

1    BEFORE THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY  
2    IN THE MATTER OF: PERMIT        )  
3    APPLICATION FOR THE DEVELOPMENT )  
4    OF A SEWAGE SLUDGE TREATMENT    )  
5    UNIT, NORTH SHORE SANITARY        )  
6    DISTRICT, WAUKEGAN, ILLINOIS    )

7                REPORT OF PROCEEDINGS taken at the  
8    hearing of the above-entitled matter, held at  
9    2325 Brookside Avenue, Waukegan, Illinois, before  
10   Hearing Officer William Seltzer, reported by  
11   Janice H. Heinemann, CSR, RDR, CRR, a notary public  
12   within and for the County of Du Page and State of  
13   Illinois, on the 24th day of January, 2002,  
14   commencing at the hour of 7:00 p.m.

15   APPEARANCES:

16   MR. WILLIAM SELTZER, IEPA Hearing Officer;

17   MR. JOHN KIM, Division of Legal Counsel;

18   MR. MARK SCHOLLENBERGER, PE, Bureau of Land,  
19   Permit Reviewer;

20   MR. ALAN KELLER, Bureau of Water, Northern  
21   Municipal Permits, Unit Manager;

- 20 MR. CHRISTOPHER ROMAINE, Bureau of Air, Manager,  
New Source Review;
- 21
- 22 MR. TED DRAGOVICH, PE, Bureau of Land, Disposal  
Alternatives Unit Manager;
- 23 MR. TODD LENZIE, Permit Reviewer, Bureau of Land;
- 24 MS. TAMMY MITCHELL, Community Relations.

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EXHIBITS

Exhibit No. 1                                      9  
(Lake County Conservation Alliance letter -  
12/26/01)

Exhibit No. 2                                      9  
(Notice of Public Hearing and note  
from Jean Windberg - 1/09/02)

Exhibit No. 3                                      9  
(NSSD letter - 1/24/02)

Exhibit No. 4                                      81  
(Illinois Citizen Action -  
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Exhibit No. 5                                      96  
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Exhibit No. 6                                      101  
(Opening Remarks by Jeffrey D. Jeep,  
Counsel, City of Waukegan)

Exhibit No. 7                                      144

20 (Illinois Citizen Action EJ exhibit,  
11/15/01)  
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22 (Woods & Wetland News - January 2002)  
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1           HEARING OFFICER SELTZER: Good evening,  
2 ladies and gentlemen. My name is Bill Seltzer.  
3 This is In Re the Permit Application for the  
4 Development of a Sewage Sludge Treatment Unit for  
5 North Shore Sanitary District in Waukegan,  
6 Illinois. My name is Bill Seltzer. I'm an  
7 attorney for the Illinois Environmental Protection  
8 Agency, and I have been asked to be the hearing  
9 officer for this evening's hearing.

10           You will notice when you first came in  
11 there are registration cards. I'm going to ask  
12 that everybody sign a registration card. On that  
13 card you can indicate whether or not you wish to  
14 make a comment. If you wish to make a comment, I  
15 will call you in the order in which I receive the  
16 cards.

17           At the conclusion of the entire  
18 hearing process, there will be a summation called a  
19 Responsiveness Summary. And as long as we have

20 your name on the card and your mailing address, you

21 will receive a copy of that summary.

22 The way we will proceed tonight is

23 there are a couple matters we will clear up to

24 begin with, and then I'm going to have everybody

1 representing the Illinois Environmental Protection  
2 Agency to introduce themselves. And then I will  
3 ask if there is anybody present from the applicant;  
4 and if so, I'm going to ask them to introduce  
5 themselves. The Illinois EPA will make a short  
6 opening statement. And after that, we will go to  
7 the audience for your comments.

8           Also, I want to indicate that up front  
9 we have sheets for written statements. The public  
10 is invited to submit written statements, which will  
11 become part of the record so long as those  
12 statements are received before the close of the  
13 record. The close of the record date, which we  
14 will go into in a minute, whatever that date is, as  
15 long as your comment is postmarked by midnight of  
16 that date it will become part of the record.

17           The notice that was published for this  
18 hearing indicates that the close of the record was  
19 going to be February 23. Now, pursuant to the

20 authority that the hearing officer has, I'm going  
21 to change that date to Monday, February 25. So the  
22 close of the record in this proceeding will be  
23 February 25. Any comments that are postmarked by  
24 midnight February 25 will become part of the

1 record.

2           As many of you know, the applicant has  
3 applied for another permit from this Agency, from  
4 the Division of Air Pollution Control. That record  
5 in that proceeding has been closed. The Agency has  
6 decided to reopen that record and that record will  
7 close on the same date as this record closes, that  
8 is, February 25. Everybody that was present at the  
9 hearing that was held for the air pollution control  
10 permit will receive notice of the fact that the  
11 record has been opened and will close February 25.

12           Also, the Agency has decided that it  
13 will hold a meeting for the general public with  
14 regard to the air pollution control matter. And  
15 that is because there has been some new material  
16 submitted in the form of modeling and that modeling  
17 then will be made part of the public record. I  
18 understand it will be deposited in the repositories  
19 where all the other information is available to the

20 public. And a meeting then will be held, two  
21 meetings on the same day, one early, one late, for  
22 the general public to give us their comments with  
23 regard to that modeling.

24           Those meetings, there will be a

1 publication that will also indicate the dates of  
2 those meetings. The publications will be  
3 bilingual, that is, in English and Spanish,  
4 indicate the time and the location of that hearing.  
5 I don't have that yet so we can't go into that at  
6 this time.

7 Before I go any further, is there  
8 anybody that has any questions on what I have said  
9 so far? If so, just raise your hand and we will  
10 answer your questions.

11 Ma'am, I'm going to ask that you come  
12 forward and identify yourself by spelling your last  
13 name.

14 MS. SYLVESTER: My name is Yvonne  
15 Sylvester. I live at 1005 Oak Crest here in  
16 Waukegan. You are talking about modeling. Do you  
17 mean a mock-up of the facility or what?

18 HEARING OFFICER SELTZER: No, I don't mean  
19 a mock-up of the facility. But I'm going to let a

20 technical person describe better to you what we are

21 talking about when we are talking about modeling.

22 MR. ROMAIN: Good evening. My name is

23 Chris Romaine. The question that was asked is what

24 was meant by the term modeling. What's being

1 referred to is computer dispersion modeling. It's  
2 a computer technique that evaluates the impacts of  
3 emissions coming out of stacks to predict what the  
4 resulting concentration would be in the ambient  
5 air.

6 MS. SYLVESTER: Okay.

7 MR. ROMAINE: So it's an evaluation of what  
8 the ambient air quality would be if this proposed  
9 facility were built.

10 MS. SYLVESTER: Okay.

11 MR. ROMAINE: The modeling addresses not  
12 only the proposed facility, but after the initial  
13 modeling that addresses the proposed facility by  
14 itself the North Shore Sanitary District expanded  
15 their modeling to also address the combined impact  
16 of the proposed facility as well as other existing  
17 sources in the area.

18 MS. SYLVESTER: Who will be the final  
19 decide -- Or who will be the interpretation of

20 this data, the IEPA or the Sanitary District?

21 MR. ROMAINE: Well, the information has

22 been submitted to us as part of the application for

23 the air pollution control construction permit. The

24 Illinois EPA is going to be deciding whether this

1 is an adequate modeling demonstration or not.

2 MS. SYLVESTER: Okay.

3 MR. ROMAINE: It should be noted that this  
4 project is not a major source of emissions. We  
5 would normally not require a source or a project of  
6 this type to be accompanied by modeling. But due  
7 to the interest in this project, the North Shore  
8 Sanitary District voluntarily prepared their  
9 initial modeling based on those results, which did  
10 show significant impacts in the vicinity. We asked  
11 them to expand that modeling to do this combined  
12 evaluation that also addressed other sources in the  
13 area.

14 MS. SYLVESTER: Okay. Thank you.

15 HEARING OFFICER SELTZER: Thank you.

16 One more matter before we actually get  
17 started here. Prior to the hearing, I received  
18 some comments; and we are going to make those  
19 comments part of the record now by identifying them

20 and making them exhibits and then accepting them

21 into the record.

22 The first one, which we marked as

23 Exhibit No. 1, is from the Lake County Conservation

24 Alliance. It's directed to myself, William

1 Seltzer, and the letter is dated December 26th of  
2 2001.

3 (Document marked as Exhibit No. 1  
4 for identification as of 1/24/02.)

5 HEARING OFFICER SELTZER: What will be  
6 marked and accepted into the record as Exhibit 2 is  
7 a copy of the public notice for this hearing on  
8 green paper, and there are handwritten comments on  
9 that sheet. And it was submitted by Miss Jean  
10 Windberg. That's Exhibit No. 2.

11 (Document marked as Exhibit No. 2  
12 for identification as of 1/24/02.)

13 HEARING OFFICER SELTZER: And what will  
14 be accepted into the record and marked as Exhibit  
15 No. 3 is a letter to myself, Bill Seltzer, from  
16 Brian Jensen, PE, General Manager, North Shore  
17 Sanitary District. And that letter is dated  
18 January 24, 2002. That's Exhibit 3.

19 (Document marked as Exhibit No. 3

20 for identification as of 1/24/02.)

21 HEARING OFFICER SELTZER: At this time then

22 I'm going to ask the individuals that are present

23 from the IEPA to introduce themselves for the

24 record.

1           MR. DRAGOVICH: My name is Ted Dragovich.  
2           I'm the manager of the Disposal Alternatives Unit  
3           in the Bureau of Land.

4           MR. SCHOLLENBERGER: Good evening. My name  
5           is Mark Schollenberger, and I'm the permit reviewer  
6           for the Bureau of Land.

7           MR. KIM: My name is John Kim. I'm an  
8           attorney with the Illinois EPA's Division of Legal  
9           Counsel.

10          MR. ROMAINE: I'm Chris Romaine. I'm  
11          Manager of the New Source Review Unit in the Bureau  
12          of Air Permit Section.

13          MR. KELLER: My name is Alan Keller. I'm  
14          the Manager of the Northern Municipal Unit for the  
15          permit section in the Bureau of Water.

16          MR. LENZIE: My name is Todd Lenzie, Permit  
17          Reviewer for the Bureau of Land.

18          HEARING OFFICER SELTZER: And Tammy  
19          Mitchell is also present with the Department of

20 Community Relations.

21 Now, we will begin by having a short

22 opening statement delivered by the IEPA.

23 MR. SCHOLLENBERGER: My name is Mark

24 Schollenberger. And as I said, I am the permit

1 reviewer in the Bureau of Land. On November 28,  
2 2001, the Bureau of Land received a permit  
3 application from the North Shore Sanitary District.  
4 This application was to construct a solid waste  
5 management facility to receive municipal sewage  
6 treatment sludge from off site and to treat these  
7 sludges by drying and vitrification. The entire  
8 sludge drying/melting operation from dewatered  
9 sludge unloading, storage, conveyance and treatment  
10 will be located within a new sludge drying/melting  
11 building proposed by this application. The major  
12 components of this proposed process consist of  
13 storage units, a fluidized bed sludge dryer where  
14 the sludge is dried from 17 percent to a minimum of  
15 90 percent solids content, an incinerator which  
16 will use the dewatered sludge and supplemental  
17 natural gas as fuel to melt the sludge into a glass  
18 aggregate, an oxygen generation system is used to  
19 control the production of NO<sub>x</sub>, a heat transfer

20 system which will capture heat produced from the  
21 incinerator and use it to dry the dewatered sludge  
22 and a packed tower odor control system.

23 This permit is required by Section  
24 21(d) of the Environmental Protection Act and the

1 permittee must demonstrate compliance with the  
2 regulations of Part 807 of Subtitle G in order to  
3 obtain the permit. The permit under review will  
4 only allow the construction of the facility and  
5 allow them to conduct certain activities associated  
6 with the construction such as a shakedown of the  
7 mechanical equipment to assure that it is working  
8 properly. Once the facility is built, they must  
9 reapply for an operating permit.

10           A permit issued by the Bureau of Land  
11 would regulate the acceptance and storage of waste  
12 in the building prior to being used as fuel, the  
13 process of treating the sludge and the treatment  
14 residue. The proposed permit requires the facility  
15 to have an inspection plan, a contingency plan, a  
16 closure plan, a waste analysis plan, a training  
17 plan, and to maintain records.

18           The inspection plan addresses such  
19 items as maintaining the operating equipment,

20 reviewing the adequacy of the emergency response  
21 equipment, and housekeeping. The facility  
22 contingency plan, or emergency response plan, is  
23 designed to provide guidance for quick, efficient  
24 response in event of a spill, fire or other type of

1 emergency. This requires the facility to  
2 coordinate with local emergency response crews to  
3 provide local authorities with information  
4 necessary to deal with an emergency, which may  
5 impact areas off site. And this review is done on  
6 an annual basis.

7           The waste analysis plan or waste-  
8 screening plan ensures that only wastes which can  
9 be properly handled are accepted at this facility.

10 In this case, the permittee only proposes to accept  
11 sludge generated from their own wastewater  
12 treatment facility. The facility will use a load-  
13 checking program to verify the contents of the  
14 waste received.

15           The facility will conduct training of  
16 its employees to respond to emergencies, on how to  
17 operate, maintain and inspect the equipment and to  
18 inspect the incoming waste.

19           Questions have been asked about the

20 requirement to obtain siting approval. Compliance  
21 with the local siting process identified in  
22 Section 39.2 of the Environmental Protection Act is  
23 one of the items we check for when reviewing an  
24 application. They must provide proof of local

1 siting approval or demonstrate that one of the  
2 exemptions in Section 3.32 is applicable.

3           The Bureau of Land does not regulate  
4 any resulting air emissions. These air emissions  
5 must be addressed in a permit issued by the Bureau  
6 of Air. As a part of the permit review, the Bureau  
7 of Land is now soliciting your comments on proposed  
8 waste management activities. These comments will  
9 be reviewed prior to the final permit decision.  
10 Comments should be technical in nature and address  
11 such issues such as whether the design or operation  
12 of the facility will not meet the applicable  
13 regulations regarding the management of the waste  
14 at the facility.

15           Thank you for your interest in this  
16 project. I will be available during this hearing  
17 to address questions.

18           HEARING OFFICER SELTZER: Thank you.

19           I forgot, folks, to ask if there is

20 anybody present this evening from the applicant  
21 North Shore Sanitary District. If so, I wonder if  
22 they would stand up and identify themselves,  
23 spelling their name for the record and making sure  
24 the court reporter can hear you. Maybe come

1 forward or have your counsel come forward, and he  
2 can identify everybody. However you want to do it.

3 MR. HAWN: I'm Mark Hawn from North Shore  
4 Sanitary District. You want -- M-A-R-K, H-A-W-N.  
5 Do you want the address, too?

6 HEARING OFFICER SELTZER: That's not  
7 necessary. What is your position?

8 MR. HAWN: I'm on the board. I'm a trustee  
9 for the North Shore Sanitary District.

10 HEARING OFFICER SELTZER: Okay. Thank you,  
11 sir.

12 MR. PRILLAMAN: I just had them all come up  
13 front in case you can't hear.

14 I'm Fred Prillaman, one of the attorneys  
15 for the North Shore Sanitary District.

16 MR. JENSEN: Good evening. My name is  
17 Brian Jensen. I'm the general manager.

18 MR. LYONS: Good evening. My name is  
19 Francis Lyons, one of the attorneys for the North

20 Shore Sanitary District.

21 MR. OSA: I'm Richard Osa. I'm with STS

22 Consulting. I was responsible for the air modeling

23 analysis.

24 MR. DORN: Brian Dorn, North Shore Sanitary

1 District.

2 HEARING OFFICER SELTZER: What is your  
3 position?

4 MR. DORN: Special projects manager.

5 HEARING OFFICER SELTZER: Thank you very  
6 much.

7 At this time I'm going to go to the  
8 audience and call individuals in the order in which  
9 I received the cards. The first one I have is a  
10 Mark Hawn.

11 Sir, would you again identify yourself  
12 for the record, please, and indicate your position.

13 MR. HAWN: My name is Mark Hawn. I'm a  
14 trustee for the North Shore Sanitary District. I  
15 live at 104 Sheridan Court in Waukegan.

16 A couple of comments. First of all, I  
17 would like to thank Mr. Seltzer for the job he did  
18 the last time. I was very appreciative of it. I  
19 think there has been a lot of benefit from the last

20 public meeting in which a number of people came.

21 And I will get into some of those points in a

22 little bit.

23 First of all, I have to criticize this

24 meeting tonight for -- they had some -- a minimal

1 amount of advertising. I never saw any of it. I  
2 asked the lady that was in charge of the  
3 advertising. They put out three ads that were  
4 prior to Christmas. And I would just suggest in  
5 the future when you are holding a public meeting to  
6 put an ad within a two week period of the meeting  
7 just to keep it fresh in people's memory.

8           So having said that, back to the  
9 benefits of the last meeting that I think the  
10 public should know, there was a big outcry for --  
11 about the mercury emissions that were going to be  
12 emitted from this process. And currently our staff  
13 is working very hard at identifying the sources of  
14 the mercury. And I feel, if it is humanly  
15 possible, our staff will be able to remove a good  
16 amount of whatever mercury comes our way. And I  
17 say if it's humanly possible. And I'm getting  
18 reports that we do have the potential to do these  
19 things. And had we not heard a lot about it in the

20 public, I'm sure that we wouldn't have pursued it  
21 with the vigor that our staff has done. I comment  
22 to our staff, Brian Jensen, Karen Farrell, who are  
23 heading up that effort right now.

24           Also, the intensifying of the air

1 modeling that's been done since the last meeting  
2 has enlightened us; and I believe given us a road  
3 map to help cleaning up air emissions along the  
4 whole lakefront in Waukegan. Valuable information  
5 was garnered at our last meeting. Like I say, we  
6 have pinpointed a number of sources that are  
7 creating some of the pollution. And these are  
8 offshoots of public meetings. And this is why we  
9 need to have public meetings and people need to  
10 participate because the answers are there. And if  
11 they aren't, they can be found and worked on. So I  
12 think people should continue to participate, and I  
13 thank you again for that.

14           Next part is I would like to comment  
15 why I don't think this process should be located at  
16 the Waukegan lakefront.

17           HEARING OFFICER SELTZER: Sir, I'm going to  
18 have to interrupt you now because that is not at  
19 issue this evening as I think you know. And I

20 explained it during --

21 MR. HAWN: Well, I'm not sure. You gave us

22 a lot of latitude last time.

23 HEARING OFFICER SELTZER: Yes. I did give

24 you a lot of latitude. And I think we have that in

1 the record. Both these permits will be considered  
2 by Agency personnel, and we understand your  
3 sentiment. If you want to express your sentiment  
4 again, please just express it; but I don't want to  
5 get into any detail. I want to get to the meat of  
6 the hearing. That's important to me.

7 MR. HAWN: Would you give me the parameters  
8 again, please.

9 HEARING OFFICER SELTZER: Just indicate for  
10 me, you just said what, you are opposed to what?

11 MR. HAWN: I'm opposed to seeing this site  
12 at our lakefront.

13 HEARING OFFICER SELTZER: Okay. I think  
14 that's as far as it --

15 MR. HAWN: Leave it at that?

16 HEARING OFFICER SELTZER: Yes, please.

17 MR. HAWN: You don't want me to talk about  
18 the other alternatives we might look into?

19 HEARING OFFICER SELTZER: Well, sir, that

20 really isn't at issue this evening, nor can the  
21 Agency consider those alternatives. Under the law,  
22 we can only consider the permit application as it  
23 is submitted to us. So I would rather spend our  
24 time talking about what's at issue this evening.

1           MR. HAWN: And I don't want to be rude or  
2   disrespectful, but this is regarding the Bureau of  
3   Land; right?

4           HEARING OFFICER SELTZER: Correct.

5           MR. HAWN: They are running the hearing  
6   or --

7           HEARING OFFICER SELTZER: Well --

8           MR. HAWN: That's --

9           HEARING OFFICER SELTZER: It pertains to a  
10   permit application that was filed that will be  
11   reviewed by the Bureau of Land.

12          MR. HAWN: I seriously question how much  
13   can actually be brought up regarding the land.  
14   This Minergy process, quite frankly, isn't putting  
15   anything in the ground that I know. I'm trying to  
16   be as honest and frank as I can. And I'm not  
17   trying to be a wise guy. But the Minergy project,  
18   as I understand it, please help me if I'm wrong,  
19   Brian, but I don't think any of it's going in the

20 ground.

21 HEARING OFFICER SELTZER: Well, okay. We

22 have an attorney here that indicates he can give

23 you hopefully a response that will satisfy you.

24 MR. KIM: Well, I don't know if I can.

1 What I was going to ask you was -- and you can just  
2 fill me in, I'm not aware of this -- the  
3 alternatives you just wanted to talk about, are  
4 those included in the permit application?

5 MR. HAWN: No. No, they are not.

6 MR. KIM: Well, then I think, as  
7 Mr. Seltzer was trying to get you to understand,  
8 the permit review process is one where we simply  
9 review what's been submitted to us.

10 MR. HAWN: I see.

11 MR. KIM: It's a difficult proposition for  
12 us, and it's really unfair for all parties involved  
13 if we were to get a permit application and then we  
14 were just to decide even though they didn't ask for  
15 something, even though it's not in here, let's just  
16 put this in anyway. That is not really -- Our  
17 role in the permit review process is to review  
18 what's been submitted.

19 So although you have some strong

20 feelings about that, if it's not included in the  
21 application, that's -- I think that's what  
22 Mr. Seltzer is getting at, it's really not  
23 something that is going to be considered. If it  
24 were, for example, the application was amended and

1 all this was included, then it would certainly be  
2 fair game for review; but I don't think that's the  
3 case.

4 MR. HAWN: Okay. Then I would just leave  
5 it at one final comment is that the latitude that  
6 was given the last time, I guess that was really  
7 centered on the mercury issue. I think it will  
8 prove to be a big benefit in terms of mercury  
9 removal all over the place. And for that I'm  
10 grateful, and that's all I have. Thanks.

11 HEARING OFFICER SELTZER: Thank you very  
12 much.

13 (Discussion outside the record.)

14 MR. ETTINGER: All I was asking was for the  
15 hearing officer, in light of the fact that you had  
16 limited the parameters of the prior speaker, just  
17 to give us a little better idea, either you or  
18 Mr. Kim, give us a little better idea as to what  
19 the parameters are so that other speakers know that

20 before they get up here.

21 HEARING OFFICER SELTZER: I will do that.

22 Simply put, the parameters of this

23 hearing are limited by what the hearing pertains

24 to. What the hearing pertains to is the permit

1 application that was filed by North Shore Sanitary  
2 District, the Agency is considering that permit,  
3 and the Agency is asking for public input before it  
4 makes a final decision, whatever that decision may  
5 be, with respect to the permit application.

6 Now, my way of operating generally is  
7 to allow a little more leeway than that because  
8 that's very specific. For example, at the first  
9 hearing with regard to North Shore Sanitary  
10 District, there were -- We did discuss siting.  
11 Now, the Agency has no authority, has taken the  
12 position in this case that it is not responsible  
13 for issuing siting approval. And that's the  
14 Agency's approval.

15 The siting was going to be brought up  
16 again tonight, and again I cut that off because  
17 that is not an issue at this hearing. We talked  
18 about some other parameters. I think noise was an  
19 issue that was raised at the last hearing. I let

20 people comment a little bit with respect to the  
21 noise pollution or the potential for noise  
22 pollution, because I know you all went to vent and  
23 you want to express your feelings. But on the  
24 other hand, when we go too far askew off of what

1 the main topic is, it makes the record extremely  
2 weighty because it would include a lot of the  
3 material that the Agency under the law cannot  
4 consider in making its decision on whether or not  
5 to issue a permit and, if they decide to issue a  
6 permit, what special conditions may attach to that  
7 permit.

8           So in order to save time for  
9 yourselves, in order to make a clearer record, I'm  
10 going to allow a little latitude. But basically  
11 this hearing is designed to hear your comments or  
12 for you to ask questions with respect to the issue  
13 tonight, the issue being it pertains to the permit  
14 application filed by North Shore Sanitary District  
15 and how the Agency will respond to that.

16           Does anybody have any questions on  
17 that? If you do, raise your hand and I will go  
18 into greater detail.

19           Would you come forward and identify

20 yourself, please.

21 MS. O'SULLIVAN: My name is Laurel

22 O'Sullivan. I'm with the Lake Michigan Federation.

23 Despite your clarification, I'm still a little

24 perplexed as to the parameters that you have

1 designed for tonight. As I understand it, you are  
2 not going to listen to any comments relating to the  
3 siting of this facility on the lake or any comments  
4 related to the concerns about mercury. So I guess  
5 you have mentioned that the comments need to be  
6 addressing the permit application. Could you more  
7 specifically define that, if possible? Such as  
8 transportation issues related to it, how the sludge  
9 will be treated? I mean I have got some comments  
10 prepared tonight but I need to know --

11 HEARING OFFICER SELTZER: Have you reviewed  
12 the permit application?

13 MS. O'SULLIVAN: Yes, I have.

14 HEARING OFFICER SELTZER: And you have  
15 questions about that or comments with regard to  
16 that application?

17 MS. O'SULLIVAN: I have comments and  
18 concerns about the location of the facility on  
19 behalf of Lake Michigan Federation.

20 HEARING OFFICER SELTZER: Do you understand  
21 from what I've said that that's beyond the scope of  
22 this hearing? It is. I don't know if you  
23 understand it or not. Frankly, it is.

24 MS. O'SULLIVAN: I understand what you are

1 saying in terms of understanding English, but I  
2 don't really understand exactly why latitude was  
3 given in the first one. I don't see how you  
4 divorce the issue of the location from the issue of  
5 it being a land permit.

6 HEARING OFFICER SELTZER: Well, I'm doing  
7 that. And I hate to be that abrupt, but I can't  
8 explain myself any better than that. And I want to  
9 focus in on the issues because it's a waste of  
10 everybody's time to focus in on issues over which  
11 the Agency -- issues which the Agency is not going  
12 to consider.

13 MS. O'SULLIVAN: Okay. Well, this is a  
14 public hearing; right?

15 HEARING OFFICER SELTZER: It is a public  
16 hearing.

17 MS. O'SULLIVAN: Okay. Well, then I guess  
18 we just have a difference of opinion. It would  
19 seem appropriate to allow comments --

20 HEARING OFFICER SELTZER: I'm going to ask  
21 that you express your opinions then in writing.  
22 Certainly the Agency has no control over what  
23 written comments you submit. Those written  
24 comments are made as much a part of the record as

1 all the oral testimony that will be received  
2 tonight.

3 MS. O'SULLIVAN: Okay. I will do that.

4 (Discussion outside the record.)

5 MR. ROMAINE: I would just like to clarify.

6 Given the possible overlap between issues related  
7 to air as well as issues related to waste treatment  
8 that are being addressed by the land permit,  
9 certainly the Bureau of Air will be looking at all  
10 the written comments as well. I would not feel in  
11 any way restricted in what could be put in a  
12 written comment. Obviously, we would be looking  
13 for items that would be substantive that relate to  
14 the standards of issuance that are relevant to the  
15 air permit; but I would not presume that your  
16 concerns are not relevant to the process.

17 HEARING OFFICER SELTZER: The Agency has a  
18 set of regulations. There are statutes. And under  
19 the authority of those statutes certain regulations

20 were adopted. And the permit reviewers are  
21 obligated under the law to look at those  
22 regulations and see how those regulations apply to  
23 the application and whether or not the application  
24 meets the criteria of those regulations. Outside

1 of that, the Agency is not allowed to express  
2 personal opinions or decide it wants to look at  
3 some other matter.

4 Just like Mr. Kim explained, if the  
5 Agency were to decide, "Well, hey, we thought of a  
6 better place for you to be than where you want to  
7 be. We want to put you in, you know, Kishiniv."  
8 Can you spell that? The Agency doesn't have that  
9 kind of authority. As a governmental entity, we  
10 don't have that kind of authority.

11 The way we function in this country is  
12 it is a body -- it is a nation of laws, not of men.  
13 So even though some particular permit reviewer may  
14 have a personal interest and feel, in fact, the  
15 facility should go somewhere else, he can't  
16 override the law. He can't decide, I'm going to  
17 deny this permit because I don't think it belongs  
18 there, I think it belongs here. So we try and  
19 follow the law, and we are doing the best we can.

20 Permit reviewers are doing the best we can. And  
21 all we can do is determine which laws are  
22 applicable and then determine how that permit falls  
23 within the applicability of the law.

24 MR. KIM: And just to build on that, and

1 I'm not sure if the last person's comments were --  
2 Obviously, I don't know what your comments were  
3 going to be. But there is a distinction I think  
4 between issues relating to the suitability of the  
5 location, because that is a question of local  
6 siting, and that is something that's presented to  
7 the local unit of government, not to the Illinois  
8 EPA.

9           However, as Mr. Schollenberger stated,  
10 one of the functions of his permit review is to  
11 determine from our perspective whether or not  
12 siting as a requirement is necessary before we  
13 issue the permit. It's a little confusing because  
14 it relates to local siting approval, but it's not a  
15 question of whether or not this facility is  
16 suitable for the location from our perspective.  
17 It's a question of whether or not they need to get  
18 that approval to begin with.

19           We don't really go into -- We are not

20 allowed, as Mr. Seltzer just stated, we are not  
21 allowed to make that judgment call. That's  
22 something for the local unit of government. What  
23 we do make a determination on is whether or not the  
24 applicant must have that approval and present that

1 to us before we are able to issue a permit. And  
2 Mr. Schollenberger stated that is one of the things  
3 that he goes through. The review process there is  
4 a little bit different. And it is a question of  
5 local siting approval, but it's a question of  
6 whether or not it applies. And to determine  
7 whether or not it applies, you have to define what  
8 type of facility it is and what type of activities  
9 that facility is going to engage in or proposing to  
10 engage in. Based upon that, we then make a  
11 determination as to whether or not local siting  
12 approval should be required. If it is, then the  
13 applicant would have to go to the local unit of  
14 government. And that's a completely separate  
15 process that we don't play any part. I don't know  
16 if that clears it up or if that makes it more  
17 confusing.

18 HEARING OFFICER SELTZER: Sir, we are just  
19 going to go ahead now. And at the end if you

20 haven't signed a card, you can speak at the end.

21 Or if you have signed a card, when I call --

22 MR. GLENN: No. I have a question about

23 procedure, sir.

24 HEARING OFFICER SELTZER: Identify

1 yourself, please.

2 MR. GLENN: My name is Jay Glenn. I'm an  
3 attorney with Illinois Citizen Action.

4 My question, sir, is regarding the  
5 issue of environmental justice. You have  
6 foreclosed one of the trustees in the North Shore  
7 Sanitary District in his discussion about the  
8 siting of this location.

9 Does your Agency feel that  
10 environmental justice is an appropriate concern?

11 HEARING OFFICER SELTZER: We know it's of  
12 concern here and the Agency will address that  
13 issue, not this evening; but in its written  
14 responses that issue will be directly addressed.

15 MR. GLENN: All right, sir. But if you  
16 foreclose people from discussing the issues  
17 relating to environmental justice, which deals with  
18 the poverty and minority issues in the community  
19 and the health effects of the various superfund

- 20 sites and remedial areas and the waterfront and
- 21 harbor, how do you intend to permit these
- 22 participants to explain their position on or
- 23 explain their position on siting if you are going
- 24 to foreclose them discussing the siting of this

1 issue along the lakefront?

2 HEARING OFFICER SELTZER: As I said

3 earlier, I would hope that you, Counsel,

4 representing your clients or your clients

5 individually, would supply the Agency with the

6 information with regard to that issue in written

7 form. That will be addressed. As you know,

8 Counsel, it's going to be part of the record the

9 same as the oral testimony that's becoming part of

10 the record this evening.

11 MR. GLENN: Now, I'm concerned that we have

12 a number of residents here who have wished to speak

13 to this issue and are apparently going to be

14 foreclosed from discussing it and including one of

15 the trustees for the North Shore Sanitary District,

16 who has already been put down.

17 MR. ROMAINE: I think we need to take a

18 time-out.

19 HEARING OFFICER SELTZER: Let's take a

20 five-minute recess.

21 (Whereupon a recess was had.)

22 HEARING OFFICER SELTZER: Counsel,

23 Mr. Glenn?

24 MR. GLENN: Yes, sir.

1 HEARING OFFICER SELTZER: The EJ issue is  
2 an issue the Agency is aware of. It's an issue the  
3 Agency will respond to. This hearing, as you know,  
4 Counsel, is not mandated by law. The Agency is  
5 doing an outreach by holding this hearing. The  
6 purpose of the hearing today really is to get  
7 information directly on the permit application  
8 itself. EJ issues are an aside, very important but  
9 they are an aside.

10 And I again would invite everybody  
11 that has a desire to make a comment on those  
12 issues, the EJ issues, environmental justice  
13 issues, to file your written comments with the  
14 Agency because they will be considered.

15 Now, what I'm going to do this evening  
16 is I'm going to ask you, Counsel, as a spokesman  
17 for that cause to wait until everybody else, the  
18 other individuals, have had their say, and at the  
19 end of that time I'm going to invite you to come

20 back and address that issue solely on behalf of  
21 anybody else that is in the audience this evening.  
22 And of course, they are free to go on their own and  
23 make their own individual comments before the close  
24 of the record.

1 MR. GLENN: Thank you.

2 HEARING OFFICER SELTZER: Okay, Counsel.

3 Thank you.

4 The next is Jack Darin.

5 MR. DARIN: Thank you. My name is Jack

6 Darin. I'm the director of the Sierra Club,

7 Illinois Chapter. And thanks for coming here

8 tonight. Our Sierra Club represents 25,000 Sierra

9 Club members in Illinois who are committed to

10 protecting Illinois' environment for our families

11 and our future.

12 Our primary concern regarding this

13 facility is the impact it will have on Lake

14 Michigan, which of course is the source of drinking

15 water for over half of Illinois' residents, and one

16 of the major fresh water bodies -- bodies of fresh

17 water on the planet.

18 The number that caught our eye is the

19 facility will be permitted to emit 92 pounds of

20 mercury each year into the air. And we all know  
21 that what comes up comes down. That's science. It  
22 surely applies to Lake Michigan. We all know that  
23 air deposition is the primary source of  
24 biocumulative chemicals like mercury into our lake.

1 And our concern is this will constitute a  
2 substantial new loading, not only mercury, probably  
3 other priority organic and heavy metals to Lake  
4 Michigan, our source of drinking water.

5 We think that's inconsistent with  
6 state and national and even international efforts  
7 in the opposite direction, to try to reduce the  
8 loadings of these pollutants to the lake, programs  
9 like the Great Lake's Initiative, the directives of  
10 the International Joint Commission. So we would  
11 recommend that the Agency deny the application on  
12 that ground in particular.

13 We would ask a couple of questions of  
14 either the Agency or the applicant.

15 HEARING OFFICER SELTZER: Well, the Agency  
16 you can. The applicant is here of their own  
17 volition. And they are not, as you know, under an  
18 obligation to respond. If they care to respond,  
19 they can; but it's their decision.

20 MR. DARIN: Of the Agency first then.  
21 92 pounds of mercury a year sounds like a large  
22 number to us. To get a sense of the scale and the  
23 unusualness of that number, is the Agency available  
24 to tell us when the last source of mercury

1 emissions that large, new source, was permitted in  
2 this state?

3 MR. ROMAINE: I don't have that information  
4 off the top of my head.

5 MR. DARIN: So you are not familiar with a  
6 source this large in recent history?

7 MR. ROMAINE: Certainly the Robbins  
8 Resource Recovery facility was permitted to emit  
9 that amount. That facility is no longer  
10 operating.

11 MR. DARIN: If I remember right, that was  
12 permitted in the late '80s, its air permit?

13 MR. ROMAINE: That was actually permitted  
14 in the early '90s.

15 MR. DARIN: In terms of your memory that  
16 you are able to remember tonight, the biggest  
17 source of mercury proposed for permitting in at  
18 least a decade?

19 HEARING OFFICER SELTZER: Counsel, let me

20 interrupt. We will answer the question directly.

21 We will give you an answer directly.

22 MR. ROMAINE: I guess the other point I

23 would say, obviously, as you know, the biggest

24 source of mercury, point sources, are coal-fired

1 power plants. Those sources are subject to  
2 operating permits. They are out there as we speak.

3 MR. DARIN: Right. But there hasn't been a  
4 new one permitted in at least a decade, and I might  
5 add the legislature this year recognized the  
6 importance to reducing mercury from coal-fired  
7 plants by passing legislation directing the Agency  
8 to come up with new emissions controls for mercury  
9 from those sources. So that's another avenue of  
10 state government that's going in the direction of  
11 trying to reduce mercury into the lake.

12 MR. ROMAINE: That is correct. There are a  
13 number of initiatives to reduce mercury  
14 contribution to Lake Michigan, Not only the state  
15 of Illinois but other Lake Michigan states as you  
16 have mentioned, as well as at the federal level.  
17 So the loadings of mercury should be going down.

18 MR. DARIN: And would the granting of this  
19 permit be consistent with those efforts?

20 MR. ROMAIN: I think, again, I would say  
21 you have to look at the big picture. The question  
22 isn't one source. The question is what is the  
23 overall impact of all the sources that can  
24 contribute mercury to Lake Michigan.

1 MR. DARIN: Certainly adds to the overall  
2 impact?

3 MR. ROMAINE: Yes.

4 MR. DARIN: The Agency, I know that Lake  
5 Michigan is on the list of -- the state's list of  
6 impaired waters. They are not meeting water  
7 quality standards. It's my understanding the  
8 Agency considers Lake Michigan to be impaired by  
9 priority organics and PCBs?

10 MR. KELLER: I don't have that information  
11 here really.

12 MR. DARIN: I think that's my recollection.  
13 Does the Agency think that it's likely that this  
14 would result in an increased loading to the lake in  
15 either PCBs or priority organic chemicals?

16 MR. KELLER: Again, I can't really offer an  
17 opinion on that.

18 MR. DARIN: Okay. This is my last  
19 question. It is for the applicant if they would be

20 willing to answer it. A spokesman for the  
21 applicant said earlier tonight that he would be  
22 able to do everything humanly achievable to reduce  
23 the mercury levels to the lowest levels humanly  
24 achievable or something like that, was that the

1 comment?

2 MR. PRILLAMAN: I don't know if the court  
3 reporter can hear me. I'm Fred Prillaman, one of  
4 the attorneys for the Sanitary District.

5 Our position in this public hearing is  
6 that it's an informational hearing to hear  
7 information from those of you who have comments to  
8 make. We, in fact, will respond to any comments  
9 that we hear in this hearing as we are doing in the  
10 land or in the air hearing that was held before.  
11 We are not here to answer questions or to be  
12 deposed or anything of that nature at this time.  
13 That's highly improper and it's unprecedented. No.  
14 And we are not going to do that.

15 MR. DARIN: You have answered my question.  
16 But my question is if you are committed to doing  
17 everything humanly achievable to reduce mercury  
18 emissions, are you willing to commit here tonight  
19 to using best available control technology for

20 mercury on this incinerator?

21 HEARING OFFICER SELTZER: I think the

22 attorney representing North Shore Sanitary District

23 basically indicated you are not going to get an

24 answer to that. Am I correct, Counsel?

1 MR. PRILLAMAN: If he wants to know if we  
2 are going to follow the law, absolutely.

3 MR. DARIN: But you will use the best  
4 available control technology?

5 MR. PRILLAMAN: I'm not answering that  
6 question.

7 HEARING OFFICER SELTZER: Do you have any  
8 other questions or comments?

9 MR. DARIN: Not at this time.

10 HEARING OFFICER SELTZER: Laurel  
11 O'Sullivan.

12 MS. O'SULLIVAN: Laurel O'Sullivan. In  
13 light of our previous exchange, I will try to  
14 summarize some of my comments; but bear with me for  
15 a minute. The Lake Michigan Federation's position  
16 is they are opposed to this facility. We are  
17 extremely concerned about the impacts to the lake.  
18 The lake can't afford to receive one more ounce of  
19 mercury let alone 92 pounds on an annual basis. By

20 way of comparison, it takes 1/70 of a teaspoon to

21 contaminate a 25-acre lake. You put that into

22 perspective, 92 pounds is a lot of mercury.

23 You said earlier, Mr. Seltzer, that

24 IEPA doesn't have the authority tonight to consider

1 issues relating to siting. However, IEPA does  
2 recognize in its 305(b) report that the lake is  
3 burdened by mercury. So I would just like to pose  
4 the question tonight to the Agency, how does it  
5 recognize -- how does it reconcile that recognition  
6 with the fact that this source will be 200 yards  
7 from the lake and would be further burdening the  
8 lake with the mercury? IEPA is mandated with  
9 protecting Lake Michigan.

10 HEARING OFFICER SELTZER: We will respond  
11 to you in written form. We are not prepared to  
12 give you a response right now.

13 MS. O'SULLIVAN: I have a lot of  
14 information on the health impacts on mercury.  
15 That, as I said, is our concern. We are also  
16 concerned, however, about a host of other toxins  
17 that we don't know, that the public doesn't know  
18 about whether or not they will be emitted, such as  
19 dioxins and furans, which are typically emitted by

20 facilities that -- these facilities across the

21 country.

22 And we are concerned and one of the

23 questions I have for the Agency is are there any

24 plans to require the applicant to test the sludge

1 when it enters the facility or to monitor more than  
2 the early version of the permit that I saw?

3 MR. ROMAINE: I guess I would say that we  
4 are certainly looking for comments and suggestions  
5 on that point. We would welcome those comments.

6 MS. O'SULLIVAN: Comments on how to go  
7 about doing that?

8 MR. ROMAINE: Contaminants of concern.

9 MS. O'SULLIVAN: Are you guys not the  
10 technical -- I mean you want us to provide sort of  
11 a -- I'm confused. I don't mean to be facetious,  
12 but what kind of comments specifically are you  
13 looking for because I'm happy to provide them.

14 MR. ROMAINE: You expressed a concern about  
15 impacts on Lake Michigan. I guess we are looking  
16 for very specific comments about what compounds you  
17 are concerned about.

18 MS. O'SULLIVAN: Dioxin and furans. They  
19 will be in my written comments that I'm submitting.

20           So, okay, to build earlier on what the  
21    comments that Mr. Darin made, we are also concerned  
22    about the cumulative impacts of this facility. You  
23    are exactly right. Everything is relative. The  
24    Midwest Generation plant emits

1 450 pounds of mercury here. It's on the shores of  
2 Lake Michigan. The Pleasant Prairie power plant in  
3 Kenosha emits 860 pounds of mercury a year. It  
4 sits on the shores of Lake Michigan. The North  
5 Shore Sanitary District would increase that  
6 total by 15 percent. That's not insignificant,  
7 15 percent.

8 MR. ROMAINE: I agree. But I think the  
9 point that's being made about being on the  
10 lakeshores of Lake Michigan is not particularly  
11 relevant, that the contribution of power plants  
12 throughout the Midwest contribute to Lake Michigan.  
13 The impact of this facility on Lake Michigan would  
14 be identical no matter where it was located in Lake  
15 County.

16 MS. O'SULLIVAN: Well, I think you have a  
17 whole room full of people here who would  
18 respectfully disagree with you on that. Lake  
19 Michigan is a source of drinking water for over

20 10 million people. It's one of the Great Lakes.  
21 The list goes on and on. It's listed as impaired  
22 under the Clean Water Act. I think it is  
23 significant that it is on the shores of Lake  
24 Michigan.

1           MR. ROMAIN: You must -- It being on the  
2 shores of Lake Michigan covers the entirety of Lake  
3 County.

4           MS. O'SULLIVAN: Right.

5                   And I would also like to make the  
6 point that not only -- Well, first, I would like  
7 to address the control technology issue. The Lake  
8 Michigan Federation's position is that there should  
9 be zero discharge of persistent biocumulative  
10 toxins to the lake. There is some control  
11 technology currently available to reduce mercury,  
12 but there is none that we are aware that would  
13 eliminate mercury.

14                   Furthermore, this is consistent with  
15 federal policy. Annex 12 to the Great Lakes Water  
16 Quality Agreement entered into between the U.S. and  
17 Canada in 1978 clearly says there shall be zero  
18 discharge of the PCBs. And the Clean Water Act  
19 also states, I'm in the Section 1268(a)(1) that

20 federal and state agencies are required to follow

21 that mandate.

22           Okay. And then I would just like to

23 go back and ask a question. Earlier I think -- I

24 can't remember who said it, but they indicated that

1 a load checking program to verify the content of  
2 waste will occur. Can you explain to me what that  
3 means?

4 MR. DRAGOVICH: They will be required to  
5 have some type of load checking or waste analysis  
6 plan on incoming waste to make sure that there is  
7 nothing in there that doesn't belong in the waste  
8 that they are allowed to accept. At this point in  
9 time we haven't completed our review of that plan,  
10 and that's one of the things that we are looking  
11 for comments on as to whether the appropriate  
12 parameters are identified and methods as part of  
13 this load checking plan.

14 MS. O'SULLIVAN: When you say anything  
15 that's not allowed to, are you referring to the  
16 limits in its NPDES permit or what are those --

17 MR. DRAGOVICH: Well, we will determine  
18 what wastes they are allowed to accept and what  
19 limits should be placed on there based upon what

20 they are able to treat adequately. So, for  
21 instance, if the air permit set limits on some  
22 incoming parameter because they are afraid of air  
23 emissions from that parameter, we could include  
24 that parameter in our waste analysis requirements.

1 MS. O'SULLIVAN: How do you -- I'm  
2 confused. How do you take the air limits, -- and  
3 this has been a confusion for me from the  
4 start -- the limits that are set in the air permit,  
5 and translate those into the content of the sludge?

6 MR. DRAGOVICH: You could do that through  
7 testing. What you do is you measure the amount of  
8 a particular constituent that goes into the unit,  
9 and then you measure the air emissions coming out  
10 from that. And of course, if the incoming amount  
11 causes the air emissions to exceed the limits, then  
12 you would want to put limits on the incoming waste.

13 MS. O'SULLIVAN: So are those amounts, have  
14 those been documented by the IEPA for this  
15 facility?

16 MR. DRAGOVICH: We haven't completed our  
17 review yet.

18 MS. O'SULLIVAN: Where, if the public  
19 wanted to look at those and comment on those, where

20 would we find it?

21 MR. DRAGOVICH: You would have to look at  
22 the permit application.

23 MS. O'SULLIVAN: Is the process set forth  
24 in there from IEPA how those are translated, how

1 that computation that you just talked about --

2 MR. DRAGOVICH: I'm not even sure that they  
3 have a test plan in there like that to be honest  
4 with you. I don't know. They don't have a test  
5 plan in it at this point in time.

6 MS. O'SULLIVAN: Okay. Thank you.

7 HEARING OFFICER SELTZER: Thank you.

8 MS. O'SULLIVAN: Actually I would just like  
9 to conclude.

10 HEARING OFFICER SELTZER: Excuse me.

11 MS. O'SULLIVAN: The decision today  
12 represents a critical crossroad for the Waukegan  
13 Harbor. The Lake Michigan Federation has sat --  
14 has been involved in issues affecting Waukegan for  
15 over 30 years. And we helped create the Citizens  
16 Advisory Group in the 1980s that addresses cleanup  
17 issues, so we have a vested interest in the issues  
18 here.

19 So the question that we have is are we

20 going to allow more pollution when the harbor  
21 itself is on the verge of becoming a bionatural  
22 environmental success story. The harbor remains  
23 one of the 42 areas of concerns around the Great  
24 Lakes. However, there has been talk of delisting

1 the harbor; and preliminary fish sampling shows a  
2 significant decrease in PCB levels after decades of  
3 sediment contamination.

4 The community including the Citizens  
5 Advisory Group is turning its attention from  
6 cleaning up to showcasing the harbor on the  
7 lakeshore. We feel strongly that we need to build  
8 the momentum to go forward and not backwards in  
9 rebuilding the lake and its shoreline. Thank you.

10 HEARING OFFICER SELTZER: Thank you.

11 The next is Albert Ettinger.

12 MR. ETTINGER: I'm Albert Ettinger. I  
13 don't have much to say. I guess I have a comment  
14 and a question. My first comment I guess is that  
15 much of the concern does seem to be focused on the  
16 site of this location, the public concern; but we  
17 are told today that the siting is not part of this  
18 hearing. There is an area of Illinois law in which  
19 siting is often considered for such facilities,

20 which is the SB 172 process. And I certainly hope  
21 that your answer to the comments would make a very  
22 clear explanation as to why the Agency believes  
23 that this is not subject to the SB 172 process,  
24 which would normally consider precisely

1 the types of issues that many people would like to  
2 raise with regard to this hearing.

3 If anyone present today would like to  
4 address that question, I would very much like to  
5 have that answer.

6 MR. KIM: Yes. When you refer to SB 172,  
7 you are referring to Senate Bill 172, which was the  
8 piece of legislation that created the requirement  
9 of local siting approval. And as I'm sure you  
10 know, and maybe most people know, up until that  
11 bill passed the Illinois EPA was the body that  
12 determined whether or not a location was suitable  
13 for a proposed facility. After the passage of that  
14 bill, the General Assembly deemed that we would no  
15 longer be responsible or authorized to make that  
16 decision, the local units of government would take  
17 care of that; and our role would simply be to  
18 determine under Senate Bill 172 whether or not that  
19 approval was required; and if it was required, to

20 determine whether or not it had been provided to

21 us. That is our role under Senate Bill 172.

22           And as I think Mr. Schollenberger

23 stated in his opening comments, one of the things

24 that is part of his review is to make a

1 determination as to whether or not a facility  
2 including this one is subject to local siting  
3 approval and, if it is, to see if they have  
4 submitted local siting approval to us. If it's  
5 not, then we move on to the next phase of the  
6 permit review.

7           Whether or not the facility is subject  
8 to local siting approval, again, as I'm sure you  
9 are aware, but it's something that is --

10           MR. ETTINGER: Don't give me too much  
11 credit.

12           MR. KIM: No. Whether or not it's  
13 required -- or whether or not a facility is subject  
14 to that depends upon, again, the type of facility  
15 and the type of activity that that facility is  
16 proposing to engage in. In the Environmental  
17 Protection Act, there is a section that defines --  
18 that creates a term, it's called a pollution  
19 control facility. If a facility meets the

20 definition of a pollution control facility, they  
21 must receive local siting approval before they can  
22 come to us and we can issue a permit.  
23           There is a definition in there that  
24 states what is and what is not a pollution control

1 facility. There is also a list of exemptions that  
2 says, you know, the general definition  
3 notwithstanding, these are certain things which are  
4 not, which may seem to fall in the general  
5 definition, but these are things that are not  
6 pollution control facilities.

7           So the part of the review that  
8 Mr. Schollenberger described is what we always do.  
9 We look to see if the proposed facility meets that  
10 definition of a pollution control facility. If it  
11 does, we check to see if any exemptions apply. If  
12 it doesn't meet the definition to begin with, then  
13 again we just move on to the next phase of our  
14 permit review. So, in fact, we are abiding by the  
15 Senate Bill 172 process. We always do that when we  
16 conduct permit reviews.

17           MR. ETTINGER: Let me be clear then. It's  
18 your understanding that this is not subject to the  
19 SB 172 siting --

20 MR. KIM: Well, again --

21 MR. ETTINGER: -- law.

22 MR. KIM: There are different components of

23 the Senate Bill 172 siting law. There is -- If

24 you look at the law, our role, and it's strictly

1 defined, our role is simply to determine whether or  
2 not a facility needs to get local siting approval.  
3 If they are, we then check to see if they have  
4 received approval before we can issue a permit.

5 MR. ETTINGER: Okay.

6 MR. KIM: Let me just finish. The role of  
7 conducting the siting review process itself, there  
8 is a big long section, that that goes to the local  
9 unit of government, either the county or the city  
10 if it's located in a city. It talks about all the  
11 criterias that the city is supposed to follow,  
12 talks about all the things that the city is  
13 supposed to do, the hearing the city is supposed to  
14 conduct, and the city or the county makes that  
15 decision.

16 MR. ETTINGER: But as I understand this,  
17 it's not subject to local siting approval; but you  
18 do believe you are preempted from considering the  
19 siting question in this proceeding?

20 MR. KIM: I think that, as Mr. Schollen-  
21 berger stated, whether or not it is or is not  
22 subject to siting approval is part of the review.  
23 And we haven't made a decision I don't think on  
24 whether or not it is or is not required. That's

1 part of our review that's undergoing.

2 MR. ETTINGER: So we don't know yet. It  
3 may still be subject to a local siting approval.

4 MR. KIM: I don't think that we have made a  
5 formal -- I don't think we have made a formal  
6 decision on that one way or the other. And  
7 frankly, I don't think we will until you see our  
8 permit decision. It's part of the permit review  
9 process.

10 MR. ETTINGER: Thank you.

11 HEARING OFFICER SELTZER: Just so we don't  
12 get off track, we are not saying that we can  
13 consider alternative sites.

14 MR. ETTINGER: I understood that. I was  
15 just trying to make sure in terms -- I gather that  
16 we are not considering alternative sites or the  
17 site in this proceeding, but we are considering  
18 whether or not local siting approval is necessary.

19 HEARING OFFICER SELTZER: Correct.

20 MR. KIM: That's correct.

21 MR. ETTINGER: Thank you.

22 HEARING OFFICER SELTZER: Evan Craig I

23 believe it is.

24 MR. CRAIG: My name is Evan Craig. I am

1 the local volunteer group chair for the Sierra Club  
2 Woods and Wetlands group. We have got 2500 members  
3 in our group, and I appreciate you having this  
4 hearing.

5           The NSSD from my point of view has a  
6 tough job. And we think that -- I think that  
7 creativity is needed to devise a more thorough  
8 method of returning our waste to the environment in  
9 a more responsible way. I think that's what we are  
10 here for.

11           Sierra Club favors recycling the  
12 organic materials and sludge to our soils but only  
13 if the persistent toxic materials are first  
14 removed. The idea of recycling is a sound one for  
15 our problems today and for our future. It seems  
16 that IEPA has been -- has embraced the idea of  
17 recycling. And the regulations that you just  
18 referred to, I believe, are trying to be twisted by  
19 NSSD to -- and exploited to favor calling the stuff

20 recycling and biosolids rather than what it is,

21 toxic material.

22 Most of us understand recycling as a

23 process where valuable materials are removed from

24 the waste stream and returned for reuse. Glass,

1 plastics, metals, we separate the recycling. NSSD,  
2 on the other hand, is proposing to separate out the  
3 toxic materials and return them for reuse to us.

4           The valuable materials they want to  
5 incinerate and send out the flue, the organic  
6 matter. We feel this is a misapplication of the  
7 regulations and that this facility should be  
8 considered a pollution control facility rather than  
9 a biosolid recycling operation. I'm an engineer.

10 I don't pretend to be an expert on sludge. I do  
11 want to express my concerns about the likelihood  
12 that this incinerator will produce substantial  
13 quantities of dioxin, release it into the air.

14 Once in the air, dioxin is persistent toxic, as we  
15 discussed before. It will settle out in our land  
16 and poison our water.

17           In January of 2001 the National  
18 Institutes of Health listed dioxin as a known human  
19 carcinogen. Last November an incinerator in France

20 was hastily shut down after Dioxin was found in the  
21 heards of surrounding farms. We are glad the EPA  
22 is moving to more tightly regulate the release of  
23 toxic material, and we hope that you will apply  
24 those standards now rather than later.

1 Specifically, I would like to know that this  
2 facility will be equipped to remove dioxin and  
3 other toxic material released in the flue and ask  
4 that this be required in the permit if you grant  
5 it. But I ask you deny this permit, encourage the  
6 applicant to engage our regulations more honestly,  
7 and anticipate the more stringent standards the  
8 public deserves. Thank you.

9 HEARING OFFICER SELTZER: Thank you.

10 Let's take a five-minute recess.

11 (Whereupon a recess was had.)

12 HEARING OFFICER SELTZER: Okay. There is a  
13 lot of people that have signed cards that are yet  
14 to make comments or ask questions. So I just say  
15 that to remind the folks that are yet to go to  
16 watch your time so other people will have a chance  
17 to have their say so this evening.

18 The next is Verena Owen, please spell  
19 your name.

20 MS. OWEN: Good evening. My name is Verena  
21 Owen. I'm a member of the Lake County Conservation  
22 Alliance. I think this hearing is premature; but  
23 this is, obviously, not the time or place to  
24 discuss that. I think I would like to start

1 tonight, and you will tell me if I'm leaving the  
2 boundaries of the hearing, just for the first  
3 sentence of the IEPA's mission statement, "The  
4 mission of the Illinois Environmental Protection  
5 Agency is to safeguard environmental quality  
6 consistent with the social and economic means of  
7 the state as to protect health, welfare, property,  
8 and the quality of life."

9           The question is, of course, tonight  
10 how do you protect quality of life and how do you  
11 measure welfare. I have struggled very hard to  
12 understand how all these different permits will  
13 eventually interact with each other. I have a  
14 feeling that somebody is trying to put a square peg  
15 into a round hole here.

16           I do have a question for the Bureau of  
17 Air. You will hear a lot of comments or you will  
18 hear some comments, already heard comments about  
19 your air permit. Public comment on this is closed.

20 How will you deal with the additional comments

21 tonight?

22 HEARING OFFICER SELTZER: I indicated

23 earlier this evening that the record for the air

24 permit will be reopened, and so all the comments

1 that pertain to that will be considered. And the  
2 record will close again at the same time the record  
3 for the land permit closes.

4 MS. OWEN: Thank you. If you said that, I  
5 didn't hear it; and I'm glad you clarified it. So  
6 the record is reopened. Thank you.

7 I'm looking at the permit application  
8 on page 2. It says, "Under the sludge melter  
9 purchase agreement, NSSD and Minergy Corporation  
10 have agreed that Minergy will provide staff for the  
11 sludge dryer melter facility," whatever it is, "for  
12 three years." So the North Shore Sanitary District  
13 is, obviously, not the operator at least of the  
14 incinerator part.

15 503.9(r) distinguishes between a  
16 person who prepares sewage sludge, and it's either  
17 a generator of sludge or a person who derives  
18 material from sludge. My question here is are we  
19 issuing the permit to the wrong entity, or should

20 it maybe be two permits?

21 As we have already mentioned in the

22 air permit hearing, the North Shore Sanitary

23 District says it would treat only municipal sewage

24 treatment plant sludges generated by the North

1 Shore Sanitary District's three sewage treatment  
2 plants. And my question is, again, how do you  
3 measure this and how do you keep record on that?  
4 How can we be assured that this is truly only North  
5 Shore Sanitary District's sludge?

6 On page 5 it says, "The facility will  
7 not accept unknown wastes or waste generated  
8 outside of the North Shore Sanitary District." My  
9 question again, how do you know?

10 Further down the page, "North Shore  
11 Sanitary District will continue the current load  
12 checking program used at the North Shore Sanitary  
13 District landfill." It does not specify what this  
14 load checking program is. I believe it's annual?

15 MR. SCHOLLENBERGER: My impression is that  
16 it was weekly.

17 MS. OWEN: Okay.

18 MR. SCHOLLENBERGER: They submitted  
19 additional information approximately two weeks ago.

20 That information was just put into the repository

21 here today.

22 MS. OWEN: That's helpful.

23 MR. SCHOLLENBERGER: And we asked about the

24 load checking program, and they should have

1 provided a response to it in the additional  
2 information.

3 MS. OWEN: That's wonderful. I don't know  
4 anybody in this room was aware of this. You have a  
5 wonderful Web site. I suggest you update it  
6 occasionally if you add things to your depository  
7 and you expect the public to come here and make  
8 meaningful comment, and we are apparently not being  
9 given the whole picture. I don't appreciate that.

10 On page 6, still on the load checking  
11 program, under point six, "Sludge from each of the  
12 three sewage treatment plants will be reanalyzed at  
13 least every five years." You can't be serious.

14 Just a minor thing, but it's kind of  
15 important. On the same page, further down it talks  
16 about the processing temperature. And by the way,  
17 is this an incinerator? It was last time.

18 MR. DRAGOVICH: I don't think we have made  
19 a final determination on that yet. I mean that

20 will be when we issue the permit. At that point in  
21 time we would either identify it as an incinerator  
22 or a treatment unit.

23 MS. OWEN: And that's the Bureau of Land  
24 decision or just for this particular permit? And

1 the Bureau of Air has decided it's an incinerator  
2 and you haven't made a decision.

3 MR. DRAGOVICH: I don't know what the  
4 Bureau of Air has decided.

5 MS. OWEN: That's what was said at the  
6 hearing. I was there.

7 MR. ROMAINE: I think you are misconstruing  
8 a little bit. We decided it was subject to certain  
9 regulations under 40 CFR, part 61, for sewage  
10 sludge drying and incineration operation. So there  
11 is a particular regulation that this facility would  
12 be subject to that addresses mercury emissions.

13 MS. OWEN: As I said, square peg into a  
14 round hole. You don't even really know what this  
15 is.

16 I'm a little concerned because there  
17 is a difference of operating temperatures.  
18 Mr. Schnepf was under the impression it would go up  
19 to 3,000 degrees, and in the land permit it says

20 2900 degrees Fahrenheit. And in Chapter 4503,  
21 which are water regulations, in the Plain English  
22 Guide, it says "Biosolids are incinerated at higher  
23 temperature than maximum allowed. Control  
24 efficiency changes and concentration of metals in

1 the stack gas could increase." I think that is an  
2 important point.

3 On page 7, under B, it says, "The  
4 Minergy melter," let's call it a processor, I don't  
5 want to call it a melter, I don't think it is,  
6 "will produce a maximum of 7.5 tons of glass  
7 aggregate a day. The glass aggregate will be sold  
8 as commercial product with alternative uses as  
9 discussed in paragraph d.6.V."

10 I don't think this is a commercial  
11 product. In the application, North Shore Sanitary  
12 District states that they will be -- that Minergy  
13 has agreed to buy all the glass aggregate. Now,  
14 let's think about this. If this is not a  
15 marketable product, this is an incinerator that  
16 does not make beneficial reuse of something but it  
17 makes waste. It is solely operated to reduce  
18 volume and not to make a marketable product.  
19 Minergy is going to get \$21 million contract to

20 build in incinerator, and they will be paying  
21 \$35 a day to cart the stuff off. So I think that's  
22 a good deal.  
23 Under some of the options, what they  
24 will do with it, one, there are a couple of them I

1 find interesting. Industrial abrasive, North Shore  
2 Sanitary District was kind enough to include an  
3 ordinance from the City of Waukegan where it  
4 clearly states that something in abrasive factory  
5 would have to get a special use permit. The other  
6 thing and that really bothers me more, it says that  
7 they also can use this as construction backfill.  
8 Now, what is keeping them from driving around the  
9 corner and dumping the stuff into the next hole  
10 they find?

11 Just a curiosity item, same page,  
12 page 8, it says, "If the dryer is operational and  
13 the melter is out, the dried sludge will be hauled  
14 off site by Minergy." Yes, I know, because they  
15 are the ones responsible for that because they are  
16 the operators of this facility, not the North Shore  
17 Sanitary District. "The dried sludge will be used  
18 alternatively as a fuel and associated ash will  
19 leave the source of the regular landfill." What

20 ash? I thought we didn't have any.

21 And back to the backfill, because I

22 forgot something, "Minergy has retained Giles

23 Engineering Associates to prepare an assessment of

24 glass aggregate for this application, enclosed as a

1 tab is a copy of the engineer's report."

2           Now, I'm not an engineer. But I was  
3 looking for something that would address the  
4 problems if they are, indeed, trapping all or part  
5 of the metals into the glass aggregate, if this is  
6 used as backfill, will it leach out? And this  
7 engineering report really doesn't talk about  
8 anything like it. It doesn't give any indication  
9 of what is in the glass. It doesn't tell what  
10 would happen in the glass if it was used in the  
11 ground. It's -- To me, it's useless. It is a  
12 moisture density relationship test report. Oh,  
13 well.

14           And I'm glad you have decided that air  
15 questions are somewhat appropriate because in the  
16 application they do talk about the air permit  
17 application. They show the modeling results. And  
18 I have a question. Mr. Romaine, the sludge gets  
19 mixed with a polymer. Do you know what kind of a

20 polymer that is and what would happen to a polymer

21 if it gets burned, how that would affect air

22 emissions?

23 MR. ROMAINE: We will have to look into

24 that question.

1 MS. OWEN: All right. As I said before,  
2 some of the reuse, so-called reuse options, would  
3 require a special use permit from the City of  
4 Waukegan. For Mr. Romaine's reference, polymer is  
5 added during watering. It's on page 11 of the  
6 document dated November 26.

7 One minor thing because I'm picky,  
8 this is the permit application, and this is by  
9 Mr. Jensen dated November 26. Question 2(B),  
10 "Siting approval currently under litigation," he  
11 said "No." I don't know when Waukegan filed the  
12 lawsuit. I think they should be honest on the  
13 application.

14 Okay. Final sludge monitoring report.  
15 I found it fascinating. We talked a lot about  
16 mercury. And in this particular -- And I picked  
17 one out of three. I don't even know which one this  
18 is. They claim they are all kind of the same, and  
19 they wouldn't cause any trouble, so this is

20 Waukegan. This is a report from 2000. The mercury  
21 is an average of 1.46 milligram per kilogram, which  
22 adds up to 92 pounds as we have heard all three of  
23 them together, not just one. I'm concerned about  
24 chromium. Because the chromium average is 66.9.

1 No. Excuse me. 55.4, 50 times as much. And the  
2 other one I'm concerned about is nickel, which is  
3 13 or 16. And that's about 16 times as much.

4 I don't recall any talk about how the  
5 heavy metals will be measured. We talked a little  
6 bit about sludge sampling. You talked a little bit  
7 about air permit and modeling. My question is do  
8 we even know what comes out the chimney.

9 Again, I don't understand how these  
10 permits will all interact. Somebody deals with  
11 what goes in, then something happens, then  
12 something goes out. To me where is the interaction  
13 to the permits?

14 However, this is from a document, I  
15 have had a lovely time at the USEPA library, that  
16 is called "Emissions from Sludge Incinerators with  
17 Venturi and Tray Scrubbers and Wet Electrostatic  
18 Precipitators."

19 It looks at emission factors at

20 various incinerators. I would like to read the  
21 conclusions to you. Again, in light of chromium  
22 and nickel being 60 times and 50 times higher than  
23 mercury. It says, "Documented hexavalent chromium  
24 emissions --" Okay. Hang on. Sorry. Back up.

1 "The accomplishments of the study were far greater  
2 than could have been anticipated at the onset of  
3 the program. Specifically the following has to be  
4 accomplished. Documented hexavalent chromium  
5 emissions from the municipal wastewater sludge  
6 incinerators, documented nickel subsulfates from  
7 the municipal wastewater sludge incinerators."

8 I'm worried. Hexavalent chromium.  
9 Everybody saw Erin Brockovich. That's the bad  
10 stuff. I would like to know how you are going to  
11 measure this. We can't measure it, what are we  
12 going to do about it? And should this be permitted  
13 at all?

14 And give me two more minutes. As I  
15 said before, this is not only a hearing about  
16 regulations. This is a hearing that addresses the  
17 future of Waukegan. And I know you don't like to  
18 hear this, but it is part of your responsibility.  
19 We were brought here together by a decision of the

20 North Shore Sanitary District to propose  
21 construction of an incinerator at the lakefront.  
22 At the last hearing the North Shore Sanitary  
23 District voiced concern that the timing of the  
24 hearing and the ongoing controversy with Kinder

1 Morgan was unfortunate, but it really was not  
2 unfortunate. It simply underlined that they are  
3 doing this in total disregard of the wishes of the  
4 people. We have received over 1300 signatures on  
5 petitions that were filed, and we filled the room  
6 fairly well twice.

7           This is not a NIMBY hearing. None of  
8 us here are NIMBYs. In looking at the panel here  
9 tonight, I'm very impressed. I think the IEPA  
10 realizes that. This is, indeed, a hearing about  
11 the welfare and the quality of life for Lake County  
12 and also the right of self-determination for  
13 Waukegan. I trust that you will do the right thing  
14 and deny the permit and request the North Shore  
15 Sanitary District to get the proper local approval  
16 before you proceed on anything else. Thank you.

17           HEARING OFFICER SELTZER: Thank you.

18           Yvonne Sylvester.

19           MS. SYLVESTER: My name is Yvonne

20 Sylvester. I have a few comments I would like to  
21 address on a purely personal level with regard to  
22 this sludge treatment incinerator plant. Have any  
23 of you gentlemen seen a sludge treatment plant?

24 MR. SCHOLLENBERGER: Yes.

1 MS. SYLVESTER: Have you? Were you  
2 impressed?

3 HEARING OFFICER SELTZER: Well, we are not  
4 going to get personal to that degree.

5 MS. SYLVESTER: I think it's an appropriate  
6 question, though.

7 HEARING OFFICER SELTZER: I'm going to tell  
8 him not to answer the question, though.

9 MS. SYLVESTER: Because it does have a  
10 bearing upon the land. My husband and I saw one on  
11 vacation. The land around it was filthy. It  
12 smelled.

13 And I haven't heard how it's been  
14 addressed as to how this stuff is going to be  
15 delivered and transported. Can you tell me that?  
16 How is it going to be transported to -- If it does  
17 position out here on the lake, how is it going to  
18 be transported there?

19 MR. SCHOLLENBERGER: By truck.

20 MS. SYLVESTER: What kind of truck? Dump

21 truck, tanker truck?

22 MR. SCHOLLENBERGER: No. It would be a

23 box, a roll-off box.

24 MS. SYLVESTER: I'm sorry, a what?

1 MR. SCHOLLENBERGER: Trailer.

2 MS. SYLVESTER: Okay. Have you -- And  
3 it's in a quasiliquid form, this sludge; correct?

4 MR. SCHOLLENBERGER: It's 17 percent  
5 solids.

6 MS. SYLVESTER: That's not very much.

7 MR. SCHOLLENBERGER: Well, actually it is  
8 pretty solid form.

9 MS. SYLVESTER: No. No. Like I said, it's  
10 a filth. No matter how you look at it it's filth.  
11 And what streets through town would it be coming  
12 on? Down Grand Avenue, Greenwood, Washington,  
13 right through the heart of Waukegan; correct?

14 MR. SCHOLLENBERGER: That's not part of our  
15 review.

16 MS. SYLVESTER: It should be considered.  
17 Okay. It should be considered. Personally, I  
18 don't want this on my lakefront. I don't want it  
19 for my town. I don't see any other cities up and

20 down Lake County standing in line for this. Not  
21 Highland Park, not Winnetka, not Wilmette. And  
22 Waukegan should have a say in whether or not it  
23 goes here. I don't want it. It's filth. Thank  
24 you.

1 HEARING OFFICER SELTZER: Thank you.

2 William Holleman.

3 MR. HOLLEMAN: My name is Bill Holleman.

4 I'm chairman of the Illinois Citizen Action.

5 Rather than make some comments, I'm

6 going to ask some questions. I'm a little confused

7 about this hearing, Mr. Seltzer. You said this was

8 not required, that this was being done as a favor

9 to the community so that the North Shore Sanitary

10 District could hear comments from the public. Was

11 that correct?

12 HEARING OFFICER SELTZER: Well, I don't

13 know -- The hearing is not required under the law.

14 And I might have misspoken if I said it's as a

15 favor to the public because it helps us in making

16 our decision, that is, your comments and questions

17 help us formulate our decision.

18 MR. HOLLEMAN: The public notice that went

19 out said the hearing will be held in accordance

20 with Illinois EPA's Procedures for Permit and  
21 Closure Plan Hearings and the public notice would  
22 indicate that this is part of a legal process. So  
23 I'm confused as to what the role of this public  
24 hearing is. As far as I know, the role of the

1 public hearing is for you people to determine and  
2 hear from the public whether this permit should be  
3 granted or not even though you have tentatively  
4 granted the permit; is that correct?

5 HEARING OFFICER SELTZER: That is the  
6 purpose of the hearing, yes.

7 MR. DRAGOVICH: We haven't tentatively  
8 granted the permit.

9 MR. KIM: There is no decision. I'm  
10 sorry.

11 HEARING OFFICER SELTZER: Are you --

12 MR. HOLLEMAN: You have published an intent  
13 to permit?

14 HEARING OFFICER SELTZER: Okay. No. There  
15 was a draft permit in the other hearing. You may  
16 recall that the way that that bureau handles it is  
17 they issue a draft permit. And there were comments  
18 then given on that draft permit. The way these  
19 type of permits are handled, there is no draft

20 permit, nor is there a permit decision at this  
21 early date. And what will transpire from today's  
22 hearing and from the comments we are going to get,  
23 all that will be considered in this unit making its  
24 decision. There has been no decision that the

1 permit will issue.

2 MR. HOLLEMAN: Okay. Well, I'm still  
3 confused. But then every time I deal with the  
4 Illinois EPA I get confused because there is so  
5 many regulations and rules. And it seems every  
6 time we deal with it we deal with a different set  
7 of rules. I wish you people would do this in a  
8 consistent manner.

9 Can you tell me why this facility is  
10 not being classified as an incinerator but the  
11 euphemistic term of melter is being used? It would  
12 appear to me this is an incinerator. And  
13 therefore, it should be classified and permitted as  
14 an incinerator.

15 MR. ROMAINE: I guess I come back, and we  
16 ask for what purpose are you using the term  
17 incinerator?

18 MR. HOLLEMAN: For what purpose?

19 MR. ROMAINE: Yes.

20 MR. HOLLEMAN: To burn sludge.

21 MR. ROMAINE: But under what -- Are you

22 using Webster's Dictionary? Are you using the

23 Oxford English Dictionary? Are you using the

24 Environmental Protection Act, the federal Clean Air

1 Act, this regulation and that regulation?

2 MR. HOLLEMAN: Aren't the regulations  
3 different if this would be classified as an  
4 incinerator versus being classified as a melter?

5 MR. ROMAINE: The only difference in terms  
6 of the air permit is instead of being limited to a  
7 quarter pound an hour, they would also be allowed  
8 to emit 7.5 pounds an hour under the federal rule.  
9 So it's a meaning without any difference or  
10 difference without any meaning.

11 MR. HOLLEMAN: So then we can call it an  
12 incinerator?

13 MR. ROMAINE: Well, I don't really care  
14 what you call it. For my regulatory purposes, I  
15 need to know how it's appropriately treated under  
16 the applicable regulations, what are the applicable  
17 regulations to apply to it.

18 MR. HOLLEMAN: Do you have -- Would you  
19 have a different set of regulations depending --

20 Help me. Help me with this, Mr. Romaine.

21 MR. ROMAINE: Well, there are certainly

22 different regulations for municipal waste

23 incinerators. There are different regulations for

24 hazardous waste incinerators. There are

1 regulations for hospital medical waste  
2 incinerators. This facility is none of those.

3 MR. HOLLEMAN: It's not a waste  
4 incinerator? It sure as hell is.

5 MR. ROMAINE: It's not a hospital waste  
6 incinerator. It's not a municipal waste  
7 incinerator. It's not a commercial waste  
8 incinerator. It's not a hazardous waste  
9 incinerator. It is a process that's dealing with  
10 sludge and converting that sludge to a glassy  
11 material.

12 MR. HOLLEMAN: They are going to burn waste  
13 that originates from 250,000 people in Lake County,  
14 the sludge that is a result of that waste  
15 treatment. If that isn't waste treatment, waste  
16 incineration, what is it?

17 MR. ROMAINE: In terms of the applicable  
18 definitions, this qualifies as a process. In terms  
19 of establishing a particulate matter limit, it's a

20 process.

21 MR. HOLLEMAN: This EPA hearing qualifies

22 as process, too. But we are not talking about

23 processes, we are talking about waste incineration.

24 This is an incinerator. It's not a process.

1 Everything is a process. Of course, it's a  
2 process. You guys sitting here are a process.  
3 What does that mean, it's a process?

4 MR. ROMAINE: There are certain regulations  
5 that when we look at emission units we have  
6 fugitive emission units, roads, dust, storage  
7 piles. We have fuel combustion emission units like  
8 boilers, heaters. We have incinerators. And then  
9 we have process emission sources. So under the air  
10 pollution -- state's air pollution control  
11 regulations, we have four basic categories of  
12 emission units. Under those regulations, I believe  
13 this would qualify as a process.

14 MR. HOLLEMAN: How does this one then not  
15 fall under the heading of waste incinerator but it  
16 falls under this other category? What is there  
17 about it that makes it different from a waste  
18 incinerator process?

19 HEARING OFFICER SELTZER: Let me interrupt

20 for a second and ask you a couple questions to make  
21 sure I know what you are asking. You are asking,  
22 number one, is this or is not this an incinerator  
23 under the laws that the Agency has to work under?

24 MR. HOLLEMAN: Right.

1 HEARING OFFICER SELTZER: And you are  
2 asking if it is an incinerator, do some different  
3 rules apply to it than would apply to it if it is  
4 not an incinerator?

5 MR. HOLLEMAN: That's correct, Mr. Seltzer.

6 HEARING OFFICER SELTZER: That's a fair  
7 question, and the Agency will respond to that; but  
8 not at this point in time because I think we have  
9 to do a little more work on it.

10 MR. KIM: Also, from the Bureau of Land's  
11 perspective, that's exactly right as was stated, no  
12 determination has been made; but you are correct  
13 when you say that these regulations are confusing  
14 because that -- The term incinerator, it's  
15 obviously a very -- It's a flashpoint term. And  
16 it's a very emotional term. And it calls to mind  
17 all kinds of consequences.

18 But from a regulatory standpoint, even  
19 aside from what Mr. Romaine was just describing,

20 the Bureau of Land permit application and the  
21 regulations that it will be subject to, the  
22 definitions and the use of the term incinerator or  
23 incineration are not even necessarily the same as  
24 the air regulations that Mr. Romaine just referred

1 to. So it is, it's a very difficult process, it's  
2 very complicated. And it is very confusing. And  
3 you are entirely right on that. But you need to  
4 keep in mind that to a large extent it's a term of  
5 art that could define not just an actual unit but a  
6 process. Someone could conduct a burning process  
7 that may or may not constitute incineration. That  
8 is part of the review that the Bureau of Land is  
9 undergoing right now.

10 MR. HOLLEMAN: Incineration comes from the  
11 Greek meaning to burn. So if it burns, it's  
12 incineration.

13 MR. KIM: But again, you have to  
14 understand, the EPA cannot -- I mean we are very  
15 limited in what we can and cannot do. And we  
16 cannot go beyond the specific regulations that we  
17 have to work with. And we don't necessarily like  
18 the way some of those regulations are worded  
19 either, but we are stuck with what we have. And so

20 we have to use the definitions and the terms in

21 those regulations.

22 MR. HOLLEMAN: I appreciate you are stuck

23 with what you have, but we don't want to be stuck

24 with an incinerator.

1           My last question relates to whether  
2   this permit deals with the product. We have had a  
3   couple comments tonight on the product of this  
4   incineration process, this glass-like product. I'm  
5   not sure what it is. But if it's at the  
6   temperatures that it is, I think it's just some  
7   melted sand that gets into the system, and that's  
8   what is left along with whatever else won't burn at  
9   2,000 degrees. So essentially what we have as a  
10   product in this process is sand, which has been  
11   converted into glass and incorporated other  
12   nonvolatile materials such as heavy metals.

13           Now, do you people at the Illinois  
14   EPA, are you involved, do you have any control over  
15   what happens with this final material, the  
16   so-called commercial, as the previous speaker  
17   mentioned, material? Or is that strictly at the  
18   purview of the North Shore Sanitary District to do  
19   with what they please?

20 MR. DRAGOVICH: I think what we would like  
21 to do is address that in the permit conditions if  
22 we issue a permit. We have in the past made  
23 decisions at other facilities that said that either  
24 they have specific ways they have to manage the

1 residue, it has to go under manifest to a landfill.  
2 Or it could be used or recycled in a specific  
3 manner and there would be limitations put on that.  
4 I don't think we are that far in the process that  
5 we could say whether we would allow them to use it  
6 as a recycled material or not yet.

7 MR. HOLLEMAN: Well, I would like to point  
8 out one thing. And maybe we have gone afield here  
9 a little bit, and Mr. Seltzer doesn't like to go  
10 afield, but this is such a complicated process.  
11 The North Shore Sanitary District has said that  
12 this final glass-like product will not leach heavy  
13 metals. Of course it won't leach heavy metals, if  
14 you take glass beads and throw them in a solvent  
15 and you do a mass spect analysis to see or  
16 subatomic spectra to see if you have leached heavy  
17 metals. However, the material which is a  
18 commercial product will be pulverized and wind up  
19 turning it to dust if it's used in asphalt or

20 sandblasting or whatever, roof shingles. I have  
21 heard so many different things. And this material  
22 will leach heavy metals. It will be adjusted  
23 because it will be pulverized to a point of being  
24 airborne. And so a test which takes this glass-

1 like material and throws it in a solid to look to  
2 see if it leaches metal is an irrelevant test. And  
3 you have to do a test which would mimic the  
4 conditions under which that commercial product  
5 would be used. And that's a point I wanted to  
6 make.

7 I will leave you a comment, my written  
8 comments. Those are the only questions, comments  
9 that I wanted to make. Thank you very much.

10 HEARING OFFICER SELTZER: Thank you much.

11 Sir, are you asking that this be made  
12 an exhibit in the record?

13 MR. HOLLEMAN: Yes, please.

14 HEARING OFFICER SELTZER: We will mark this  
15 as Exhibit No. 4, accept it into the record as  
16 such.

17 (Document marked as Exhibit No. 4  
18 for identification as of 1/24/02.)

19 HEARING OFFICER SELTZER: Next is Alice

20 Alviani.

21 MS. ALVIANI: My name is Alice Alviani. I

22 really want you to decline this application, and I

23 pray that you will. If you cannot, I hope that you

24 can put on some conditions to keep this out of the

1 Waukegan Harbor. This is a life and death thing  
2 for our community right now. Starting with the  
3 local site approval, to put some of that control  
4 back into the community where it belongs. To point  
5 out that this is experimental technology, the  
6 models that they have been quoting, the North Shore  
7 Sanitary District at their meeting a few months ago  
8 admitted were based on a far from identical plant  
9 that was processing paper sludge. And where does  
10 that even apply? And again, about -- I would have  
11 some thoughts about the glass stuff leaking the  
12 heavy metals back into our environment and the  
13 mercury and heavy metal things.

14           We want to get this away from our  
15 precious Lake Michigan. I live about five blocks  
16 from the lake. I'm very aware of emissions from  
17 things in my neighborhood. And while I'm concerned  
18 of all things on the planet, but I'm not as  
19 personally aware on a day-to-day basis of emissions

20 from Fox Lake or Iowa or someplace like that. And

21 to say that it doesn't matter where in the county

22 it's going to equally affect Lake Michigan whether

23 it's 200 feet or 25 miles I beg to disagree with.

24 And also, that we need to -- This is

1 a tremendously heavily populated center through  
2 downtown Waukegan area. And with this experimental  
3 technology and you have talked about safety plans  
4 for, you know, emergencies and evacuations and all.  
5 Why are we doing this first-on-the-planet,  
6 experimental technology in the middle of a major  
7 population center? And thank you very much.

8 HEARING OFFICER SELTZER: Thank you.

9 Mr. Glenn, you are next. And you  
10 have, as I said before, you are going to address  
11 the environmental justice issue after everybody  
12 else has gone. Do you have other matters you would  
13 like to speak about now, or do you want to wait  
14 until the end?

15 MR. GLENN: I would like to deal with the  
16 environmental justice issue at this point.

17 HEARING OFFICER SELTZER: Well, I thought  
18 we had agreed that we'd wait until the other people  
19 had gone.

20 MR. GLENN: I'm sorry?

21 HEARING OFFICER SELTZER: I thought we had

22 agreed before --

23 MR. GLENN: Oh, no, I will wait until the

24 end.

1 HEARING OFFICER SELTZER: Okay. I  
2 appreciate it. Thank you.

3 Jeffrey Jeep.

4 MR. JEEP: My name is Jeffrey Jeep. For  
5 the record, I'm the attorney for the City of  
6 Waukegan. And I would like to cover a few issues  
7 this evening, but I'm going to follow up my remarks  
8 with written comments because there are some very  
9 detailed points that you have heard this evening  
10 and I want to follow up on some of those. And  
11 there are some additional points that have not been  
12 covered, but we will do that in writing because I  
13 know the hour is getting late.

14 But I would like to focus on the  
15 siting issue, not the substantive issues that will  
16 be dealt with in siting, but the issue that you  
17 have asked us to address of whether siting approval  
18 is required or not for this facility. The sludge  
19 incinerator is proposed at a historic moment in the

20 history of Waukegan and the lakefront. You all may  
21 not be aware of the pending Urban Land Institute  
22 study for a comprehensive plan for the lakefront.  
23 Have you all heard about that study?  
24 It's a time when the USEPA, the

1 Illinois EPA, the North Shore Sanitary District,  
2 and the City should be working together trying to  
3 build unity in dealing with all of these issues,  
4 brown field development, economic revitalization.  
5 Instead we find the City, the District, the Agency,  
6 locking horns in the Circuit Court of Lake County  
7 squandering thousands of dollars on lawyers.  
8 Ordinary citizens can only look on in disbelief to  
9 this process. The fact that three agencies of  
10 government can't work together I think confirms  
11 many of our citizens' worst fears about government.

12           It's not too late for the Agency to  
13 reconsider its position on whether a local siting  
14 approval is required. I was very pleased to hear  
15 from Attorney Kim that the Agency is still  
16 grappling with that issue. We don't think it's a  
17 real complicated issue, but we are glad to hear you  
18 still have an open mind on that point.

19           Let me cover three areas in my

20 remarks. First of all, we need the rules of the  
21 game. We need to know what you are going to  
22 consider relevant and not relevant in making your  
23 determination of whether this is a pollution  
24 control facility subject to local siting. We don't

1 know what the rules are. You have never told us.  
2 There are no published rules. There are no  
3 guidance documents. We are in uncharted waters and  
4 you are making all these decisions behind a veil of  
5 secrecy. We have no idea what factors you are  
6 considering and what the deliberative process is in  
7 which you are engaged.

8           And I also want to add on the  
9 substantive matter of the permit that was raised  
10 earlier, there are no regulations governing solid  
11 waste facility. I confirmed that with  
12 Mr. Schollenberger earlier this week. There --  
13 This is a nonhazardous waste storage facility  
14 incinerator, treatment facility. I don't care what  
15 you call it. It's a nonhazardous waste facility.  
16 There is only one regulation that's been adopted  
17 for nonhazardous waste facilities. And that's at  
18 35 Illinois Administrative Code, part 807; and that  
19 deals with landfills. So we have no idea what

20 standards you are applying to many of the issues  
21 that we have been talking about and I will cover in  
22 my remarks.

23           The second point I would like to talk  
24 about is some of the substance of the application.

1 As an over -- As a general comment, I think the  
2 application was hurriedly prepared probably at the  
3 last minute from what I can see based upon the  
4 scarcity of any detail in the application on very  
5 important issues.

6           The third issue I would like to talk  
7 about is the questions that are unanswered because  
8 we have not gone through the siting process. I'm  
9 not going to get into what the answers are. I just  
10 want for the audience to understand what we are  
11 missing by coming to this process now rather than  
12 waiting to go through the siting process before the  
13 Waukegan City Council.

14           I don't know what you are grappling  
15 with on the question of siting approval. As best I  
16 can determine from my conversations, it seems to be  
17 whether this facility -- There is no question this  
18 is a pollution control facility. Pollution control  
19 facility is defined as a facility that stores,

20 incinerates, treats, disposes of solid waste. The  
21 material is clearly a solid waste. We wouldn't be  
22 here if you hadn't made that determination,  
23 although the District thinks otherwise. It's  
24 nonsense. The stuff is a solid waste.

1           So the issue is is there some  
2 exemption that makes it not a pollution control  
3 facility. There are three exemptions. I don't  
4 remember the other two offhand, but the one deals  
5 with waste that is generated by a person's own  
6 activities. That's got to be what you are  
7 struggling with, that has to be the issue. The  
8 city's position on that is very clear, that that  
9 intention, that exemption -- And by way of  
10 background, this statute was passed in 1981, Senate  
11 Bill 172, the siting statute, Section 39.2 of the  
12 Environmental Protection Act.

13           It was passed to fix a problem. When  
14 the Court said, These guys can site a landfill in  
15 downtown Waukegan, they don't need anybody's  
16 approval, they have complete say; and the  
17 legislature said, No, no, we have got to fix this,  
18 something is wrong here, and we are going to have a  
19 procedure. It's a remedial statute. And any

20 exception to a remedial statute is construed very  
21 narrowly. That's my basic point. I made that  
22 point in writing. Repeatedly I made that point in  
23 writing.

24 Now, this question of generated by

1 your own activities, that language was intended for  
2 Ford Motor Company that's making widgets, making  
3 cars. You are bringing in raw material. You are  
4 making a product. And as a byproduct, you have a  
5 waste. That was never intended to apply to a waste  
6 processor. If you have waste to begin with, I can  
7 call it something else. But if you have waste to  
8 begin with here, and you shred it, you manipulate  
9 it, you burn it, you stamp on it, you kick it, I  
10 don't care what you do to it, it's a waste when you  
11 get done. You didn't make it a waste. It was a  
12 waste when you got it. It wasn't generated by your  
13 own activities. You are a processor of waste.  
14 It's a clear-cut issue. And I think the court is  
15 going to agree. I know the court is going to  
16 agree.

17 But the reason I go into that is Renee  
18 Cipriano, who is your Director, when she was  
19 Assistant Attorney General, led the charge against

20 the Robbins waste energy facility on the south side  
21 of Chicago. She led the charge by saying -- Let  
22 me explain this facility. You have a processing  
23 facility here and an incinerator here, right next  
24 to each other, owned by the same company, Foster

1 Wheeler, with a conveyor belt between the processor  
2 and the incinerator. They bring waste in, shred  
3 it, fluff it, take the metal out, create what's  
4 called a refused-derived fuel. It goes to the  
5 incinerator. That's all that incinerator can take.  
6 Can't take waste from anybody else. The design of  
7 the incinerator can only take refuse-derived fuel  
8 made by this processor. Renee Cipriano sued Foster  
9 Wheeler and said, Hey, wait a minute, you need a  
10 siting approval. She didn't say just a waste  
11 processing facility. Clearly that's a pollution  
12 control facility. She said the incinerator is a  
13 pollution control facility, even though it's taking  
14 waste generated by Foster Wheeler, generated by the  
15 processing of a solid waste.

16 Now, you have drawn a line somewhere.  
17 You have determined that Foster Wheeler needed a  
18 siting approval. We need to know where the line  
19 is. We need -- If we want us to be engaged in

20 this process, you need to tell us the rules. Now,  
21 you can tell us here or you can tell us in court;  
22 but we need to find out what you are thinking. You  
23 don't have any rules. You are making it up as you  
24 go along. You need to tell us so we can

1 participate effectively in this process.

2           The second time, deficiencies in the  
3 permit application. I will get wound up on this.  
4 I'm going to cover this in writing. But there are  
5 a number of points I want to cover. The waste  
6 acceptance plant, that is the single most important  
7 element of a solid waste facility. This is a  
8 non -- This waste that's coming in is  
9 nonhazardous. The Sanitary District seems to be  
10 saying so long as it's a nonhazardous waste that's  
11 all we have to determine, we can take it, we don't  
12 need to make any other determination as to the  
13 level of metals in that waste before we run it  
14 through this plant.

15           The purpose of a waste acceptance  
16 plan is to define what is acceptable, the  
17 parameters of the waste, calibrate that to the  
18 design criteria of the incinerator, make sure they  
19 are connected, to make sure that the level of

20 mercury or lead in the sludge is going to be  
21 properly managed in the incineration chamber and  
22 the pollution control equipment on that  
23 incinerator. That's not been done. I have not  
24 seen any analysis like that in the air permit or in

1 the solid waste permit application.

2           A waste acceptance plan typically is  
3 going to tell you what samples are taken, when the  
4 samples are taken, by whom they are taken, what  
5 constituents in the waste are going to be analyzed,  
6 and a comparison of those constituents to some  
7 definition of an acceptable waste, a procedure for  
8 dealing with nonconforming waste, a procedure for  
9 notifying somebody when you get a nonconforming  
10 waste, a procedure for keeping documents so  
11 somebody can come in an audit, a third party, and  
12 determine whether you are doing your job, whether  
13 penalties should be imposed for not doing your job.  
14 None of that. We have none of that. We don't even  
15 have a plan. We have a statement we are going to  
16 prepare a plan. It's ridiculous. There is no way  
17 you would go through the siting process.

18           And you know darn well from your  
19 experience in North Chicago, you know what our law

20 firm put Emco Chemical Distributors through. There  
21 is no way that a waste acceptance plan that you go  
22 through a siting process for this type of facility  
23 under typical siting process and not have a waste  
24 acceptance plan that we would be at this process

1 wondering what it's going to look like. In fact,  
2 I'm going to put the Emco Chemical Distributor  
3 waste acceptance plan into this record as to what a  
4 waste acceptance plan should look like. I will  
5 make that part of the record. I will give it to  
6 you on CD-ROM or something.

7 I want to point out an important  
8 distinction in the North Shore Sanitary District's  
9 argument about what it has to determine in order to  
10 accept this waste. It's saying that as long as  
11 it's nonhazardous it can accept the material. Now  
12 hazardous waste is determined by what's called the  
13 toxic characteristic leaching procedure. The  
14 purpose of that test, the TCLP analysis, is to  
15 simulate the conditions of a waste in a landfill,  
16 expose it to acidic conditions and see what leaches  
17 out. Incinerators don't care about leachability.  
18 They care about the total level of metals. It's  
19 not going to leach, you are going to burn it, it's

20 going to come right out the stack. We are not  
21 going to worry about it getting into groundwater.  
22           So I just want to make a couple of  
23 comparisons for you. This is from their  
24 application. The level of lead -- I don't know,

1 this was Appendix G, I don't know what appendix  
2 this was. Yes. Appendix G, .017 parts per  
3 millions is the TCLP results for their sludge.  
4 It's nonhazardous. The standard is .5 parts per  
5 million, well below TCLP for leachability. Good  
6 stuff to put in a landfill. If you burn it, you  
7 have 75 parts per million total lead, a dramatic  
8 difference from .017 to 75 parts per million.  
9 Barium is .574 parts per million by the TCLP test.  
10 Total, 270 parts per million. They are saying, We  
11 don't need to worry about that. We are just -- We  
12 are going to test every five years, too. We are  
13 going to test every five years, and we are going to  
14 determine whether it's a hazardous waste. And we  
15 haven't a clue what the total metals are. And we  
16 haven't a clue how that corresponds to the  
17 technology that we are building. It's  
18 unacceptable. The city council wouldn't stand for  
19 it if somebody came to us with this type of an

20 application, and we won't stand for it now.

21           The application describes it as a

22 treatment facility. Now, we have been toying with

23 words, so I guess I will be a stickler as well.

24 This is a storage facility. I don't want to make a

1 big point of this, but they checked the box  
2 treatment. It's a storage facility. And the  
3 reason, it's treatment and storage. And the reason  
4 I make the point is we don't know what's being  
5 stored where. We need to determine the status of  
6 this aggregate material. We need to determine  
7 whether it's a solid waste or not. The EPA needs  
8 to make a determination whether it's a solid waste.  
9 They should make an application to you for a solid  
10 waste determination, which they have not. I want  
11 to introduce --

12 I also want to say I have some  
13 introductory remarks which I put in the back, and I  
14 also have an Exhibit A which I'm going to put in  
15 the record. This is marked City of Waukegan's  
16 Exhibit A, January 24, 2002, EPA Hearing, NSSD  
17 sludge incinerator.

18 HEARING OFFICER SELTZER: That will be  
19 marked and accepted into the record as an exhibit.

20 MR. JEEP: That deals with --

21 HEARING OFFICER SELTZER: Sir?

22 MR. JEEP: I'm sorry.

23 HEARING OFFICER SELTZER: We will mark that

24 and accept that into the record as Exhibit 5.

1 (Document marked as Exhibit No. 5  
2 for identification as of 1/24/02.)

3 MR. JEEP: I would put that on your table  
4 but I can't reach. That article is -- appears on  
5 the March 17, 2000, edition of The Advocate in  
6 Baton Rouge, Louisiana. And it deals with the  
7 marine shale processing facility in Louisiana.  
8 This is a facility that burns waste and creates an  
9 aggregate, and they've got a mountain of it. It's  
10 been sitting there for years. They just paid a  
11 fine of \$250,000 to haul that stuff off. They  
12 can't find anything to do with this stuff. It's  
13 been sitting there for years. It's supposed to be  
14 used as aggregate for road building material.

15 You know, if you determine this stuff  
16 is not a solid waste, you have no control over it.  
17 They can pile that stuff up to their heart's  
18 content. We will have a pile. 7.5 tons a day, we  
19 will have a pile just like National Gypsum. You'll

20 see the Gypsum rock, then you will see the  
21 aggregate pile right there on the lakefront. I'm  
22 sure they will have nice blue tarps like Larson  
23 Marine.  
24 The site boundaries. You know, it's

1 very cute, but you need your drawing 002-C-1, you  
2 need to superimpose with a survey. We need a legal  
3 description to find out where this thing is. You  
4 know, you need a PIN number and a surveyed piece of  
5 property so we can mark this so in ten years from  
6 now we are not arguing whether they expanded it or  
7 not. We know exactly what you are approving and  
8 where you are approving that. That hasn't been  
9 done.

10 But more importantly, they make a  
11 statement here, "The boundary of the Waukegan  
12 sewage treatment plant will not be expanded by this  
13 project." Wrong. Wrong. They seem to be taking  
14 the view that the whole property of the North Shore  
15 Sanitary District is permitted as a pollution  
16 control facility. Specific areas of that property  
17 have been permitted to construct and operate  
18 specific technologies. There is no blanket  
19 designation of the entire parcel as a pollution

20 control facility. This statement is absurd.

21           Clearly, you are building onto

22 something that you haven't issued a permit before.

23 You have never issued a permit on this specific

24 area to treat, incinerate sludge, store, dewater,

1 anything on this particular area. It's an  
2 expansion of the existing plant or it's a new one.  
3 I don't care what you call it. It's a new  
4 pollution control facility.

5 HEARING OFFICER SELTZER: Mr. Jeep, I'm  
6 sorry to interrupt you for a minute; but because  
7 there are so many other people, I'm going to limit  
8 you now to five minutes and you can come back at  
9 the end if you like.

10 MR. JEEP: I'm going to cut to the chase,  
11 right to the end. I will cover the rest in  
12 writing. I want to give the audience a sample of  
13 what we have missed by not going through the siting  
14 process. There are nine criteria that would be  
15 addressed. And I want to touch quickly on need,  
16 the need for the facility, which is one of the  
17 criteria, and compatibility with surrounding uses.  
18 The District has demonstrated -- has offered two  
19 justifications for this facility, a shortage of

20 landfill capacity, and the long-term liability that  
21 they have for landfill disposal of sludge. The  
22 fact they have been doing it for 20 years is  
23 irrelevant but now all the sudden they are  
24 concerned.

1           The City council would have asked a  
2   number of probing questions. I would have asked a  
3   number of probing questions, I'm their attorney, if  
4   we had gone through the siting process. Which came  
5   first, the decision to sell its property in Newport  
6   Township to the City of Zion or the realization  
7   that this was the best way to deal with the waste?  
8   How much landfill capacity exists in the Newport  
9   Township property? Has the District explored  
10   entering into a long-term contract with Waste  
11   Management, Allied, Superior Waste, for the  
12   disposal of their sludge? How would the price of  
13   the sludge, that's the price of sludge disposal in  
14   the commercial landfill, compare to the price per  
15   ton for processing this sludge at this incinerator?  
16   Has the District explored indemnification against  
17   environmental liabilities from commercial disposal  
18   companies? Have they explored insurance covering  
19   potential environmental liability? What would the

20 cost of that insurance be in comparison to the cost

21 of this facility?

22 The legislature decided that waste

23 facilities should not be scattered around the

24 countryside. They decided that they should only be

1 sited when they were needed. And they task the  
2 host community for making those determinations of  
3 need. And the question of need or the alternatives  
4 to this facility would have been subjected to a  
5 rigorous review by the Waukegan City Council. We  
6 have missed all of that.

7           With respect to the land use, I just  
8 want to make a couple of quick points. In the case  
9 of the Kinder Morgan power plant, the District  
10 patted themselves on the back and said, We are  
11 letting the city council decide that one. If only  
12 they would use such good judgment in the case of  
13 this incinerator.

14           But let's set the record straight.  
15 And I want to also add, you know, you said we can't  
16 talk about siting and land use compatibility, they  
17 had a whole section on it in their application.  
18 They write it to you. You have no authority to  
19 decide anything about it, won't let us ask any

20 questions about it. But as far as the body that  
21 actually has something to say about it, the City of  
22 Waukegan, let's set the record straight. They said  
23 we have no authority to apply our zoning ordinance.  
24 We are not a pollution control facility and, I

1 don't know, our -- they haven't said -- our zoning  
2 is preempted. We don't have authority under home  
3 rule. I don't know what it is, but they just want  
4 to ignore it. So we have no say in the process.

5 Those are my comments.

6 (Document marked as Exhibit No. 6  
7 for identification as of 1/24/02.)

8 HEARING OFFICER SELTZER: Thank you.

9 Gera Gapinski.

10 MR. GAPINSKI: I thank you for actually  
11 pronouncing it correctly. Gera Gapinski.

12 The permit has been stated as a work  
13 in process tonight. At least that's what I heard.  
14 And it doesn't appear that it's really defined. So  
15 an earlier question posed -- some woman  
16 representing I think the Lake Michigan or CAG or  
17 something, I can't recall what it was, had made a  
18 comment and one of the comments back from  
19 Mr. Romaine was, you know, offer some suggestions.

20 How can the public make any suggestions about load  
21 testing or things of a technical nature when it's  
22 the government's job to set the standards? We have  
23 heard that there aren't really good standards in  
24 place. It appears that we are playing very fast

1 and loose with the standards, which should already  
2 be defined by parameters of good environmental  
3 science.

4 I would like to pose that question to  
5 the board. What is the process for setting the  
6 standards? I'm kind of a simple person here, and I  
7 know the difference between ice cream or ice  
8 melting and something being burned that's less than  
9 what you started with. Water is not less than what  
10 you started with, neither is ice cream. It's just  
11 in a different format, but this tends to be an  
12 incineration process. And I don't understand why  
13 when I have heard two more people stand up  
14 subsequent to Mr. Romaine's comments about there  
15 are only four categories, yet there are examples of  
16 other types of incinerator facilities but  
17 apparently that hasn't been included in the four  
18 groupings, or has it?

19 MR. ROMAINÉ: You are asking really two

20 different questions.

21 MS. GAPINSKI: I will take two answers.

22 MR. ROMAINE: One question is whether there

23 are specific rules for this type of process. And

24 given the nature of this process, there are no

1 rules that are specifically developed to address  
2 it. So we are fitting it into the existing  
3 regulations that exist; and it has to be  
4 categorized as a process under those rules, under  
5 the state rules.

6 A further question is for setting  
7 emission limits. There are sort of two tests when  
8 we are looking at the application. The first is  
9 does the application show compliance with the  
10 applicable emission standards. From an air  
11 perspective, this application does.

12 The further question is a more general  
13 question, a qualitative question, does the  
14 application adequately show that it will comply  
15 with the air quality standards, that it will not be  
16 a threat to human health or the environment.

17 For minor projects such as this, the  
18 normal process is that, being a minor process, this  
19 project is sufficient that there should not be a

20 threat to human health or the environment. The way  
21 to address whether there is a threat or not is by  
22 the performance of modeling, this dispersion  
23 modeling, to see what the impact of emissions is.  
24 And North Shore Sanitary District, as I said, did

1 go ahead and voluntarily perform such modeling.  
2 When we saw the results, we asked for further  
3 modeling. And the results of that modeling, which  
4 was still gotten very recently, I think we got a  
5 copy yesterday, the further modeling at least on  
6 its face suggests that this would not be a threat  
7 to the human health, that is, it applies to the  
8 applicable air quality standards. And on that  
9 basis, there isn't any reason for us to set tighter  
10 limitations.

11 MS. GAPINSKI: What has been done  
12 independently by the federal government or the IEPA  
13 in terms of setting separate models? This is North  
14 Shore Sanitary District who has a vested interest  
15 performing dispersion models. However, shouldn't  
16 you have sufficient knowledge in the realm of what  
17 your responsibilities are that those standards --  
18 and there should be some independent models? And  
19 then I would ask what is the basis for those data

20 requirements that have gone into those models, what  
21 are you modeling, what parameters are you using to  
22 set this up.

23 MR. ROMAINE: Well, while I caution that  
24 this report shows that it wouldn't be a problem, I

1 don't believe we have had a chance yet to conduct  
2 our independent review of that evaluation and  
3 confirm those results.

4 MS. GAPINSKI: Do you have independent  
5 models that you will be using?

6 MR. ROMAINE: The model that's used for  
7 these types of dispersion analyses are models that  
8 are developed by USEPA. They are standardized  
9 models. They are conservative. If anything, they  
10 overestimate emissions. But we will review their  
11 results, probably conduct some independent audit  
12 runs to confirm that we get the same results that  
13 the North Shore Sanitary District has.

14 MS. GAPINSKI: Shouldn't there be some  
15 standards or parameters in place that either  
16 qualify or disqualify a proposal such as this from  
17 the start or from the get-go? Why shouldn't  
18 legitimate public concerns regarding siting and the  
19 other concerns that people have raised as part of

20 the public comment this evening be considered as

21 part of that process?

22 HEARING OFFICER SELTZER: We have covered

23 this a number of times, and the answer to that

24 specific question is even if siting is applicable

1 here, for purposes of argument, this isn't the body  
2 that would make that determination.

3 MS. GAPINSKI: What is the body that would?

4 HEARING OFFICER SELTZER: It simply isn't.

5 It would be the local jurisdiction that would have  
6 the authority.

7 MS. GAPINSKI: Can you help me understand  
8 your earlier comments then that you are still going  
9 to make a determination that would influence that  
10 decision?

11 HEARING OFFICER SELTZER: That -- We won't  
12 influence.

13 MS. GAPINSKI: That determines whether or  
14 not this is subject to local government.

15 HEARING OFFICER SELTZER: I think Mr. Kim  
16 explained it very well. I will let him do it  
17 again.

18 MR. KIM: I didn't intend my answer to mean  
19 that we were trying to convince or impose local

20 siting and how the city would or would not rule  
21 upon the city. What I said was our only review as  
22 far as local siting as an issue, our only review as  
23 part of our permit review process is to determine  
24 whether or not it is required. If for the sake of

1 argument permit application comes in and we  
2 determine that local siting approval is required,  
3 and that applicant for whatever facility has not  
4 provided it to us, we would deny the permit. We  
5 don't have that. And the applicant would then, one  
6 of their options would be to go to the local unit  
7 of government, the city, the county, what have you.  
8 And then they would have to go through the  
9 procedures Mr. Jeep was describing.

10           There is nine set of criteria that  
11 they have to reduce. The local community  
12 government would make the decision. They would  
13 either say yes or no. If they ever got it, that  
14 permit applicant will come back to us and say,  
15 Okay, now we have that, here we go. If we make the  
16 determination that local siting approval is not  
17 required by the applicant, then that applicant  
18 would not need to go to the local unit of  
19 government to get approval before we were going to

20 issue a permit.

21 MS. GAPINSKI: Then I guess I'm still

22 wondering then throughout what my question is how

23 do you make that determination, what criteria are

24 you using to make that decision.

1           MR. KIM: Well -- And again, I'm going to  
2   steal some of Mr. Jeep's words because he did a  
3   very nice job in giving you the background on that.  
4   There is a section in the Environmental Protection  
5   Act. It defines the term regional -- not  
6   regional -- It defines the term pollution control  
7   facility.

8           MS. GAPINSKI: I did pick up on those  
9   comments, and I just needed additional  
10  clarification on that.

11          MR. KIM: Exactly. And as Mr. Jeep and I  
12  think at least one other commenter has noted, that  
13  is the term that is found in the Environmental  
14  Protection Act that is basically the determining  
15  factor on whether or not somebody is or is not  
16  subject to local siting approval. Because if you  
17  look in the definition -- if you look in the  
18  Environmental Protection Act, the language that  
19  says you are or are not subject to local siting

20 approval says, If you are a pollution control

21 facility, da, da, da, da, da, so that's the first

22 step that you have to meet. You have to meet that

23 definition.

24 MS. GAPINSKI: So how are you determining

1 what's going to qualify since this seems to be a  
2 unique process? And what are the parameters that  
3 you are using for this particular process to make  
4 that determination?

5 MR. KIM: What we do is we apply the  
6 definition and any exceptions that might fall from  
7 the definition to the fact specific situation  
8 that's been presented to us. In a sense, every  
9 permit application that we ever receive is probably  
10 distinct in some factor from any other permit  
11 application. I would guess, although there is lots  
12 of landfills and lots of this and lots of that, you  
13 are probably not going to find two facilities in  
14 this state that are identical in everything that  
15 they do. So in that sense, every facility that  
16 comes to us for a permit presents a unique  
17 situation. What we have to do is what we are  
18 required to do, which is to apply the unique facts  
19 that are in the permit application to the

20 guidelines that are in the Environmental Protection  
21 Act under the section that defines pollution  
22 control facility, and we then have to make a  
23 determination as to whether or not what is proposed  
24 meets that definition.

1 MS. GAPINSKI: What do you find unique  
2 about the proposal so far?

3 MR. KIM: What I'm saying is that there is  
4 probably -- I'm just going to hazard a guess. And  
5 I'm sure everyone here can probably say the same  
6 thing. There is probably no other facility in the  
7 state that's exactly like what's been proposed  
8 here. But that's the same thing as saying any  
9 permit for a landfill that's in existence right now  
10 is probably different in some fashion, the amount  
11 of waste, the height, the length, the type of waste  
12 they take in, the type -- Every permit application  
13 that comes in is unique. It's kind of the same  
14 thing as there is no two, you know, no two  
15 snowflakes the same. No two permit applications  
16 are identical.

17 MS. GAPINSKI: Is there any governing body  
18 or governing regulation from the USEPA then to step  
19 in?

20 MR. KIM: Well, the whole requirement of  
21 local siting approval is a state requirement. It's  
22 not a federal requirement. That was, as Mr. Jeep  
23 said, it was something that was imposed by the  
24 Illinois General Assembly. It's not a federal

1 requirement. There is no a federal counterpart.

2 MS. GAPINSKI: Thank you. And I would also  
3 like to weigh in on the fact that I am against this  
4 proposal, especially the siting in Waukegan.

5 HEARING OFFICER SELTZER: Thank you.

6 Go off the record a minute.

7 (Discussion outside the record.)

8 MR. HIRSCH: Good evening. My name is  
9 Daniel Hirsch. I live in Waukegan about 1,000 feet  
10 or 1500 feet from the proposed -- dare I say it --  
11 site of this facility. I have heard a lot of  
12 things tonight, and I just wanted to clarify a  
13 couple of things, and I want to keep it pretty  
14 factual. Item number one, the question of whether  
15 or not this is an incinerator seems to be in play  
16 and the question has come from I believe your panel  
17 as to why do we even care whether or not this is an  
18 incinerator. I do believe during the air hearing  
19 back in October we discussed the fact that there

20 actually is a section in the code, the federal  
21 code, defining a sanitary sludge incinerator. And  
22 I think that was one of the reasons why it was  
23 somewhat critical to us that this be considered.  
24 In terms of whether or not this is an

1 incineration process, I would direct you to a  
2 couple simple facts, which maybe are not readily  
3 apparent. In a meeting with -- of the North Shore  
4 Sanitary District back in September, Mr. Jensen,  
5 who was identified previously, stated that the Btu  
6 content of the material after it has been through  
7 the drying process is in the neighborhood of 5 to  
8 7 to 8,000 Btu's per pound, which is the exact  
9 same, is a similar Btu content as subbituminous  
10 coal.

11           In reading the description of the  
12 melter, I was immediately -- I immediately  
13 recalled the description of a device referred to as  
14 a cyclone boiler. I believe it was Babcock and  
15 Wilcox sold cyclone boilers for the burning of coal  
16 through this country until probably the late '70s.  
17 And the process that was used in that included a  
18 situation where the material at the end of the  
19 process ended up being a slag which fell to the

20 bottom of the device and was collected and is in  
21 many ways I think very similar to the process we  
22 are doing -- looking at here.  
23 As far as whether or not this is  
24 actually an incineration process, you have to look

1 at a couple things. Number one, combustion  
2 requires the addition of oxygen. It requires fuel  
3 and it requires evolution of heat. Combustion is a  
4 high speed so to speak exothermic process. I don't  
5 think anyone can look at this process and find that  
6 it was not exothermic, that it's not relatively  
7 high speed, and it did not require the addition of  
8 oxygen. Therefore, I would posit that this is a  
9 combustion process. It's a combustion process.  
10 The only fuel in this device except for I believe  
11 the auxiliary fuel in case things get a little cold  
12 in the box, the only fuel is the dried sludge.  
13 Therefore, again, I say this is an incinerator; and  
14 there is a federal regulation applying to  
15 incinerators. That's my first comment.

16 My second comment is if you look at  
17 the source of the material that is going to be put  
18 into this device, this comes basically -- We know  
19 where it starts. But we don't know all of where it

20 starts. There are sanitary drains all over the  
21 place and all kinds of things get put down sanitary  
22 drains. We know that we are not supposed to put  
23 things down there and everybody kind of knows that,  
24 well, maybe almost everybody knows that. And from

1 time to time, I'm sure there are instances where  
2 things are put in the drain that are not supposed  
3 to be put there. These things could include  
4 mercury thermometers. There has been recent press  
5 events here in Chicago where somebody breaks a  
6 mercury thermometer in their house and all the  
7 sudden they have to have HAZMAT teams come in and  
8 they have to have their house decontaminated. And  
9 just last week they were sticking that thing in  
10 their mouth.

11 My point being is that I infer that  
12 the residence time of materials in this system from  
13 point of collection to point of processing to point  
14 where it's going to be transported, injected into  
15 this dryer melter, it's a relatively short time  
16 period. And the current application as I  
17 understand it calls for weekly testing. Well, if  
18 you are taking a material and using it on an  
19 hour-by-hour basis yet you only test it weekly,

20 it's certainly quite probable that at some point  
21 you will have very high levels of undesirable  
22 materials in that material that you -- of which you  
23 know nothing. It may mean that they take their  
24 samples on Monday morning and some guy decides

1 every Wednesday he is going to pour something in  
2 the drain, and you will never ever see it. So my  
3 first comment is weekly testing is ridiculous in  
4 terms of the residence time in this system and the  
5 amount of material being processed.

6 A comment also was made is, Gee, well,  
7 what do we, the public, the uninformed, unwashed  
8 public, think should be tested for? Sounds -- I  
9 feel like a kid in a candy store. I think we  
10 should be testing for mercury. We should be  
11 testing for lead, PCB. We should be testing for  
12 polyvinyl chlorides. We should be testing for  
13 arsenic, chromium. Gosh, give me a little while, I  
14 will think of some more. But you have no idea what  
15 could find its way into those drains. You have no  
16 idea what can find its way into this process.

17 So I would say, number one, the list  
18 of items tested for is pitifully short because, as  
19 we know, these items don't go away. Heavy metals

20 are heavy metals because they stay that way. And  
21 because you incinerate them doesn't mean they go  
22 away. If you think they are all going to be  
23 encapsulated in this nice wonderful little capsules  
24 of glass, go ahead and think that.

1           I think another thing should be  
2    considered if they are going to sell this as a  
3    commercial product. One requirement of commercial  
4    products is you have to provide a thing called a  
5    Materials Safety Data Sheet and that is to  
6    require -- that is to include all the information  
7    on hazardous chemicals and the hazardous components  
8    of that product. And I would love to watch the  
9    process by which these gentlemen plan -- pardon  
10   me -- the North Shore Sanitary District plans on  
11   testing for and proving out their Materials Safety  
12   Data Sheet for this commercial product. I say it's  
13   not a commercial product for that very reason. So  
14   more things have to be tested for. The testing  
15   frequency has to be far more frequent than what is  
16   done now.

17           Another question I have is we don't  
18   want to talk about siting; but let's face it, the  
19   site this is built on is a big pile of sand that

20 washed up on the beach of Lake Michigan several  
21 thousand years ago. And there are storm sewers in  
22 that area, and we are bringing in large covered  
23 trucks of this material, its composition we know  
24 usually but we don't know what it is specifically

1 at all times. There can be vehicular accidents.  
2 There can be spillage. There can be situations  
3 where material is being handled or moved around in  
4 torrential rainfalls. There are all kinds of  
5 situations where you could have materials washed  
6 out of these vehicles. When a truck leaves this  
7 facility, there should be a very specific procedure  
8 for cleaning that truck to make sure that none of  
9 the material in there is still in there. These are  
10 a couple thoughts I had.

11 But the last question I have is this,  
12 if this plant were not to be sited -- forgive me --  
13 where it is now but were it to be sited adjacent to  
14 the solid landfill right now would not IEPA --  
15 should not IEPA give serious thought to that this  
16 is not a new licensing application, what we are  
17 doing is we are modifying a process. We are  
18 modifying the disposal process for this solid  
19 waste. What we are saying -- What I am suggesting

20 is that right now we take the stuff and we bury it,  
21 and we put it in a controlled, engineered landfill  
22 situation where -- which almost every other  
23 community in this country does right now. Okay.  
24 And we are going to change our process. And we are

1 going to introduce all kinds of new variables. We  
2 are going to use mathematical models. A brief  
3 aside, a model is nothing more than an equation.  
4 It's the same thing that the weatherman uses to  
5 predict the weather. Okay. It's nothing more than  
6 a set of calculations. It's not something too  
7 fancy, although it's complicated.

8           But my point is that you have got  
9 two -- You are going to make a change to a  
10 process, which is the disposition of this material.  
11 And I think you should look at this as a change to  
12 a permit. In other words, from a landfill  
13 operation to a landfill operation -- because that  
14 is where the stuff could end up when we are done  
15 with it, after we have turned it into our benign  
16 little noncommercial product, it's going to end up  
17 getting sucked back into the ground. And it will  
18 be smaller. It will be less because most of the  
19 stuff that was in there that we are concerned

20 about, the VOCs, the heavy metals, the mercury,  
21 half of that stuff will go up the stack and landed  
22 somewhere where it is directly accessible to  
23 people.

24 So I think you should consider this

1 application not so much a new process. This is a  
2 modification of an existing permitted process. And  
3 you should consider seriously what the impact of  
4 this change in this process is on air quality in  
5 this, our beloved Lake County, which of course is  
6 on the watch list, blah, blah, blah, but this seems  
7 to me that we are going absolutely the wrong way.  
8 Thank you.

9 HEARING OFFICER SELTZER: Diane Kajfec.

10 FEMALE VOICE: She left.

11 HEARING OFFICER SELTZER: Martin Touhy.

12 MR. TOUHY: It's Martin Touhy. I live in  
13 Libertyville. I'm a commercial real estate  
14 developer in Waukegan. I own property in Waukegan.  
15 I would like to live on the Waukegan Harbor in a  
16 condominium, and I would like that to be a high  
17 quality of life environment. And that's not  
18 compatible with the new sludge burning. Waukegan  
19 is saturated with environmental problems. 325-acre

20 Johns Manville plant. Over 200 acres will never be  
21 able to be habitated. We have got Plant 2 OMC,  
22 about 80 acres, PCBs in the floor drains, under the  
23 slab, in the soil, in the water table. We have two  
24 contained PCB cells off the harbor. We have the

1 old tannery. We have the coke plant with heavy  
2 metals that are migrating out into the lake. They  
3 are in the water table, we are trying to draw them  
4 back. We have the Dexter Chemical processing plant  
5 that just recently received additional permits. We  
6 have old coal plants, old oil storage plants. We  
7 have contaminated soil. We have contaminated air.

8           Is the EPA permitting additional  
9 pollution? Whether -- It's just outrageous that  
10 they are considering it. I realize you are  
11 governed by regulations, but I would just like to  
12 point out we need an advocate. The Illinois  
13 Environmental Protection Agency, we need you for  
14 advocating the environment, not the polluters in  
15 the situation.

16           Waukegan is poised to reinvent  
17 themselves, and we not only can our environment not  
18 take any more pollution, and we do have a  
19 predominantly west wind, and it will pollute the

20 lake, and it will pollute Michigan. And when the  
21 wind is out of the east or northeast or southeast,  
22 it will pollute western Lake County. Whether you  
23 call it a burning plant, a melting plant, an  
24 incinerator, err on the side of the environment and

1 the people, they are asking you and giving you this  
2 public input. If there are no category of  
3 regulations that apply to human waste incinerators,  
4 don't err on the side of a melting processing  
5 plant. And that's a good indication if USEPA has  
6 no regulations to govern this process, whether it's  
7 melting or incinerating, that it's an unknown  
8 exposure, unquantified exposure to liability and  
9 environmental problems.

10 Will your great-great grandchildren be  
11 dead when the matrix releases the heavy metals into  
12 the soil? When ten years from now when those  
13 cinders fall off the shingle into gardens, will you  
14 be raising onions or flowers? And you put it into  
15 the rural roads. It's under pressure. It's under  
16 tires. It erodes off into the gullies. It's an  
17 unknown exposure.

18 The known way of treating with this is  
19 containing it in the landfill. You know what your

20 exposure is. As long as it is constructed properly

21 and maintained properly, there is no exposure.

22 This process has unknown liability to the IEPA and

23 the North Shore Sanitary District. North Shore

24 Sanitary District is a bureaucracy with too much

1 money that has run amuck. And you cannot separate  
2 this shit burning plant with their desire to put a  
3 power plant down in the lakefront and sell their  
4 landfill, which has decades worth of capacity, to  
5 Zion. They are like the fellow that killed his  
6 parents, the kid that killed his parents. Now he  
7 throws himself on the mercy of the court because  
8 he's an orphan.

9           If they have no capacity in their  
10 landfills, it's because they are selling it to Zion  
11 for 20 million bucks. They have \$40 million in the  
12 bank. They go and commit their constituents, 20  
13 plus million dollars. And they order a plant on a  
14 barge coming from Holland. I hope that the city,  
15 the port authority, refuses entry to the ship  
16 carrying that. I hope the first time a dozer  
17 operator gets up there that that guy is arrested.

18           And if the IEPA issues a permit, I  
19 hope it goes further than that. There is unknown,

20 unquantified exposure to liability. It's a hazard  
21 to health and it is not desired in Waukegan.  
22 Waukegan is on -- is verged to reinvent themselves.  
23 We need -- And believe me, the quality of life  
24 that we anticipate on that lakefront in this city

1 is not only needed but it's desired. And it will  
2 be a -- Waukegan could be a world model for urban  
3 and brown field revitalization. And the  
4 reindustrialization of this lakefront is not going  
5 to happen, quite candidly. Thank you very much.

6 (Discussion outside the record.)

7 HEARING OFFICER SELTZER: Peggy Braden.

8 MS. BRADEN: My name is Peggy Braden. And  
9 I really wanted to ask some questions about the  
10 siting but Mr. Jeep mostly answered those questions  
11 for me. So I just want to say that I do not want  
12 this sludge plant processing, incinerator, whatever  
13 you want to call it, built in my front yard or in  
14 Waukegan's front yard.

15 I also have a question, can my -- I  
16 want to be able to hear what Mr. Glenn has to say.  
17 Can my time be given to him? I mean because this  
18 is supposed to end at 10 o'clock, correct?

19 HEARING OFFICER SELTZER: We will go as

20 late as we have to within reason. We will go past

21 10:00.

22 MS. BRADEN: Well, then the question is in

23 the very beginning Mr. Schollenberger was talking

24 about emergencies, you know, crises, if there is a

1 leak or hazardous spill. What exactly was he  
2 referring to? What, I mean what's going to be  
3 stored there that we have to be worried about  
4 besides the sludge? Does -- I mean can North  
5 Shore Sanitary District answer that?

6 MR. SCHOLLENBERGER: The facility just has  
7 to tell us how they respond to general fire spills  
8 or explosions. And as part of that contingency  
9 plan, they would -- One of the things they would  
10 do is would be to identify any chemicals they would  
11 use in their treatment process which might pose a  
12 hazard to firefighters if they responded to a fire.

13 MS. BRADEN: So the sludge is going to be  
14 chemically treated then?

15 MR. SCHOLLENBERGER: No, but they do have  
16 an odor control system there which will use  
17 chemicals to remove the odors from the air.

18 MS. BRADEN: That's really it. I'm really  
19 interested in hearing what Mr. Glenn has to say.

20 HEARING OFFICER SELTZER: Okay. Thank you

21 much.

22 John Rickerd.

23 MR. RICKERD: Thank you, gentlemen. John

24 Rickerd. I believe my questions have been

1 answered, but I would like to enter them anyway.

2 That being, has this panel ever addressed an

3 application similar or like the one you are looking

4 at now? And if so, where is it located and what

5 was the outcome?

6 MR. KIM: I think from the Bureau of Land's

7 perspective this is apparently a unique perspective

8 that they have not yet encountered. I can't speak

9 for the Bureau of Air.

10 MR. ROMAINE: It's the same situation for

11 the Bureau of Air. This is the first of this

12 process that we received.

13 MR. RICKERD: And so if that is so, how in

14 God's name do you establish guidelines to make your

15 determination? I just -- I understood Mr. Kim, I

16 understood what he said; but I just can't

17 understand how you can possibly establish

18 guidelines to complete a study.

19 MR. KIM: Well, I guess maybe I should --

20 I didn't mean to say that we establish new  
21 guidelines every time we receive a permit  
22 application. And if I was unclear about that, I  
23 apologize. First of all, there is -- I think  
24 everybody would agree, we have way too many

1 regulations already. And as burdensome as that  
2 might seem to members of the public for people that  
3 have to deal with them, I'm not looking for  
4 sympathy; but it's equally frustrating. There are  
5 far too many regulations.

6           Having said that, it's still  
7 impossible to create a regulation for every  
8 potential type of facility. There is always going  
9 to be a new type of facility or a new type of  
10 technology that somebody has not yet encountered.  
11 Just because it's the first of this type does not  
12 mean on a daily basis we don't receive applications  
13 where we say, Well, this is unlike something we  
14 have received before. What we do in all  
15 situations, even if it's for the thirtieth landfill  
16 that that person has seen, is you find the  
17 applicable or the most applicable set of  
18 regulations or laws that would apply to that type  
19 of facility, and you apply those regulations to the

20 facility.

21 I think that that's what we are doing

22 in this case. We are going to try to find the

23 best -- You know, it's a situation where you say,

24 Well, we have got a permit application for a

1 facility that we have never seen before, and  
2 because we have no regulations we can't do anything  
3 with it. Well, then that's -- that punishes a lot  
4 of people because it could be very beneficial  
5 facilities that have never been contemplated before  
6 that would have nowhere to go. It can work the  
7 other way. People say, you know, you have to be  
8 creative and you have to find the best things, and  
9 that's what we are going to try and do in this  
10 case.

11 MR. RICKERD: Let's say this thing is  
12 approved, and you found six months from now that  
13 it's a hell of a mistake. What are you going to do  
14 about it?

15 MR. KIM: Mistake in terms of --

16 MR. RICKERD: This incinerating process.

17 If it's determined that it is not doing what they  
18 said they were going to do.

19 HEARING OFFICER SELTZER: If it doesn't

20 meet the standards that will apply to the facility,  
21 actually this Agency is an enforcement agency,  
22 that's what it is. It would then enforce the  
23 applicable standards and take action anywhere from  
24 trying to get immediate correction from the alleged

1 violator all the way to asking the Attorney General  
2 to bring a lawsuit against the party.

3 MR. RICKERD: Thank you. It sounds like we  
4 are the guinea pigs here, gentlemen, quite frankly.  
5 And I really hope and pray that this permit is  
6 denied. Thank you very much.

7 HEARING OFFICER SELTZER: Thank you.  
8 Rob Proce.

9 MR. PROCE: Hello, my name is the Rob  
10 Proce. I'm a resident of Waukegan. I would like  
11 to address the issue on transportation of this  
12 stuff again, like Ms. Sylvester and that gentleman  
13 a few moments ago did. I think it's a very  
14 important issue because I see it leaving where it's  
15 starting and then ending up in downtown Waukegan or  
16 down in the lakefront, but there is no talk about  
17 what's happening. Is it magically getting there  
18 somehow? I don't know.

19 My understanding is 20,000 pounds of

20 sludge an hour will be processed, incinerated,  
21 whatever you want to call it, an hour there. How  
22 many trucks does that relate to a day? I mean you  
23 are talking trucks that I have seen are very large,  
24 and I always -- And I always would like to believe

1 that these trucks would be the same cylinder type  
2 hazardous waste material trucks that you see on the  
3 tollway all the time, silver trucks that states  
4 clearly hazardous material. And I think it was  
5 Mr. Schollenberger that said there will be roll-off  
6 drop containers, which to me sounds like a  
7 construction-grade type container.

8 I have seen these types of containers  
9 on the tollways all the time. They do drop  
10 material all the time. Periodically I have seen  
11 them do that. If these things are going to be  
12 going through the streets of Waukegan and,  
13 obviously, to get through the streets of Waukegan  
14 to this area it's going through residential  
15 neighborhoods where children will be, if that  
16 product is dropped off or, heaven forbid, a truck  
17 is to roll over, crash, smash into a building, roll  
18 off into a gully we have near close here to  
19 downtown, I want to know, are you guys the guys

20 that are supposed to monitor that? And if it does  
21 do a rollover, I would like to know who is going to  
22 come clean it up as fast as it needs to be cleaned  
23 up.

24 Also, I can't remember if it's

1 Mr. Dragovich or Mr. Schollenberger said there is a  
2 load checking system in place, that when the  
3 vehicle gets down there they are going to check to  
4 make sure that the material is okay to do whatever  
5 you are going to do with it down there. What's  
6 going to happen if that load is not accepted? Does  
7 that mean it's going to leave it down there in the  
8 container, not do anything with it? Or does that  
9 mean it's going to go back across Waukegan, back to  
10 where it originated from and sit there?

11 So that's double the chance for a  
12 truck rolling over, double the chance of an  
13 accident happening in the City of Waukegan in  
14 residential neighborhoods. That's basically what I  
15 would like to say. I don't know if you guys want  
16 to answer me now. You can answer me in written  
17 format to my home. I have my address on the card.  
18 And as a resident of Waukegan, I think that you  
19 should deny this permit; and that's basically it.

20 And that is all I have to say.

21 HEARING OFFICER SELTZER: Thank you. Your  
22 concerns will be addressed in written form.

23 MR. RICKERD: Thank you, sir.

24 HEARING OFFICER SELTZER: Amy Stefan?

1 MS. OWEN: She left.

2 HEARING OFFICER SELTZER: I just received a  
3 card just now of somebody else that wants to speak;  
4 but I think, Mr. Glenn, you have waited long  
5 enough.

6 (Discussion outside the record.)

7 MR. GLENN: Thank you. My name is Jay  
8 Glenn. I'm an attorney. I'm a board member of  
9 Illinois Citizen Action. I'm a volunteer. I do  
10 not -- We are not paid by any organization to make  
11 representations for or against any particular  
12 project. We are nonpartisan. And I find myself  
13 speaking for minority and poor of the City of  
14 Waukegan.

15 In reference to the transportation,  
16 though, they are not going to only drive the trucks  
17 in, they are going to haul this, these pellets,  
18 out. So you should be concerned. It's a two step  
19 transportation process through your city streets.

20           First, I have to set the boundaries of  
21 why this is an EJ, environmental justice, issue.  
22 Waukegan Harbor is located in an official area of  
23 concern and is a part of an Expanded Study Area  
24 designated to explore additional concerns beyond

1 the area of concern. The ESA, the Expanded Study  
2 Area, is bounded by the Dead River on the north,  
3 Bluff Line, which parallels Sheridan Road on the  
4 west, the south boundary of the former U.S. Steel  
5 property on the south, and the nearshore waters of  
6 Lake Michigan. Gentlemen, this project is right in  
7 the middle of that. That's the first consisting of  
8 two already federally designated concern areas.

9           The second, the National Priorities  
10 List, NPL, cites "A portion of the City of Waukegan  
11 has already been designated an NPL site for both  
12 poverty and minority relating to the Yeoman Creek  
13 superfund site." So this permit is already in the  
14 two -- in an area of concern and the Expanded Study  
15 Area. You also have a designation now of a  
16 National Priorities site, which is the highest  
17 designation that the USEPA can designate for this  
18 area.

19           The third area, superfund sites.

20 Waukegan has three active superfund sites. First  
21 is the Yeoman Creek landfill, which consists of the  
22 Edwards Field landfill, the Rubloff landfill, and  
23 the Yeoman Creek landfill. The second is the Johns  
24 Manville superfund site, which is being I think

1 cleaned up just north of the power plant. And the  
2 third is the Waukegan Manufactured Gas and Coke  
3 Company, Northshore Gas superfund site.

4           So in addition to the designations and  
5 the NPL site, you have three superfund sites within  
6 the City of Waukegan. There is no consideration  
7 thus far from the panel about your coordination  
8 with the USEPA on the effect of this project on any  
9 of the superfund sites, which quite frankly  
10 surround the project or the granting of a permit --  
11 your attempt to grant a permit within these  
12 designated areas.

13           The next area is the environmental  
14 remedial areas. The City of Waukegan currently has  
15 four major environmental remedial areas. The first  
16 is the Outboard Marine Corporation, which was the  
17 removal of 494 tons of PCB-contaminated sediments,  
18 which was completed some years ago, and is buried  
19 over by Wausau Marine. The second is the Johns

20 Manville Company where we had large quantities of  
21 asbestos-containing material, which is just north  
22 of the site that you guys are ruling on. The next  
23 is the Waukegan Paint and Lacquer site, and the  
24 third is the Waukegan tar pit. So this project is

1 right in the middle of all of these designated  
2 areas of concern.

3           Next Waukegan and our whole area is in  
4 an ozone nonattainment area, severe 17. Now I have  
5 heard on some of the power plant discussions that  
6 this may or may not be the case. But my research  
7 into the USEPA Web page indicates it, quite  
8 frankly, still is a designated nonattainment area.

9           The next blemish deals with the  
10 coal-fired power plant which lies just north of  
11 your project. In 1998, that plant contributed 284  
12 pounds of mercury into the water, 830 into the air,  
13 for a total of 1,174 pounds of mercury. Your plant  
14 is going right next to this.

15           The City of Waukegan has a total  
16 population of 87,901. The black population is  
17 16,890. The Hispanic population is 39,396. The  
18 white population is 27,186. So you have your  
19 ethnic diversity displayed right there.

20 Discussion, those -- That summary represents 100  
21 years of failed city planning, 100 years of failed  
22 city planning, and hundreds of millions of dollars  
23 of taxpayer money attempting to clean up Waukegan  
24 Harbor, the Johns Manville site, and any other

1 things that they are trying to get stabilized in  
2 the area.

3 Environmental justice. Environmental  
4 justice stands for the fair treatment of people of  
5 all races, cultures, and income with respect to the  
6 development, implementation, enforcement of  
7 environmental laws and policies and their  
8 meaningful involvement in the decision-making  
9 processes of government. Now, this is a federal  
10 mandate. It's something that the USEPA mandates.

11 By fair treatment, we mean that no group of people  
12 should bear a disproportionate share of negative  
13 environmental consequences resulting from  
14 industrial, municipal, and commercial operations or  
15 the execution of federal, state, local, or tribal  
16 environmental programs and policies.

17 Meaningful involvement. Meaningful  
18 involvement means, one, potentially affected  
19 community residents have an appropriate opportunity

20 to participate in decisions about a proposed  
21 activity that will affect their environment and/or  
22 health. The North Shore Sanitary District claiming  
23 a sovereign -- claiming they are a sovereign has  
24 skipped over the entire City of Waukegan in this

1 permit process. So the elected officials of the  
2 City of Waukegan have had no input into this at  
3 all, nor have their citizens. Two, the public's  
4 contribution can influence the regulatory Agency's  
5 decision. That's in your hands. Three, the  
6 concerns of all participants involved will be  
7 considered in the decision-making process. And  
8 four, the decision-makers seek out and facilitate  
9 improvement of those potentially affected.

10           Public participation. When the EPA  
11 has a basis to believe the operations of a facility  
12 may have a disproportionate impact on a minority or  
13 low income segment of the affected community, the  
14 region should as a matter of policy exercise its  
15 discretion to assure early and ongoing  
16 opportunities for public involvement in the  
17 permitting process.

18           Environmental justice review. When a  
19 commentator, that's me, submits at least a

20 superficially plausible claim -- I think I have  
21 done it -- that the operation of the facility will  
22 have a disproportionate impact on a minority or low  
23 income segment of an affected community, the EPA  
24 should as a matter of policy exercise its

1 discretion under Section 3005 of the Resource  
2 Conservation and Recovery Act, RCRA, to include  
3 within its health and environmental impacts  
4 assessment an analysis focusing particularly on the  
5 minority and low-income community whose health and  
6 environment is alleged to be threatened by the  
7 facility.

8           They should plan and budget for public  
9 involvement activities. They should identify the  
10 interested and affected public. They should  
11 consider providing technical or financial  
12 assistance to the public to facilitate involvement.  
13 They should provide information and outreach to the  
14 public. They should conduct public consultation  
15 and involvement activities. They should assimilate  
16 information and provide feedback to the public.

17           Meaningful involvement, potential  
18 areas of concern, and community involvement. Now,  
19 you know we are in an area of concern. Community

20 involvement is mandated by the superfund law. So  
21 you are sitting -- You are placing a project  
22 within three superfund sites in an area of concern,  
23 and the North Shore Sanitary District doesn't care.  
24 This panel hasn't recognized that reality yet.

1           Step one, identify potential areas of  
2   concern especially National Priorities List, NPL,  
3   sites. They have been told now, if this site is  
4   located in an area of concern, then the needs of  
5   the community should be considered. Fair treatment  
6   addressing disproportionate environmental  
7   consequences. Superfund law requires site specific  
8   risk assessment regarding cancer risk or noncancer  
9   health hazards associated with the site.

10           Now, this site is, in fact, an  
11   experimental facility. There is no other facility  
12   in the world. There is no other Minergy facility  
13   operating that burns sewer sludge. There is a  
14   pilot facility in Wisconsin that burns wood pulp.  
15   And of course, the sewer sludge here has the  
16   benefit of having industrial waste from many of our  
17   large corporations added to it who are in the  
18   pharmaceutical and chemical business.

19           Should risks or noncancer health

20 hazards exist -- Now, they already exist because  
21 there was a Harvard study done on the coal-fired  
22 power plants in Illinois. We have nine of them I  
23 believe. And there is huge premature deaths,  
24 asthma, emergency room visits, they are all

1 documented in the Harvard study, which is in this  
2 area. Should risks or noncancer health hazard --  
3 noncancer health hazards exist, the superfund law  
4 requires cleanup of the site to levels protective  
5 of human health and the environment, which serves  
6 to minimize any disproportionately high and adverse  
7 environmental burdens impacting the surrounding  
8 communities including minority and low-income  
9 communities.

10           The Agency for Toxic Substance and  
11 Disease Registry, ATSDR, is available to conduct  
12 environmental assessments. Such assessments  
13 include the evaluation of potential health impacts  
14 from surrounding sources. So this assessment would  
15 take into account the coal-fired power plant that  
16 is shooting out over 1,000 pounds of mercury along  
17 with everything else. Such an assessment includes  
18 an evaluation of potential health impacts from  
19 surrounding sources in addition to risks posed by

20 working with other active facilities in the  
21 area -- so they are bringing in the other superfund  
22 sites -- whether it's superfund related or not, to  
23 reduce environmental load associated with the  
24 facilities. That is a summary of the procedure for

1 environmental justice.

2           This project is an attempt to  
3 circumvent public participation, meaningful public  
4 participation, because the North Shore Sanitary  
5 District claiming themselves a taxing body or  
6 sovereign has completely skirted normal regulatory  
7 scrutiny. They are in this city because they own  
8 land here and because they can come in and build  
9 whatever they want. In fact, this facility is  
10 going to funnel the effluents of your southern rich  
11 neighbors up into this area. They are going to  
12 truck it through your streets. They are going to  
13 burn it within this facility.

14           Now, let's look at the map on this  
15 facility. And I'm going to use just general terms.  
16 Assume that they are going to haul in 180 tons of  
17 sludge a day. Just use that as an example. And  
18 let's say we use out of the end of it you are going  
19 to get ten tons of these pellets, ceramic pellets.

20 180 tons come in, 10 tons come out. There is a  
21 mathematical problem there. There is 170 tons  
22 that's missing. Where did that go? It's not the  
23 fuel because Kinder Morgan is supplying the natural  
24 gas. It's going up the pipes. And they don't know

1 what's going up those pipes to the tune of 170 tons  
2 a day.

3 Now, whether or not this product is  
4 marketable, and I have serious doubts that it is,  
5 this could be the next asbestos. If somebody were  
6 smart enough to put this on their roof, and I can  
7 just imagine going into Home Depot and seeing the  
8 label on that -- on the roofing material, what that  
9 would say. So you have your house roofed in this  
10 material, and it starts to leach out, ultraviolet  
11 light, hail storms, what then? Well, I'm assuming  
12 that some smart lawyer is going to go up and come  
13 after these guys. And all of a sudden the rate  
14 payers and tax payers and the NSSD are faced with a  
15 liability issue; well, you put out an unsafe  
16 product.

17 Let's assume that they use -- Let's  
18 say they say, all right, we are not going to put it  
19 on people's roofs. Let's say we are going to put

20 it in roads or concrete. Those of us who are old  
21 enough, and I'm old enough, remember how we used to  
22 put copper pipes into concrete and radiant heating,  
23 and we remember what the chemical reaction within  
24 concrete did to the copper pipes. It ate the

1 copper pipes up. So people had to dig up their  
2 floors or, most commonly, put in regular heaters.  
3 Nobody knows what the chemical reaction will be  
4 within concrete or blacktop. But this much is  
5 sure, that if they tear that floor up you are going  
6 to have these granules in there if they haven't  
7 leached out already. So, therefore, they are going  
8 to be faced with, well, are they hazardous. And  
9 they could well be hazardous because, quite  
10 frankly, nobody can give us a handful and test  
11 what's going to be coming out of this project yet.  
12 It's just a guess.

13           So whether this is commercially  
14 feasible, if there is a commercially feasible  
15 product, that means sold on the regular market, not  
16 sold to their buddies up at Wisconsin Power or  
17 Minergy or Kinder Morgan, sold on the regular  
18 market, that's a test of a real project. It's just  
19 a sham to sell it to their supplier. There is a

20 huge liability issue. The impact on the  
21 village -- on the City of Waukegan will be  
22 tremendous.  
23           The pollution, the cumulative  
24 pollution has to be accounted for. And it will not

1 be -- You will not know until down the road. And  
2 when this thing, if this project is built, it is  
3 the beginning of the reindustrialization of  
4 Waukegan Harbor. And that is -- This is the last  
5 chance in this century, the next 100 years, for  
6 Waukegan to try to get it right. And they have  
7 seen their rich neighbors to the south, Lake  
8 Forest, Highland Park, Wilmette, Winnetka, Lake  
9 Bluff, they will all have beautiful seashores. And  
10 they have an opportunity here with their harbor and  
11 the beautiful seashore to attempt to reverse this  
12 trend, and this project is just the first step in  
13 defeating any meaningful renovation or  
14 gentrification of this area of the lake.

15 Now, previously I have a -- I thought  
16 I did. I have an exhibit which I would like to  
17 pass up. It's the exhibit that I turned into the  
18 USEPA Region 5 and to the regional -- to  
19 Mr. Seltzer. I sent it to you. I would like to

20 resubmit it in this project so that it is of

21 record.

22 HEARING OFFICER SELTZER: That will be

23 accepted.

24 MR. GLENN: The second question is will

1 these transcripts be available on the Internet.

2 HEARING OFFICER SELTZER: This will be  
3 accepted into the record as Exhibit No. 7. And,  
4 yes, the transcript will be available on the  
5 Internet.

6 (Document marked as Exhibit No. 7  
7 for identification as of 1/24/02.)

8 MR. GLENN: That concludes my discussion.

9 HEARING OFFICER SELTZER: I have a  
10 question. I would just like to know if you have  
11 any intention -- During your presentation, you  
12 talked about populations, you talked about a study,  
13 Harvard study, and you, obviously, were citing some  
14 statutes or regulations. I wonder if you intended  
15 on supplanting your testimony with filling that in.

16 MR. GLENN: Filling that in?

17 HEARING OFFICER SELTZER: Yes.

18 MR. GLENN: Actually, I was -- I actually  
19 had a number of other comments. In my report are

20 the footnotes to all of those references. So they  
21 are all there. I have been ridiculed, though, that  
22 I didn't put the Web siting on them, but I try to  
23 do it normally. But I guess we are going to have  
24 to put the Internet addresses on these things from

1 now on. But every reference that I mention there  
2 is cited with the appropriate citation. And I  
3 would be very much happy to provide you with any  
4 additional information should it not be there.

5 HEARING OFFICER SELTZER: Okay. Well, of  
6 course, you are not obligated to. But I just  
7 wanted to know but that satisfies me. Thank you  
8 very much.

9 Paul Eagon.

10 MR. EAGON: Paul Eagon. I think that I'm  
11 going to be very brief on this because I have  
12 listened to a lot of discussion tonight. And I  
13 think that I would just like to have one thing  
14 prevail and that is common sense. And I would like  
15 to indicate that I think that everyone in this  
16 building tonight that has made a comment are really  
17 saying we respectfully ask that you deny this  
18 permit.

19 HEARING OFFICER SELTZER: Thank you.

20           Is there anybody else that would like

21   to make any comments?

22           Yes, sir.

23           MR. MATIJEVICH: My name is John

24   Matijevich. I want to make only a couple quick

1 comments. I wasn't going to say a thing but then,  
2 when I heard some things said, I thought maybe they  
3 are repetitious but I think they are important.  
4 First of all -- And I've gone to quite a few  
5 meetings where the Sanitary District has been and  
6 also with the couple of EPA hearings. And the two  
7 things that the Sanitary District are adamant about  
8 are that the City has no jurisdiction as to siting;  
9 and the other one is that this isn't an  
10 incineration, the sludge incinerator.

11 On the first issue, I would say this,  
12 and I would comment on the fact that you have said  
13 that you are still deliberating whether -- and  
14 reviewing whether there should be local siting or  
15 not, and all of us who are sitting here tonight  
16 probably are thinking isn't it more common sense  
17 rather than having these public hearings to first  
18 determine whether there should be any local siting.  
19 That should be the first instance of your review.

20 And I would suggest since the two -- the parties  
21 who could help you the most, you said you didn't  
22 even have to have this hearing, so you are  
23 providing some latitude in having this hearing.  
24 And I would say to your Agency, why don't you

1 provide yourselves the latitude in determining  
2 whether there is local siting or not to bring the  
3 Sanitary District in, bring the city attorney or  
4 the municipal authorities in on that issue alone.  
5 Because if that issue is decided, it may be that  
6 you won't even have to have any permitting process  
7 because he said to all of us that if there is need  
8 for local siting they will be denied. So you don't  
9 have to go through all this. Go through that  
10 process, invite those two parties in, hear them  
11 out, and then make a decision on that issue alone;  
12 and then come back on these other issues. That,  
13 you know, common sense isn't common anymore. But I  
14 think that makes common sense.

15 Now, on the matter of whether it's an  
16 incineration project or not, I will tell the  
17 Sanitary District if you don't think this is an  
18 incinerator then cap all those stacks. You don't  
19 need them. You know, all those stacks aren't

20 necessary if this isn't incineration. It is a

21 pollution control facility. It is an incinerator,

22 and let's be honest about all of that.

23           And let's go back to what the -- And

24 I think Verena Owen said the mission of the EPA is

1 to add to our quality of life. The fact is that  
2 you mentioned -- Somebody here mentioned with --  
3 I think it was with regard to mercury, but we  
4 always hear this at EPA hearings, that this is a  
5 one source hearing. In other words, how much  
6 mercury from this one source. Well, I happened to  
7 hear Congressman Mark Kirk the other day over local  
8 TV when he spoke to the county board. And he said,  
9 When they get rid of that nuclear waste in Zion, he  
10 said -- And we are trying to get to the fact that  
11 in Illinois and around the lakes it will be  
12 nuclear-free zones. And I thought, my God, how,  
13 you know, we shouldn't have had the plant there in  
14 the first place. And I thought how important that  
15 is. And he also mentioned that there are more  
16 nuclear facilities in Illinois than any other state  
17 in the union. We have got enough crap. You know,  
18 let's face it. You can't determine something on a  
19 single source. You have got to determine it on the

20 cumulative effects. We have got enough pollution.

21 Knock it out.

22 HEARING OFFICER SELTZER: Is there anybody

23 else here this evening that would like to offer any

24 comments?

1           Yes, sir. Would you come forward and  
2 spell your name.

3           MR. ZIRES: My name is Jose Zires,  
4 candidate of the -- democratic candidate for the  
5 Lake County Board. I just heard and truly it's  
6 awful of what's going on. My really and most  
7 important question for all of us is that right now,  
8 as we speak, in our own homes in all Waukegan our  
9 pipes are lead, so we are getting pollution, enough  
10 pollution from lead from our water, our drinking  
11 water. What we do with that, okay, we filter it.  
12 That's a good answer right there, we can filter  
13 right there.

14           Our old homes were painted with lead  
15 paint. Now what we do with that, we just paint  
16 over that and they just hope we don't break the  
17 walls or anything like that or our kids get  
18 poisoned. Our siding in our homes, I sell real  
19 estate and I see all of this stuff all the time.

20 It's made of asbestos. So what we do, okay, we

21 have a solution for that.

22 What are we going to do with the air

23 that we are going to be breathing, you know, from

24 all the mercury and everything that's going to be

1 needed? How are we going to encapsulate that other  
2 than breathing, you know, putting it all through  
3 our lungs and poisoning everybody? I mean, okay,  
4 actually, okay, that's the actual -- What are we  
5 going to do? What are we going to do with the  
6 smell? What is the impact going to be against  
7 our -- the value of our homes?

8           Which isn't this important part in  
9 here? Our value, our Waukegan, beloved Waukegan,  
10 is just going to go down the tubes. It's already  
11 down. Everybody is running away from Waukegan, too  
12 many Hispanics. I'm one of them, you know. This  
13 is my -- But I'm proud of being in there. I have  
14 been here for 30 years.

15           Now, what are we doing? Our value  
16 again, our home value is going to go down. And we  
17 are still going to be in the -- I hate to say what  
18 list, you know. And what I just hope, you know, to  
19 really think about these things, how are you going

20 to impact. You know, we have enough negative  
21 things going against Waukegan. So please  
22 reconsider this here. Think about everything that  
23 all these people here in this room and everywhere.  
24 A lot of us -- I didn't know, this

1 is my first meeting here. I said, my goodness, you  
2 know, there are actually people in this Waukegan  
3 that really care. You know, I figure nobody cares  
4 about nothing and, you know, everybody is moving  
5 out, you know. We have to go about ten miles away  
6 just to go get the simple things, you know. So we  
7 want Waukegan to come back. And, you know,  
8 whatever we have to do, whatever we need to do to  
9 bring it back to where the old standards used to  
10 be, and still love it. I'm there and I will never  
11 move from it I hope. That's all I have to say.

12 HEARING OFFICER SELTZER: Thank you.

13 Is there anybody else here this  
14 evening that would like to offer any comments or  
15 questions?

16 MS. OWEN: I promise to be really brief. I  
17 just have a couple of questions.

18 Did I understand Mr. Kim right that no  
19 determination has been made that this is a

20 pollution control facility?

21 MR. KIM: My statement was that until we

22 issue a final permit on the application we have not

23 made a decision on any part of that application.

24 Do you understand what I mean?

1 MS. OWEN: No.

2 MR. KIM: We are still in the review  
3 process. No decision -- From an administrative  
4 standpoint, from a legal standpoint, until we issue  
5 the final decision on whatever day we issue it we  
6 have not made our final decision.

7 MS. OWEN: So it will be you either issue  
8 the final permit or you issue the decision that  
9 this is a pollution control facility because you  
10 can't do both, correct?

11 HEARING OFFICER SELTZER: You can't do  
12 both, you are correct. Well unless -- As long as  
13 it doesn't fall under the exceptions, you are  
14 correct.

15 MR. KIM: Yes. I think that's correct.  
16 Correct.

17 MS. OWEN: So you have not determined you  
18 are saying?

19 MR. KIM: What I'm saying is there is no

20 part of the permit application that's been decided

21 upon or --

22 MS. OWEN: Could you just say yes or no? I

23 don't understand the explanation.

24 MR. KIM: Well, I've answered it I thought,

1 but you keep asking it.

2 MS. OWEN: Have you determined or anybody  
3 in the Agency that this is a pollution control  
4 facility, that this is not a pollution control  
5 facility?

6 HEARING OFFICER SELTZER: There has been no  
7 final determination at this point in time.

8 MS. OWEN: That means no?

9 MR. KIM: Yes, that means no.

10 MS. OWEN: Lawyers.

11 Just one thing, I mean we have talked  
12 about incinerators forever. I really, I just need  
13 to read this: This is from the Plain English Guide  
14 to the Part 503 Rule, for people like me who want  
15 it simple. It said, "What is biosolids  
16 incineration? Biosolids incineration is the firing  
17 of biosolids at high temperature in an enclosed  
18 device." What is the problem here? This is  
19 clearly an incinerator. I don't understand any of

20 those arguments.

21 And my last question, Mr. Romaine,

22 briefly, could you give us an idea what the MACT

23 hammer will do to this facility?

24 HEARING OFFICER SELTZER: Spell it.

1 MR. OWEN: M-A-C-T. I'm sure Mr. Romaine  
2 will explain that.

3 MR. ROMAINE: The MACT hammer, MACT stands  
4 for maximum achievable control technology. It's a  
5 provision under the Clean Air Act that says that  
6 sources for which USEPA has not developed maximum  
7 achievable control technology standards that are,  
8 in fact, major sources of hazardous air pollutants  
9 have to be subject to standards that represent  
10 maximum achievable control technology.

11 The key point here is it applies to  
12 major sources of hazardous air pollutants. There  
13 is a specific list of hazardous air pollutants  
14 under the Clean Air Act under Section 112, I  
15 believe it's B. And this facility would not  
16 qualify as a major source of hazardous air  
17 pollutants, therefore, it is not subject to any  
18 effect pursuant to the hammer provision under  
19 Section 112(g) of the Clean Air Act.

20 MS. OWEN: Thank you.

21 HEARING OFFICER SELTZER: Thank you.

22 Is there anybody else here this

23 evening that would like to offer any comments or

24 questions?

1 Yes, sir. Come forward, please.

2 Identify yourself for the record again.

3 MR. CRAIG: Yes. My name is Evan

4 Craig. I was told that the federal Clean Water Act

5 defines sewage sludge as a pollutant. Is that

6 true?

7 MR. ROMAINE: I missed the word. As a --

8 MR. CRAIG: The federal Clean Water Act

9 defines sewage sludge as a pollutant. Is that a

10 true statement?

11 MR. ROMAINE: That's a water question.

12 MR. KELLER: Yes. That's a true statement.

13 It also goes on, it says what you cannot do with

14 pollutants and that you cannot discharge

15 pollutants, you cannot, you know, violate any of

16 the federal regulations with respect to discharge

17 of pollutants.

18 MR. CRAIG: Okay. Thanks.

19 HEARING OFFICER SELTZER: Does anybody else

20 have any comments or questions?

21 Let me reiterate that the record will

22 stay open in this matter until February 25.

23 MR. CRAIG: Excuse me. Can I submit that

24 as part of my --

1 HEARING OFFICER SELTZER: Yes. Thank you.

2 This will be accepted as Exhibit No. 8.

3 (Document marked as Exhibit No. 8

4 for identification as of 1/24/02.)

5 HEARING OFFICER SELTZER: The record will

6 close February 25 in this proceeding. We did have

7 another proceeding relative to the same facility, a

8 permit application that was filed with the Agency's

9 Bureau of Air Pollution Control. Since the close

10 of that record, there has been some modeling that

11 was submitted voluntarily to the Agency. Because

12 of that fact, the Agency has reopened or will

13 reopen the record for that proceeding. That

14 proceeding also will close -- The record of that

15 proceeding will also close February 25.

16 So again with regard to either permit

17 that you may have an interest in, you can submit

18 written comments. As long as they are postmarked

19 by February 25 of this year, they will be accepted

20 into the record. All that material will be  
21 reviewed before the Agency makes its final  
22 decision.  
23 I want to thank you all for your  
24 participation this evening, and I do want to remind

1 you that the transcript will appear on the Agency's  
2 Web page. And there are some forms in the back of  
3 the room in case there may be some left, I don't  
4 know, but you can use those forms to, if not using  
5 them to submit your comments, at least it will tell  
6 you where to direct them.

7 Thank you and have a safe trip back.

8 \* \* \*

9 (Which were all the proceedings  
10 had in the above-entitled  
11 cause.)

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

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7 I, JANICE H. HEINEMANN, CSR, RDR, CRR,

8 do hereby certify that I am a court reporter doing

9 business in the State of Illinois, that I reported

10 in shorthand the testimony given at the hearing of

11 said cause, and that the foregoing is a true and

12 correct transcript of my shorthand notes so taken

13 as aforesaid.

14

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18 Janice H. Heinemann, CSR, RDR, CRR

License No. 084-001391

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