurance
7 Monitoring.

8 MS. OWEN: What exactly will this Compliance
9 Assurance Monitoring measure if you are not -- if the
10 source is not recording the water-fuel ratio?

11 MR. ROSS: I believe they are subject to a NSPS,
12 is that correct?

13 MR. CASHMAN: No. That's 64. Part 64 is CAM.

14 MR. ROSS: But aren't they subject to a NSPS?

15 MR. CASHMAN: Yes, which has nothing to do with
16 CAM.

17 MS. OWEN: It has nothing to do with CAM. It
18 used to be called enhanced monitoring, that was thrown
19 out. We now call it Compliance Assurance Monitoring.
20 Compliance Assurance Monitoring needs to be active.
21 Pollution control --

22 MR. CASHMAN: First of all, CAM does not apply
23 for this source currently right now. It has to do at
24 renewal. They would have had to have done CAM in this

1 permit if it was considered to have a large PSEU unit at
2 the facility, meaning each individual pollutant specific
3 emission unit would have to be considered to be major
4 since the application was deemed complete after April 20,
5 1998.

6 MS. OWEN: Right.

7 MR. CASHMAN: So they don't have to do a CAM
8 submittal until renewal.

9 MS. OWEN: When they do renewal, what exactly --
10 Well, never mind. You can't answer this now.

11 MR. CASHMAN: They would have to do CAM for the
12 PSEU unit that we have designated since they have possibly
13 using control to meet compliance in either a permit
14 limitation or a regulation, they would have to come in and
15 do CAM.

16 MS. OWEN: It needs to be active pollution
17 control devices, which could be the water injection; but
18 you are not monitoring how they are using it. So we are
19 going to have an interesting discussion when they come
20 back with the CAM plan.

21 MR. CASHMAN: Correct. And this is
22 informational purposes to show they have to submit the CAM
23 plan.

24 MS. OWEN: Is this source in the NOx trading

1 program? Part of it is. I believe the big turbines are.
2 The small turbines are not. And I don't know why they
3 never were allocated allowances. You can owe me that
4 answer, please. However, do the big turbines have NOx
5 allowances that you are aware of?

6 MR. CASHMAN: Yes. It's stated in the permit.

7 MS. OWEN: They are in the permit?

8 MR. ROSS: In 6.1?

9 MR. CASHMAN: 6.1.8(b) (ii) (A).

10 MS. OWEN: Compliance emission rates for these
11 EGU's are. However, the small ones are not part of the
12 NOx trading program later on in the permit because they
13 are small emitters. I don't understand that.

14 MR. ROSS: What's the question exactly? I'm --

15 MS. OWEN: My question was what exactly the NOx,
16 how many EGU's they are proposed in the NOx trading
17 program, and where I can find this in the permit. Because
18 although the program starts in 2004, the permit does not
19 expire until 2008.

20 MR. CASHMAN: We possibly included the things
21 for the small units that shouldn't have been in there.

22 MS. OWEN: Okay. Well, it confuses me. I like
23 clarity. I'm sorry.

24 MR. CASHMAN: And that's a good point.

1 MS. OWEN: This is not an ERMS source.

2 Page 27. It says that the source --

3 "Note: ... the following emission determination methods
4 are currently being used for the affected units at the
5 source." NOx CEM, SO2 CEM, opacity monitor, and CO2
6 monitor, is this correct?

7 MR. ROSS: Where are you at?

8 MS. OWEN: Page 27.

9 MR. CASHMAN: Page 27, 28. Are you on 6.3.3?

10 MS. OWEN: Yes, that's correct.

11 MR. ROSS: What is your question? I'm sorry.

12 MS. OWEN: Do they have those four kinds of
13 monitors?

14 MR. ROSS: I know they have NOx monitors.

15 MS. OWEN: I know that, too. I'm asking about
16 the other three.

17 MR. CASHMAN: Something we will have to double
18 check and verify.

19 MS. OWEN: Well, ask them.

20 MR. KUSH: For SO2 we are. As allowed under
21 40 CFR 75, since we are using natural gas --

22 MS. OWEN: I understand that. Your permit says
23 that you have the following emission determinations are
24 being used, and it says NOx, SO2, opacity and SO2.

1 MR. KUSH: For SO2 we are using our continuous
2 fuel flow measurement times the emission.

3 MS. OWEN: I understand that. I understand
4 that, sir. My question was how many kinds of CEMs do you
5 have on your smoke stacks?

6 MR. ROSS: I think the overall, and it's
7 followed by the regulation, your overall comment would be
8 that the permit is semi misleading because you would have
9 to go into the rule to see that there is alternatives to
10 the continuous emission monitors.

11 MS. OWEN: But the permit reads as if they have
12 four kinds of CEMs on the stacks, and they do not.

13 MR. ROSS: Right. So what we would need to do
14 is provide a clarifying sentence or whatnot in here.

15 MS. OWEN: Because I get all excited about
16 opacity monitors and nobody ever has any.

17 MR. ROSS: That's an excellent point, and we can
18 certainly add that.

19 MS. OWEN: Please stop talking because I have
20 five minutes.

21 HEARING OFFICER JAGIELLO: Actually, you have
22 seven.

23 MS. OWEN: Thank you, sir. I think you
24 shouldn't limit the answer for ten minutes, you really

1 want to hear what I have to say.

2 Mr. Romaine was hesitating when we were
3 talking about the stack test. The fact is that not all
4 the stacks were tested. The CEMs were tested, but the
5 stacks were not. I think the answer was misleading, I
6 don't like misleading. The stack tests were done under
7 certain loads. The base load and the maximum load are two
8 immediate ones. However, this permit does not address
9 what loads were tested, nor does it limit the source to
10 operate within these loads.

11 MR. ROSS: Well, I think that's a normal part of
12 permitting. You can only test under certain
13 circumstances, certain operating scenarios.

14 MS. OWEN: Sources pick those four points. I
15 have seen stack testing done on a peaker plant that ranged
16 from 90 to 100 percent load. This source tested down to
17 60. I don't want them operating below 60 load because
18 there is no stack test. These stack tests have a meaning.
19 Whatever you test has to be reflected in the permit. This
20 has no load restrictions on the permit. I think that's
21 wrong.

22 MR. ROSS: Certainly all tests must be done
23 under USEPA methods.

24 MS. OWEN: I'm not debating the methods. I'm

1 debating their choice of under what load conditions they
2 are testing. And this is up to the applicant of what they
3 are testing. It is their choice. Your choice is to say,
4 okay, if you are only testing at load of 60 percent, you
5 are not going to operate below that load level because
6 lower loads increase emissions and you don't know what
7 they are emitting at lower load levels. You can defend
8 this in your responsiveness summary.

9 MR. ROSS: Comment noted.

10 MS. OWEN: I need to talk. I'm skipping
11 understandability on page 30. I have no idea what this
12 is. I don't know why you guys make it so complicated. I
13 think we talked about this a lot. Startup provisions on
14 page 31. Some of the violations they had was during
15 shutdown. This permit does not address emissions for
16 shutdown. Why not?

17 MR. CASHMAN: You mean startup?

18 MS. OWEN: Startup and shutdown. Emissions
19 decrease over shutdown. If you look at the reports that
20 were submitted, some of the violations are for the hourly
21 emissions that happen during shutdown. This permit is
22 quiet about shutdown emissions. They need to be accounted
23 for.

24 I don't understand what "reasonable

1 efforts" are under whatever "f" on page 31. This is all
2 vague. I find this totally practically unenforceable.
3 This means nothing to me.

4 Any permit term needs to be available for
5 public comment and needs to be made part of the record.
6 If they are manufacturer's written operating instructions,
7 which you would like to check if they are following them,
8 we can't, because they are not part of the record. They
9 are nowhere explained in this permit.

10 There are written procedures developed and
11 maintained by the permittee. How do we access those and
12 what are they? Are they changed? Are they open to
13 negotiation? These are all permit terms that I object to.
14 It does not say by whom this should be reviewed, the
15 operating parameters, how often are they reviewed and why.
16 Maintenance practices need to be part of the record. And
17 my favorite on page 32, under C, "The procedures described
18 above shall be reviewed at least annually to make
19 necessary adjustments and shall be made available to the
20 Illinois EPA upon request."

21 MR. ROSS: Well, I would just like to make a
22 comment for the record that we reviewed their operating
23 permit procedures today.

24 MS. OWEN: Wonderful. That's good.

1 MR. ROSS: Okay.

2 MS. OWEN: What are they? Why are they not in
3 the permit?

4 MR. ROSS: Well, it's a booklet about yea big.
5 It would be --

6 MS. OWEN: They need to be at least part of the
7 record. If somebody wants to see them, they have to be
8 part of the record.

9 MR. GOFF: Get a floppy.

10 MS. OWEN: I believe that changes to Title I
11 permit was the new status as a low emitter. That was a
12 change from the Title I permit. You said there were no
13 changes made.

14 MR. CASHMAN: What condition, please?

15 MS. OWEN: Page 33. 7.1.5, "Operational and
16 Production Limits and Work Practices."

17 MR. CASHMAN: 7.1.5, what letter?

18 MS. OWEN: Excuse me, (ii), that was (d)(ii).
19 Apparently you have low emitter status now. That was a
20 change in the Title I permit I believe.

21 7.1.5 talks about opacity observations that
22 this permit is quiet as to what method this should be
23 used, how often it should be done. And now I found out
24 that they don't have an opacity monitor. I'm not overly

1 concerned because it doesn't burn fuel oil. But you can't
2 have -- mention opacity observation without telling me who
3 is observing it when and how long.

4 All right. That's another change here.
5 Sorry. I really am sorry that you decided not to let me
6 talk about this because this is the interesting part. And
7 this is what I came for.

8 MS. VOITEK: I think you should reconsider. I
9 really do.

10 MS. OWEN: I really have to rush through this.
11 And John never had a chance to talk.

12 HEARING OFFICER JAGIELLO: How much more do you
13 think you have?

14 MS. OWEN: I have about another 15 minutes,
15 talking real fast and cutting those gentlemen short.

16 I don't know enough about the NOx trading
17 program. On page 33 because it says, "Because allowances
18 have never been allocated to affected turbines," I would
19 like to know where I can find out why not, and you can
20 e-mail me.

21 Okay. Operational and Production Limits.
22 "At all times," "to the extent practical." Come on,
23 people. What is that?

24 MR. CASHMAN: That entire paragraph is pursuant

1 to that regulation right there word for word.

2 MS. OWEN: It's not good. Or define what a --
3 If you have to put it in, define what the extent practical
4 is you are talking about. I don't -- For the public, we
5 don't understand who makes the decision what is the extent
6 practicable in this case. I don't understand that. You
7 need to let us know what that is.

8 And good air pollution control practices, I
9 totally disagree with your answer about that. That is an
10 undefined term. You are making all permit changes and
11 discussion. If you know what it is, then you let us know.
12 If you don't, then don't put it in there. This is really
13 fuzzy language.

14 MR. ROMAINE: I'm sorry, I can't not put in
15 provisions that are part of the federal regulation.

16 MS. OWEN: I know, but you can define the terms.
17 If you don't think it's sufficient for the public to
18 understand the permit or to be practicably enforceable,
19 nobody says what it is. And you cannot -- And as a
20 matter of fact, you have to define the terms that are
21 ambiguous in the permit. These terms are ambiguous.

22 Page 34 under(e) (v) -- And would you
23 please just number your conditions 1 through 25 instead of
24 this nonsense. It says, "The Permittee shall maintain

1 records ... demonstrating that the above operating hour
2 restriction, fuel usage restriction."

3 What fuel usage restrictions are we talking
4 about for these turbines? My understanding is that there
5 is an overall fuel use restriction for the entire source.
6 I'm not aware that those six turbines have specific fuel
7 restrictions themselves.

8 MR. ROMAINE: Condition 7.1.5(b) limits the
9 turbines to burning natural gas. That's the restriction
10 on the fuel that may be used.

11 MS. OWEN: So "fuel usage restriction" refers
12 not to the amount of fuel but to the type of fuel?

13 MR. ROMAINE: In this context, it refers to the
14 type of fuel.

15 MS. OWEN: Why don't you write it like that?

16 MR. ROMAINE: I can't comment on why the USEPA
17 wrote the regulation the way they did.

18 MS. OWEN: This is Illinois regulation.

19 MR. ROMAINE: This was adopted from federal
20 regulations.

21 MS. OWEN: I understand that. But if you talk
22 about operating hour restrictions, fuel usage
23 restrictions, it's kind of a logical consequence that you
24 think that's the amount and not the type.

1 Oh, what's an hour?

2 MR. ROMAINE: I have to agree with you. I
3 wondered why the EPA did it that way, but that's beside
4 the point.

5 MS. OWEN: What is an hour? They have to report
6 how many hours they run. Are we rounding up? Are we
7 rounding down? Are we going down to the minute? The
8 question is easy. One of the reasons we pulled this one,
9 other than all these fabulous people that came tonight,
10 was that we are very concerned that this is a very close
11 synthetic minor, close to the PSD control. One of the
12 things that this permit should -- we really worry about,
13 that this permit should accomplish is to make sure that
14 this source at all times stays below the PSD permit limits
15 of 250. When you tell me an hour, I need to know is this
16 60 minutes? Is this 32 minutes? Is this an hour and 15
17 minutes? Because they are so close. What is an hour?

18 MR. ROSS: Are you asking?

19 MS. OWEN: Yes, I am.

20 MR. ROSS: Or a comment.

21 We have to go off the record.

22 (Discussion outside the record.)

23 MS. OWEN: There was a question. Are there
24 testing requirements for NO_x only?

1 MR. ROSS: Can anybody answer that?

2 MR. ROMAINE: Those requirements are for NOx
3 only.

4 MS. OWEN: So when I read testing requirements,
5 I assume as the public that you are testing everything.
6 But you are not, you are just testing NOx. I think that's
7 misleading. I would really like to get the CEMs.

8 7.1.9, Recordkeeping Requirements.
9 Definitely limits credible evidence. That is just awful
10 the way this is written.

11 Reporting requirements are poor, and I will
12 elaborate this in writing. This is just not the way I
13 want the permit written. I tried to see if everything
14 that is in your permit comes with recordkeeping and
15 reporting requirements, and let me tell you it ain't so.

16 And I will be forced to submit this in
17 writing because, unfortunately, I would have really liked
18 to have gotten some of those answers. For instance, if
19 you ask them to precheck a turbine for the startup, and
20 they don't have a report that they do this, and they don't
21 have to report that they do it, why? Why are we
22 bothering? Why do we have conditions that make sense to
23 me when I read them, and then I realize that I will never
24 find out if the source actually follows those? And there

1 are quite a few. I just picked one because I'm pressed
2 for time. You can see I have two pages full of them, that
3 either don't come in the reporting or recordkeeping
4 requirements in this.

5 The compliance procedures, 7.1.12, also
6 limits credible evidence. You're limiting to them what
7 they are supposed to report. All you have to do is add
8 "or other credible evidence" to those sentences. I
9 suggested this before. I don't think that the generic
10 disclaimer in the back of the permit that nothing should
11 limit credible evidence will stand up in court should this
12 ever come to a court case.

13 I do have specific questions about CEMs.
14 My question is do they have to do an annual stack test for
15 compliance?

16 MR. ROMAINE: No.

17 MS. OWEN: They do not?

18 MR. ROMAINE: No.

19 MS. OWEN: Will you use the CEMs data, the RATA
20 data?

21 MR. ROSS: For compliance? I mean that's what
22 CEMs are for.

23 MR. ROMAINE: No.

24 MS. OWEN: No, you can't. See, you can't. That

1 was my question.

2 MR. ROMAINE: No. A RATA test is used to make
3 sure the monitor is performing properly. The monitor
4 provides the compliance data, not the RATA test.

5 MS. OWEN: Okay. How do you deal with the fact
6 that the CEMs have an accuracy allowance? And we
7 mentioned as -- Maybe not in this one. We mentioned in
8 the past that if you permit synthetic minors so closely to
9 the threshold that you are below, below the 5 percent of
10 the accuracy, that you run the risk that this source will
11 be a PSD source and you will never find out.

12 The CEMs are not 100 percent correct. And
13 I don't know what the data recovery efficiency is but you
14 rely solely on that to keep this a synthetic minor. This
15 source should never have been permitted to 248 tons of
16 NOx. This was irresponsible, and I still think it is
17 because you cannot guarantee us that it will stay a minor.

18 CEMs are not continuous, are they?

19 MR. ROMAINE: What do you mean by continuous?

20 MS. OWEN: How often do they take data? Every
21 six minutes about, right?

22 MR. ROMAINE: I'm not sure how frequently this
23 CEMs takes values. I think it's more frequent than every
24 six minutes.

1 MR. KUSH: We take samples every ten seconds.
2 We form minute data. That minute data forms 15-minute
3 averages. And those 15-minute averages are compiled to an
4 annual average.

5 MS. OWEN: What is your data recovery
6 efficiency?

7 MR. KUSH: I can tell you that under the part 75
8 monitoring provisions, if we do have any monitor downtime
9 that we are required to substitute data in for those
10 periods that are missing. It varies with the data
11 substitution rules. It could be up to the maximum data
12 recorded over a certain time. So maximum data could be
13 substituted for data that is missing.

14 MS. OWEN: The minimum is 90 percent. I assume
15 you are somewhere within that range, since I didn't
16 understand your question -- answer at all.

17 Do you require them to remain on line when
18 the CEMs is in violation?

19 MR. ROSS: Require what to remain on line?

20 MS. OWEN: The measuring. If it's
21 malfunctioning, do you let them shut it off?

22 MR. ROSS: I believe it's not really a
23 question -- and Chris can address this -- it's not really
24 a question of what we let them do. It's what the

1 regulation allows them to do in the NSPS.

2 MS. OWEN: Right. Well, the regulations would
3 be about 40 CFR 75, correct? Doesn't that deal with
4 quality assurance of CEMs?

5 MR. ROSS: Right, and that's all outlined in
6 there.

7 MS. OWEN: It's outlined in there, but it is
8 certainly not outlined in the permit.

9 MR. ROSS: Certainly it is part of the permit.

10 MS. OWEN: Yes. But it's not -- It's quoted as
11 a regulation without telling the people how important this
12 is. Specifically for this source it only relies on NOx
13 CEMs data.

14 MR. ROSS: Well, I'm just qualifying the
15 statement to say that all the compliance assurance that
16 goes along with the CEMs data is part of the permit, so --

17 MS. OWEN: So they have a CEMs plan?

18 MR. ROMAINE: Yes.

19 MS. OWEN: Okay.

20 MR. ROMAINE: And I guess I just realized, we
21 don't just simply rely on the CEMs data to assure that
22 it's not a major source. There is an operating limitation
23 on this plan in the amount of fuel that can be burned.

24 MS. OWEN: Yes, but then you rely on very

1 unreliable emission factors. I mean the beauty of CEMs is
2 that they are actually probably the best way of
3 determining what actually the source is emitting. I don't
4 like emission factors at all. I think they are totally
5 unreliable and bogus.

6 MR. ROSS: And that goes back to my original
7 assessment. That's what CEMs are for. And like you just
8 stated, they are the best device known to check
9 compliance, and this company has that.

10 MS. OWEN: I know. But they have flaws. They
11 are not 100 percent.

12 MR. ROSS: Well, certainly they have flaws; but
13 they are the best device we have known to us to check
14 compliance.

15 MS. OWEN: I understand. But IEPA knew at the
16 time in their permit of a synthetic minor --

17 MR. ROSS: Right.

18 MS. OWEN: -- that the CEMs will have a
19 5 percent, 10 percent, yet they went up to 1.5 percent of
20 the threshold. That's what we didn't like in the
21 beginning and we still don't like it.

22 I'm sorry. I'm totally out of order.
23 Shutdown emissions, you will think about that.

24 MR. ROSS: Yes. Your comment has been noted.

1 MS. OWEN: There are some restrictions on
2 operating hours in this permit. And there are two
3 different sets. One is about the out of season, and there
4 is another that if they are under 350 hours. For whatever
5 reason, I forgot. I'm not sure. Do they have to report
6 excess operating hours to you in the excess emission
7 report?

8 MR. ROMAINE: Of course. In their deviation
9 report. It wouldn't be an excess emission report. It
10 would be a deviation report. It would have to be required
11 -- reported.

12 MS. OWEN: It would be required?

13 MR. ROMAINE: Yes.

14 MR. ROSS: Any deviation from any permit
15 requirement needs to be reported.

16 MS. OWEN: Yes. I know. Why don't you put that
17 in your compliance things instead of all the other stuff?

18 MR. CASHMAN: It is in here. It says, "All
19 deviations should be reported."

20 MS. OWEN: But you list -- Never mind. You
21 know exactly what I'm talking about. And it's quite late
22 to argue anything.

23 Oh, they changed the size of the fuel
24 heater, just in case you guys didn't notice. There was a

1 change in the Title I permit, minor. But it had 9.8. We
2 are up to 12. Big deal.

3 MR. CASHMAN: If it was 9.8 it would have been
4 possibly considered insignificant.

5 MS. OWEN: I understand that, but you said there
6 were no changes to the Title I permit. That wasn't quite
7 right.

8 Do CEMs results have to be reported
9 quarterly?

10 MR. ROMAINE: Yes.

11 MS. OWEN: Thank you. No, I'm not going to go
12 back because it's late. Whatever else I have --

13 Thank you, by the way, for being patient.

14 MR. ROSS: Thank you for your comments.

15 MR. GOFF: How can we get a copy of the
16 transcript tonight?

17 MS. OWEN: It will be on line.

18 MR. GOFF: It will be on line when?

19 MS. OWEN: Two weeks.

20 HEARING OFFICER JAGIELLO: No further questions.
21 No exhibits submitted. We are all set. Let the record
22 reflect it's 10:28.

23 * * *

24

1 STATE OF ILLINOIS)
) ss.
2 COUNTY OF DU PAGE)
3

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

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Janice H Heinemann CSR RDR CRR
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