

ILLINOIS DEPARTMENT OF NATURAL RESOURCES

LAND RECLAMATION DIVISION

OFFICE OF MINES AND MINERALS

IN RE: HILLSBORO ENERGY, LLC

DEER RUN MINE

APPLICATION FOR REVISION NO. 1 TO PERMIT NO. 399

PUBLIC HEARING

OCTOBER 11, 2011

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17 PUBLIC HEARING held, on the 11th day of October,  
18 2011, between the hours of 6:00 P.M. and 8:34 P.M. of  
19 that day, at the VFW Hall, 8353 Illinois Route 127,  
20 Taylor Springs, Illinois 62049, before Robin A.  
21 Enstrom, a Registered Professional Reporter, Certified  
22 Shorthand Reporter, and a Notary Public within and for  
23 the State of Illinois.  
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A P P E A R A N C E S

PRESENT:

Illinois Department of Natural Resources  
Land Reclamation Division  
Office of Mines and Minerals

Donald J. Pflederer, Northern District Supervisor  
Scott K. Fowler, Division Manager  
Clifton Johnson, Land Reclamation Specialist  
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1 (Hearing began at 6:04 P.M.)

2 HEARING OFFICER PFLEDERER: Good evening,  
3 folks. My name is Don Pfelderer. I'm the northern  
4 district supervisor for the Office of Mines and  
5 Minerals, Land Reclamation Division, and we're part of  
6 the Department of Natural Resources, and I've been  
7 appointed hearing officer for tonight's hearing.

8 We're here tonight to conduct a public  
9 hearing concerning the application for Revision No. 1  
10 to Permit No. 399 submitted by Hillsboro Energy, LLC,  
11 for the Deer Run Mine. This hearing is being held  
12 under the authority of 62 Illinois Administrative Code  
13 1773.14 promulgated under the Surface Coal Mining Land  
14 Conservation and Reclamation Act.

15 This hearing was requested by Catherine  
16 Edmiston, and the format of the hearing is informal.

17 Because we're required by regulations to  
18 make a verbatim transcript of the hearing, it is  
19 imperative that, if you wish to speak, you sign in so  
20 that we can have your name and address for the record  
21 and also that you make your comments from the podium.

22 If we have written comments -- if you have  
23 written comments or a written statement, maps, or  
24 other information to be submitted for the record,

1 please let me know when you come up to speak and we'll  
2 enter them into the record.

3           Once the hearing is adjourned, we'll leave  
4 the record open for ten days to submit written  
5 comments. That date is October 21st. The land  
6 reclamation staff will then review all comments made  
7 here at the hearing and those received in writing as  
8 well as the application and any comments received from  
9 other agencies. A decision will then be made to  
10 issue, deny, or require modifications to the  
11 application. If modifications are required, we'll  
12 notify the applicant of those required modifications,  
13 and once we've received their responses, we will issue  
14 our final decision. Comments made at this hearing as  
15 well as comments received in writing will be addressed  
16 in our decision finding.

17           Anyone who has signed up to speak, who  
18 sends us written comments, or has just indicated they  
19 are in attendance will receive a copy of our written  
20 decision finding when it is issued.

21           Tonight we have with us Scott Fowler,  
22 division supervisor; Cliff Johnson, who is our field  
23 representative; Dan Barkley, our staff engineer; and  
24 Vickie Broomhead, our staff hydrologist.

1 MR. FOWLER: I want to thank you for all  
2 coming out tonight. My name is Scott Fowler.

3 This hearing is for you to provide us  
4 comments on the application that we will utilize  
5 during our review of the application. We're in the  
6 infancy of reviewing this application. We have made  
7 no decisions yet based on this application. So your  
8 comments will be utilized by us in our review as we go  
9 forward. I appreciate you all coming out tonight.

10 What we're going to do is similar to what  
11 we've done in past formats. I'm going to ask all  
12 those that are going to provide comments -- and  
13 hopefully you do provide comments -- to be able to  
14 speak all the way through. If there are questions --  
15 and I'm sure that there will be -- we're going to try  
16 to capture those questions and make sure everybody has  
17 an opportunity to speak.

18 And, then, after the hearing is pretty  
19 much closed for comments, then we'll try to address  
20 the questions that you do have. But we're not going  
21 to answer questions as they come up because we go back  
22 and forth and potentially keep somebody here much  
23 later than they want to that does want to make a  
24 comment. So we're going to make sure everybody gets

1 their comments in first, and then we'll try to answer  
2 questions.

3 Yes, Ms. Blumenshine.

4 MS. BLUMENSHINE: Joyce Blumenshine. Just  
5 a brief question, Mr. Fowler.

6 What differentiates this public hearing  
7 from your informal conference that was held earlier?

8 MR. FOWLER: Basically very little. The  
9 format is very similar. We have to take a written  
10 transcript of it, and the structure of it, minus some  
11 very minor details, is very similar.

12 So, yes, it is a question of if there is  
13 any new information to provide. If you've already  
14 provided us the same comments, providing them twice  
15 doesn't give them any extra weight. So if you have  
16 the same comment from an earlier hearing, you know,  
17 it's not necessary for you to expound upon it again  
18 because we've already heard it and it will be taken  
19 into consideration in our review.

20 HEARING OFFICER PFLEDERER: Okay. With  
21 that, Gayle Coufal, C-o-u-f-a-l. Would you like to  
22 come up and speak?

23 MR. COUFAL: I just want to ask a  
24 question, and you said you couldn't do that.



1 HEARING OFFICER PFLEDERER: Well, you can  
2 come up and ask your questions, and then we'll answer  
3 them later. Okay?

4 MR. COUFAL: Well, why can't I ask them  
5 later when you're going to answer them?

6 HEARING OFFICER PFLEDERER: Okay.  
7 Kyle Cameron.

8 AUDIENCE MEMBER: Can I sign in?

9 HEARING OFFICER PFLEDERER: Feel free.

10 MS. CAMERON: Face you guys?

11 MR. FOWLER: Yeah.

12 MS. CAMERON: Okay. Well, right now I  
13 have three questions. The first one is going to be I  
14 really have no way of knowing what I want to ask or  
15 the information you're going to provide because I  
16 don't have information from the meeting we're getting  
17 ready to hear. So I would like to see if there is an  
18 open forum afterwards for us to be able to ask  
19 questions and get some answers for the public to know.  
20 That's my first question.

21 MR. FOWLER: Okay. Let me stop on that  
22 one, if you don't mind.

23 Generally, the format here is to take  
24 comments from the audience. Mostly we expected the

1 people to have viewed the permit application already,  
2 have looked at it, and provide comments. We will be  
3 here afterwards, and if you have -- you want to  
4 discuss some stuff, you know, and don't know what to  
5 ask right now, that's fine. We'll be here even after  
6 we formally answer the questions that are up here. If  
7 you want to go one-on-one, our staff will be here as  
8 long as you've got questions.

9 MS. CAMERON: My only concern with that is  
10 that my question -- other people might want to know  
11 the answer to, you know, after -- you know what I'm  
12 saying? Because the last meeting we heard all the  
13 information from you guys, and then off of that we had  
14 questions, ask the questions, and then you answered  
15 the questions, and then we left with a better  
16 understanding. That's what my point is on that. The  
17 last meeting was held different than what this is.

18 MR. FOWLER: I believe it's going to be  
19 pretty much the same format.

20 MS. CAMERON: Okay. So we will be able to  
21 ask questions at the end and then get answers and  
22 everyone will be able to hear the answers.

23 MR. FOWLER: Yes.

24 MS. CAMERON: Okay. All right. My second

1 one is I've done a lot of research, and I've found  
2 numerous findings on leak and -- leaks and impound  
3 dams failing. Is there a safer way that the mine can  
4 have the production that they're wanting that is less  
5 hazardous to the health of those in this community  
6 that will be here over the next 20 to 30 years' life  
7 span of the mine that will not have the potential  
8 Class 1 high hazard property damage? You need me to  
9 repeat that?

10 MS. BROOMHEAD: You're basically asking --

11 MS. CAMERON: Is there a safer way for  
12 them to produce this with less hazardous effects to  
13 the community, citizens, and property over the 20 to  
14 30 life span.

15 Okay. My next question is it's my  
16 understanding that these impound dams have a life of  
17 five to six years, and if the mine is going to be  
18 there for 30 years -- 20 to 30, that means we could  
19 have anywhere from four to six potential impound dams  
20 that were needed. If that's the case, where will they  
21 be located? And, also, what will be done with each of  
22 the dams once the life span is used up?

23 And I guess kind of piggybacking that same  
24 thing on the same question would be what -- I've done

1 research, but what are the hazards that affects the  
2 groundwater from -- and the ground from that impound  
3 dam? Being buried or -- which is buried, I think, is  
4 what's the answer's going to be, but we'll see.

5 And then my last question so far is you  
6 say that no decision has been made yet on this dam but  
7 has issued a permit and the dam is at least well  
8 underway, if not completely built. So how can there  
9 be no decision made on it? Seems like there has been.

10 MS. BROOMHEAD: Excuse me. All of your  
11 questions are about the dam.

12 MS. CAMERON: Yes.

13 MS. BROOMHEAD: Okay.

14 MS. CAMERON: That's it for now.

15 HEARING OFFICER PFLEDERER: Mary Ellen  
16 DeClue.

17 MS. DECLUE: Mary Ellen DeClue,  
18 D-e-C-l-u-e. Is this -- no. Now it is.

19 First of all, I want to thank you for  
20 having this public hearing. I consider it extremely  
21 important for the community and the citizens' health  
22 and welfare.

23 Basically, I feel that you should not  
24 approve of this revision based on the following

1 rationale.

2 First, I want to kind of give a little bit  
3 of history of this mine and kind of like how it got  
4 here.

5 My first thought from -- at the informal  
6 conference is why do we have a Significant Revision  
7 No. 1 application? I didn't think there was any  
8 apparent reason because changes in design, dimensions,  
9 and liner were already approved by IDNR through  
10 Insignificant Permit Revisions No. 1 through 7 and  
11 the Insignificant Boundary Revision No. 1 of Permit  
12 No. 399.

13 IDNR announced -- IDNR-Office of Water  
14 Resources announced in March 24, 2010, of the  
15 application from Hillsboro Energy to construct a high  
16 hazard dam for the coal slurry impoundment. This was  
17 never approved and has, as of yet, not been approved,  
18 nor was it made known to the Hillsboro citizens as  
19 regulations require.

20 The Insignificant Boundary Revision No. 1,  
21 dated November 19, 2010, moved the rail line closer to  
22 Fillmore Road and added 19.5 acres to the permit area.  
23 So that's kind of where we are now.

24 At the informal conference, Mr. Simon

1 Stepp, manager of engineering for Patton Mining,  
2 stated that the proposed Significant Revision No. 1 --  
3 and that's what this is all about -- will enclose the  
4 notch of the incised impoundment.

5 An impoundment or high hazard dam is  
6 developed in this process by closing the notch.  
7 According to Mr. Stepp, the Insignificant Permit  
8 Revision No. 1 -- and he actually meant Insignificant  
9 Boundary Revision -- it gets confusing -- sorry. Hope  
10 it wasn't something I did -- allowed a conveyor belt  
11 to deliver coarse coal refuse to this area and the IBR  
12 No. 1 allowed coal slurry to be pumped into incised  
13 holes.

14 So -- so you know why we're here. This  
15 proposal is really about how high the notch can be  
16 built before the Significant Permit Revision No. 1 is  
17 approved. It's already started, but they don't have  
18 permission to finish the deal, I guess.

19 Based on the aerial photos presented at  
20 the informal conference, there are already partial  
21 walls of coarse coal waste surrounding the  
22 impoundment, liners in place, and coal slurry in one  
23 section. See what I mean?

24 If this -- if this all seems confusing to

1 you, it's supposed to be. A citizen cannot react if  
2 he or she does not know what's going on. As you know,  
3 there was tremendous outcry and resistance to IDNR-OMM  
4 ever approving Permit No. 399. If this permit had  
5 included an impoundment with a high hazard dam design,  
6 I truly believe that Permit No. 399 would not -- and I  
7 want to repeat -- would not have proceeded forward.

8           The concept of bait and switch is very  
9 effective, and it worked. We now have a mine in  
10 Hillsboro with this high hazard dam, and that's where  
11 we are right now.

12           Permit No. 399 should be rescinded due to  
13 violations of SMCRA and Illinois Administrative Code.  
14 How can the cumulative hydrologic impact assessment  
15 for an incised impoundment be sufficient to cover the  
16 hydrological impact of a high hazard dam?

17           Permit No. 399 does not cover the  
18 reclamation and removal of the impoundment. It should  
19 be removed from the community to prevent inevitable  
20 leakage which Ms. Cameron was very concerned about.  
21 But IDNR-OMM's idea of removal of an impoundment is to  
22 place a cover on it. Does the water in a swimming  
23 pool disappear after it is covered? The toxicity of  
24 the coal slurry will be a threat to the environment

1 with or without a cover for not just 20 years because  
2 that baby's going to be here forever. Permanent comes  
3 to mind. This is one more SMCRA violation.

4           The concentration (sic) of the coal waste  
5 refuse area followed the plans for an incised,  
6 in-the-ground refuse area as approved in Permit No.  
7 399. The transition from this design to a high hazard  
8 dam worries me because the only construction change  
9 consists of dumping more coarse coal waste into the  
10 notched area to be able to impound coal slurry. Even  
11 I know that construction guidelines differ if you're  
12 building a swimming pool or a pond. Certainly coal  
13 slurry, instead of water, demands even more thoughtful  
14 construction and planning for safety. The  
15 classification of the waste impoundment is high  
16 hazard, but the construction of it is not.

17           IDNR-OMM has been a tremendous help to  
18 accommodate Hillsboro Energy. I hope this mine  
19 operator realizes the value of their guidance. I  
20 dearly wish that they would be as attentive and  
21 accommodating to the citizens, the environment, and  
22 the community.

23           Prior to answering the questions at the  
24 informal conference, Mr. Fowler reminded the audience



1 that Permit No. 399 could not be discussed due to  
2 ongoing litigation. He does not need to remind  
3 petitioners, of which I am one, of the litigation, but  
4 rather the Department should remind its Hearing  
5 Officer, Mr. Michael O'Hara, of his inaction in  
6 addressing the recognition of the petitioners' lawyer  
7 and in making a ruling on the summary judgment that  
8 was submitted in July of 2010. The threat of  
9 sanctioning our lawyer and the petitioners does not  
10 qualify as a legal solution.

11 My rights as a citizen have been denied as  
12 our rights have been denied to a health -- for a  
13 healthy and safe environment.

14 Thank you.

15 I would like to submit the testimony.

16 HEARING OFFICER PFLEDERER: Okay.

17 Karyl Dressen.

18 MS. DRESSEN: Karyl. I'll pass for now.

19 HEARING OFFICER PFLEDERER: Okay.

20 Brian Perbix.

21 MR. PERBIX: Good evening. My name is  
22 Brian Perbix, and I'm with the Prairie Rivers Network  
23 as well the Illinois Sierra Club. I'm sorry. My  
24 name is P-e-r-b-i-x.

1 Prairie Rivers Network is the statewide  
2 affiliate of National Wildlife Federation, a nonprofit  
3 organization that strives to protect the rivers,  
4 streams, and lakes of Illinois and to promote the  
5 lasting health and beauty of watershed communities.

6 I'm also here on behalf of the Illinois  
7 Chapter of the Sierra Club, which is a statewide  
8 environmental organization that represents over 26,000  
9 individuals committed to protecting the Illinois  
10 environment.

11 And members of both those groups, some of  
12 whom are represented here tonight, are concerned about  
13 the long-term impacts of coal slurry disposal on the  
14 environment, specifically how it may affect the  
15 watershed -- the Shoal Creek watershed for uses such  
16 as groundwater for potable drinking water, overflow  
17 watering livestock and irrigation, as well as  
18 recreational uses such as fishing, wildlife viewing,  
19 and also the long-term potential for impacts of  
20 contaminated ground water on local property values.

21 I thank you, Office of Mines and Minerals  
22 staff, for the opportunity to speak tonight. The  
23 proposal before us would impact an area for roughly  
24 four-and-a-half years with coal slurry and coal waste

1 disposal.

2 In the interest of time, I've kind of gone  
3 through the transcript -- I wasn't able to be at the  
4 informal conference -- but just kind of gone through  
5 and tried to highlight some relevant questions that I  
6 think -- to help clear up a lot of concerns that folks  
7 have about this particular refuse disposal area being  
8 proposed tonight.

9 So, first, I just have a couple of  
10 questions about the information that Office of Mines  
11 and Minerals typically requires for refuse disposal  
12 areas in terms of determining what the probable  
13 hydrologic consequences would be. Specifically I note  
14 that the applicant in the application for this  
15 Significant Revision No. 1 has provided a groundwater  
16 model that finds that there is no significant risk  
17 over a ten-year period to local groundwater, I think,  
18 within 25 feet of the permit boundary.

19 So my question is typically what kind of  
20 time period does OMM look for in the groundwater model  
21 for an RDA like this? Because the model that was  
22 presented, you know, assumes a lot of things such as  
23 that the liner will never degrade, that the cap will  
24 never degrade, and, also, I think the time limit that

1 they're looking at is just five years post closure.  
2 And as I think some people have gotten at with their  
3 comments already here tonight, you know, that coal  
4 processing waste is going to be there in perpetuity,  
5 and I think that came out of the transcript as well.

6           So my question is really, you know, what  
7 specific -- what are you looking at, IDNR, to see in  
8 the probable hydrologic consequences in an application  
9 like this? What kind of time period? What kind of  
10 assumptions are you making about the integrity of that  
11 structure?

12           And then getting to another set of  
13 questions -- I'm just waiting for Vickie to catch up.

14           I know there was a lot of discussion at  
15 the informal conference about the walls of the  
16 impoundment, the coarse refuse walls that would  
17 actually be constructed to hold back coal slurry. And  
18 I saw in the application that the applicant states  
19 that they will vegetate the walls of that refuse  
20 disposal area. And I'm wondering what IDNR would do  
21 to ensure that that actually happens because we've  
22 seen a number of instances -- over in Macoupin County  
23 as well as down in Williamson County, just thinking  
24 off the top of my head -- of very large refuse

1 disposal areas that are not adequately vegetated.  
2 And, of course, the problem -- the potential problem  
3 there is that you're exposing the surface of that  
4 refuse disposal area, the walls themselves, to  
5 erosion, contact with air and water, which has  
6 implications for mobilizing the potentially toxic  
7 components that are found within that refuse.

8           So my specific question is what -- how  
9 will we know that in this permit there will be  
10 vegetation on the walls of those -- of this particular  
11 refuse disposal area?

12           And, then, second, I also noted in the  
13 transcript from the informal conference that the --  
14 well, really I just had a question about the drainage  
15 system which I think is located -- correct me if I'm  
16 wrong -- but I think it's located underneath the  
17 refuse disposal area walls, the actual coarse refuse  
18 embankment walls.

19           So my question is when is the drainage  
20 system, that internal drain, actually active? Is it  
21 active in draining during the active phase of the mine  
22 life when refuse is being put into the disposal area?  
23 Or is it only opened up during the reclamation phase?  
24 If so, how long is it open? You know, does it stay

1 open -- does that drainage way function in perpetuity  
2 as well? Is it always conveying that infiltration,  
3 that groundwater, whatever liquid is in that slurry  
4 pile, is it always going out that drainage way? And  
5 then where does that drainage way report to? Does it  
6 go to the sedimentation basin, the moat, surrounding  
7 the RDA and then on to Watershed Structure No. 5? Or  
8 is it kind of a vertical drain? Just wanted to  
9 clarify that.

10 Got a couple more points. Two quick  
11 questions. We can get these out of the way. Just in  
12 looking at specific technical changes between what was  
13 originally permitted and has been permitted to date  
14 and what's proposed in the significant revision at  
15 hand today, I'm curious what -- I think the bottom  
16 elevation of the incised area for the refuse disposal  
17 area is 595, and, if so, I wanted to clarify that  
18 that's the case and ask a question when did that  
19 change -- when was that approved from -- because I  
20 think originally it was 620, the elevation of the  
21 bottom, and so I'm wondering when that elevation  
22 changed, when that approval came through.

23 And then an earlier commenter, I think it  
24 was Kyle Cameron, asked the question is there a safer

1 way to dispose of this material, and along those  
2 lines, I just want to ask the question is -- does IDNR  
3 have the ability to require the best available  
4 technology to protect the hydrologic balance? And, if  
5 so, is this it?

6 And, then, finally, I -- this is my last  
7 line of questioning, and then I'll let someone else  
8 speak. But I think a lot of the concerns that have  
9 been coming out of the comments that the community  
10 members living in and around Hillsboro, Schram City,  
11 Taylor Springs, is that this impounding structure will  
12 be retained permanently on the landscape and there's  
13 the potential for many more to come, as was alluded to  
14 earlier. And so I would ask, you know, how -- how the  
15 proposed change affects the approved post mining land  
16 use. I'm wondering if -- if the proposed change would  
17 impact whatever the proposed and approved post mining  
18 land use currently is. And so, in turn, how that  
19 would affect the reclamation plan.

20 And then I'll wrap up with the question  
21 how can IDNR permit impounding structures like this to  
22 be retained as part of the post mining land use?

23 And that concludes my comments for now.  
24 Thank you very much for the opportunity.

1 HEARING OFFICER PFLEDERER: Mary Bates.

2 MS. BATES: Good evening. My name is Mary  
3 Bates. I live at 936 Vandalia Street in Hillsboro,  
4 Illinois, and I want to thank you for holding this  
5 public hearing in Hillsboro near the Deer Run Mine.

6 And I have a few questions that were not  
7 answered at that informal conference. Why is work  
8 continuing on this high hazard dam without approval of  
9 three permits? One, the Office of Water Resources has  
10 not approved their permit for this dam, this high  
11 hazard dam.

12 The March 24, 2010, notice states that no  
13 work is to be commenced or completed on this project  
14 unless and until permit is issued. And that's not the  
15 worst of it. Office of Water Resources treats this  
16 dam as if it will hold water, not toxic slurry waste.  
17 This makes it easier to fool the public into thinking  
18 it's safe, but that's the rules in Illinois. That is  
19 also why SMCRA requires slurry impoundments to be  
20 removed, not covered up. Office of Water Resources  
21 does not recognize the SMCRA rules.

22 The notice says -- also says a permit may  
23 be required from Mining Safety and Health  
24 Administration, MSHA. Is that true? Is Bradley Smith



1 here tonight? Bradley must not be here tonight.

2 Bradley Smith is the supervisor of MSHA in Hillsboro.

3 Number two, IEPA is reviewing the NPDES  
4 No. -- ID No. IL0078727. I received an e-mailed from  
5 Larry Chrislit. Quote, "The latest version of 399 is  
6 being incorporated into the NPDES." No date for  
7 approval has been projected. This 399 permit was  
8 approved on the basis of a non-impounding impoundment  
9 with an incised area for coal slurry only.

10 I have several exhibits too, and I will  
11 turn those in at the end that shows these.

12 Shouldn't the citizens be told where the  
13 monitoring wells are located for this new high hazard  
14 dam before the work is started? Are we relying on the  
15 work by an unlicensed design firm? Well, the Illinois  
16 license was issued September 12, 2011, to Alliance  
17 Consulting, LLC. Now they're legal. This is 14  
18 months after the application. Why wasn't this company  
19 licensed in Illinois before the application was  
20 submitted?

21 Number three, IDNR-Mines and Minerals has  
22 not issued an approval for the significant permit  
23 revision which was issued August 10th of 2010. That's  
24 why we're here tonight, but the work is continuing as

1 we speak. Is that okay with you?

2 AUDIENCE MEMBER: No.

3 AUDIENCE MEMBER: No.

4 AUDIENCE MEMBER: No.

5 MS. BATES: Did anyone on the county board  
6 or city council read the first 399 application? That  
7 application called for a non-impounding impoundment.  
8 That's the bait. IDNR approved it without asking the  
9 question "Where's the slurry impoundment?"

10 Now we have a Class 1 high hazard dam  
11 which has the potential, in the event of dam failure,  
12 for the substantial loss of life and/or property  
13 downstream.

14 Here's the switch: Insignificant Permit  
15 Revision No. 4, dated October 18th of 2010, for the  
16 adjustment to the impoundment was issued giving an  
17 exemption for the significant permit revision, and  
18 that was to take out Pond No. 5 and dig a trench  
19 around the impoundment.

20 Then Insignificant Permit Revision No. 7,  
21 issued November 22nd of 2010, approved a synthetic  
22 liner and also gave an exemption for a significant  
23 permit revision.

24 Do these two insignificant permit

1 revisions give the mine operator the authority to go  
2 ahead with the work on this 80-foot high, 6,430-foot  
3 long, Class 1 high hazard dam without informing the  
4 residents, the county, or city officials of the risks.

5           When I asked the question at the informal  
6 conference what the significant permit revision was  
7 for, you said to go up. You already had approval with  
8 No. 4 and No. 7 to change the configuration and put in  
9 the liner. So the work started piecemeal without the  
10 public knowing they were getting a high hazard dam  
11 inside the city limits.

12           Office of Water Resources issued a cease  
13 and desist order to stop work on the dam because the  
14 OWR permit was not approved. Has the work stopped on  
15 this slurry impoundment after the cease and desist  
16 order was issued?

17           How many tons of slurry will this  
18 impoundment hold?

19           On page 197 of the 399 Version 1 permit,  
20 it says the estimated life of each area is 4.4 years.  
21 Where will the next slurry impoundment be located, and  
22 how big will it be? How many homes will be  
23 eliminated? How many acres of agriculture will be  
24 eliminated from the tax rolls? Considering the life

1 of this mine is 20 to 30 years, five to six more  
2 impoundments will be needed. How many impoundments do  
3 you estimate will be required? Remember, Cline owns  
4 120,000 acres of mineral rights in Illinois.

5 The original permit called it a  
6 non-impounding impoundment. Surely a professional  
7 mining engineer would ask where the slurry is going to  
8 be located if the permit called for washing eight to  
9 ten million tons of coal a year. IDNR-OMM-LRD  
10 engineer or permit coordinator didn't question the  
11 discrepancy. OSM didn't question it. The county and  
12 city officials didn't ask any questions. The mining  
13 company has had a free rein from IDNR-Mines and  
14 Minerals. It was done piecemeal so no one would  
15 notice an 80-foot-high mountain of toxic waste was  
16 being slipped into the county. It was a bait and  
17 switch. No one noticed except the Sierra Club,  
18 Prairie Rivers Network, and CALM.

19 Maybe I should mention that, for the year  
20 2010, Office of Surface Mining Reclamation and  
21 Enforcement finances IDNR-LRD for its regulatory  
22 program \$3,403,563 and the Abandoned Mine Land Program  
23 gets a grant of \$17,141,707 to Abandoned Mine Land  
24 Program. And that comes from the OSMRE evaluation

1 year 2011.

2 But it doesn't sound like IDNR-MM is  
3 interested in protecting Hillsboro residents from air  
4 and water pollution. The nearest monitoring station  
5 is in Nilwood and Springfield. That didn't help the  
6 citizens when there was a fire at the mine on July  
7 31st. It didn't help the prisoners who had to breathe  
8 the smoke and toxic pollutants for two days.

9 Alliance Consulting was not registered in  
10 Illinois at the time they designed the impoundment.  
11 Did Hillsboro Energy not know Alliance Consulting is  
12 required to be registered in Illinois to work in  
13 Illinois? They were registered as of September 12,  
14 2011, after many complaints. So that's okay, I guess.  
15 Is that okay with you?

16 AUDIENCE MEMBER: No.

17 AUDIENCE MEMBER: No.

18 AUDIENCE MEMBER: No.

19 MS. BATES: The mine operators did not do  
20 the required density testing on the impoundment before  
21 the liner was installed. Thanks to Cliff Johnson --  
22 over there on the end -- of IDNR for catching this  
23 violation. Without proper density testing, there  
24 could be a panel separation and seepage.

1           That's two serious violations on a high  
2 hazard dam, that won't be apparent for several years,  
3 that we know about. What's going on that we don't  
4 know about? Who can the citizens rely on to protect  
5 our health and welfare? Where is MSHA in this mess?  
6 Bradley Smith, supervisor of MSHA in Hillsboro -- he's  
7 not here tonight, but I would ask him to say a few  
8 words about what his responsibility is at the mine if  
9 he were.

10           I have a few questions about the liner  
11 that were not answered at the informal conference.  
12 Mr. John Gardner of Richardson, Gardner, Smith and  
13 Associates has recommended the 40-mil HDPE, high-  
14 density polyethylene, geomembrane for the Deer Run  
15 impoundment. I'm concerned that Mr. Gardner is a  
16 registered engineer in 11 states and the Virgin  
17 Islands but Illinois is not one of those states. I  
18 appreciate the fact that, as mentioned in his letter,  
19 the State of Illinois has no current statute or  
20 regulation requiring linings beneath coal refuse  
21 impoundments. However, I am concerned Alliance  
22 Consulting, LLC, which was unlicensed in Illinois at  
23 the time they designed the impoundment, gave the  
24 assurance that the foundation and stability analyses

1 were adequate and stable. It is doubtful that Mr.  
2 Gardner was aware that the density testing was not  
3 being done.

4 I think we would all feel better if Kevin  
5 Smith, the county engineer, were appointed to monitor  
6 on a regular basis the installation and to ensure that  
7 the damage or threats of damage to the liner be  
8 immediately repaired until it is covered by refuse.  
9 Mr. Gardner recommends that any damage caused by  
10 coarse material, machinery, weather, or wildlife  
11 should be repaired promptly. I think the public would  
12 feel more assured with a third party oversight and not  
13 rely on IDNR to provide it.

14 For you in the audience, this is the  
15 information on the potential causes of destruction of  
16 the membrane: cyclical wetting and drying, tension  
17 necking, drying upon installation. The preventive  
18 measures include cover the liner system with one foot  
19 of soil, do not leave for months or years; use a  
20 woven/nonwoven GCL instead of a double woven GCL to  
21 resolve the tension necking issue; increase the  
22 overlap; heat tack the weld seams.

23 And last but not least, I want to  
24 emphasize the operation of the Deer Run Permit 399

1 must be modified to describe how the new slurry  
2 impoundment is to be removed. And that is -- I refer  
3 62 IAC 1780.18. The dry coal waste impoundment or  
4 RDAs can be covered with four foot of soil and left  
5 permanently, but a slurry impoundment must be removed.  
6 Historical reasons to leave the slurry impoundment is  
7 no reason to violate these rules today.

8 Please explain under SMCRA why you are  
9 permitting an operation plan without description of  
10 waste impoundment removals and a reclamation plan that  
11 involves permanent dams, meaning permanent waste  
12 impoundments. And I have attachments here.

13 And, in closing, I would like to say that  
14 there is a need for the LRD review process to  
15 facilitate better understanding on the part of coal  
16 operators and citizens to ensure consistent program  
17 application and implementation.

18 Thank you.

19 These are the exhibits.

20 HEARING OFFICER PFLEDERER: Cathy  
21 Edmiston.

22 MS. EDMISTON: I'm Cathy Edmiston,  
23 E-d-m-i-s-t-o-n. Is this on?

24 HEARING OFFICER PFLEDERER: No.



1 MS. EDMISTON: What do you do? Turn the  
2 bottom? Thank you.

3 Okay. Let me see here. Let me get myself  
4 organized here.

5 These are my questions regarding this high  
6 hazard dam:

7 If this dam breaks, who will be taking the  
8 liability? Homes, hospitals, prison, nursing home,  
9 and a number of people will be affected. If the dam  
10 breaks, who will be taking the liability? I  
11 understand the coal company is LLC, which is limited  
12 liability corporation. Is tax money going to do it?

13 Two -- and I think maybe this has been  
14 asked before. How many more waste impoundments with  
15 high hazard dams are going to be built in Montgomery  
16 County? Will they be in the city limits too?

17 Can IDNR deny this permit? And what can  
18 IDNR change regarding this refuse disposal area?

19 I and my family own century farms that  
20 have been in the families for a long time. How are  
21 land values going to be affected? And how many -- how  
22 many more acres of prime farmland will be lost for  
23 these refuse disposal areas? They can't use the land  
24 for anything else after the toxic waste has been

1 stored on this land. And it's my understanding  
2 there's plans for -- is it five or six or more? -- of  
3 these waste impoundments.

4 Those were the questions that I had today.

5 HEARING OFFICER PFLEDERER: R. Lee  
6 Schraut.

7 MR. SCHRAUT: I think I'd like to pass on  
8 speaking, but I would like to reserve the right to ask  
9 questions later.

10 HEARING OFFICER PFLEDERER: Joyce  
11 Blumenshine.

12 Ms. BLUMENSHINE: Thank you.

13 My name is Joyce Blumenshine,  
14 B-l-u-m-e-n-s-h-i-n-e. I sincerely appreciate the  
15 time and endeavors of the IDNR staff to be here  
16 tonight in Hillsboro area.

17 This is a very important hearing about a  
18 huge issue that will be here forever, and I am a  
19 volunteer with the Illinois Chapter Sierra Club. I'm  
20 the mining issues committee chair. Our concerns are  
21 to protect the environment for our families and our  
22 future. Without clean, safe water, we as humans don't  
23 have a very good chance for life.

24 I would like to read briefly from the

1 Significant Revision No. 1 to Permit 399 application,  
2 Volume I, where it says, "This revision is to provide  
3 for the construction of a coal refuse slurry  
4 impoundment incorporating the use of a synthetic  
5 lining system in lieu of four-foot clay," and then it  
6 goes on about the permeability, and then, in Part IV  
7 of Volume I, on page 1 at the Operations Plan, it  
8 says, "The purpose of this application is to permit  
9 the construction of an impoundment at the location  
10 currently approved for disposal of coal refuse."

11 I have a few slides from which I would  
12 like to ask the questions all pertaining to this  
13 application.

14 So these are some questions from Illinois  
15 Sierra Club and also Citizens Against Longwall Mining.  
16 Since IDNR has already approved major changes to this  
17 design, which has been mentioned earlier, the open C,  
18 which was in the original permit approval, which was a  
19 C, like a half circle, of coarse coal refuse  
20 surrounding an incised or a hole in the ground for the  
21 wet coal slurry, we wonder what is left to be approved  
22 by IDNR and how many more high hazard dams will be  
23 built.

24 COURT REPORTER: Just a minute. I'm

1 sorry. I can't hear when other people are making  
2 noise.

3 MS. BLUMENSHINE: I understand. Thank  
4 you.

5 Thank you for the opportunity to talk here  
6 because this location is the only place I could  
7 project these photos which were taken several weeks  
8 ago and shows you the actual conditions of this --  
9 what is labeled as Significant Revision No. 1.

10 We are looking toward the kind of  
11 southwest. On the right-hand side, that little dark  
12 corner is coarse coal refuse. You see a triangular  
13 dark shape. That is, we believe, wet coal slurry  
14 that's already been put into the RDA, refuse disposal  
15 area. You see what was a sediment pond, which has  
16 been approved as an insignificant permit revision from  
17 a sediment pond. Now it is -- I believe Mr. Fowler  
18 used the word or something similar to this at the  
19 informal conference -- it's like a moat or almost like  
20 a channel around this refuse disposal area.

21 So my first question is how can the  
22 reconfigured Pond 5, which is now a moat around this  
23 RDA, how can this moat function as a sediment  
24 collection pond?

1           You also see in this photo the thickness  
2 of the light brown, looking like the ground that's  
3 been compacted for the edge of this RDA. You see dark  
4 areas on the right where there's some liner and then  
5 some standing water and then areas that are --  
6 obviously do not have liners yet. And this tree line  
7 in front is really important. That tree line is a  
8 part of some area drainage.

9           This shows a close-up where coarse coal  
10 refuse has already been applied, and I believe I just  
11 read from the permit application that this application  
12 is for the construction of the impoundment and the  
13 disposal of coal refuse. So it is a quandary to  
14 citizens exactly where this current review applies to  
15 this structure.

16           AUDIENCE MEMBER: Are those little specs  
17 cars?

18           MS. BLUMENSHINE: The little specs that  
19 you see on that dark corner here are trucks. So you  
20 get a sense of scale. There is a truck right there.  
21 It could be a bulldozer, actually. Sorry. But you  
22 can get a sense of -- here are some trucks. We are  
23 talking about a very, very large structure.

24           In this you again see coarse refuse has

1 been applied.

2 This is an overview showing what I was  
3 mentioning about the importance of this location to  
4 the drainage concern to the city of Hillsboro. I  
5 would like to ask -- and I believe Mr. Perbix kind of  
6 asked. Here's the corner of the refuse area. This  
7 tree-lined riparian way or creek way has an  
8 intermittent stream that goes into a general stream  
9 that goes into Big Four which goes into Old Lake  
10 Hillsboro. That's the water supply for the city. And  
11 I believe, when I called -- and it's in the record  
12 from the previous hearing -- I called your water  
13 company, they say they take a little bit of water out  
14 of that Old Lake Hillsboro every day. That is your  
15 backup supply of water for you and your children and  
16 your families for the future.

17 So how does this design -- this is my next  
18 question. I'm sorry. How does this Significant  
19 Revision 1 design protect the intermittent stream  
20 feeding into Big Four which feeds into Old Lake  
21 Hillsboro?

22 In this photo you begin to see the lay of  
23 the land of this RDA. Over to the left is the coal  
24 processing area. And then the trees on the left is

1 your town where my friends live, Hillsboro, and above  
2 that is Schram City.

3 So we're moving closer. We now see a  
4 little bit of a different angle. You see the coal  
5 processing piles. That's -- the pond in the lower  
6 corner there was a dam built by the Army Corps of  
7 Engineers with tax dollars, and it's now the property  
8 of waters used by the coal mine.

9 In the lowest right-hand corner is the  
10 parking lot of a hospital for Hillsboro. You see the  
11 prison at the top of the photo, more houses on the  
12 right.

13 This is another view showing the proximity  
14 of the coal operations to the hospital and to homes,  
15 and if you look across the open field in the upper  
16 right-hand corner, no tree buffer, no barriers. Those  
17 are homes and the residences of Schram City.

18 So just a few more questions. I'd like to  
19 have the lights, please, and then I'll finish up here  
20 in just a moment. Thank you for cooperating with me  
21 while I showed those slides.

22 In the permit application, on Volume I,  
23 Part III, page 3, it says that -- this is from the  
24 coal company -- "By utilizing sound engineering" --

1 and there's a few other words -- "no adverse impacts  
2 on the environment or in the vicinity of receiving  
3 streams should occur." And then it says, "There are  
4 no public water supplies within the shadow area of  
5 Deer Run Mine." However, later it does happen to  
6 mention "A portion of the watershed is within the  
7 watershed to Hillsboro Lake which serves as a backup  
8 water supply to the City of Hillsboro." And it also  
9 says that is down gradient from the permit area. I  
10 submit that is a very serious concern for the siting  
11 of this high hazard dam/coal slurry impoundment, and  
12 that if the public had known -- even maybe if IDNR had  
13 known this was the original plan -- which maybe you  
14 already did. From the dates on there, it's really  
15 hard to tell -- how could a high hazard dam be located  
16 in such a place?

17 In concern about the claim of the mine  
18 that they'll utilize sound engineering and they'll  
19 protect the watershed, I would like to refer to the  
20 federal Environmental Protection Agency Enforcement  
21 and Compliance History Online, the most recent report  
22 showing 19 water violations from this mine already,  
23 and it is not yet in full production. I would submit  
24 respectfully that is a grave concern regarding this



1 operation.

2 I'll just give you a few details about  
3 that. There are six quarters -- six quarters within  
4 the last seven quarters -- that's every three months  
5 testing is done. Six of these have exceedances or  
6 times when this mine has gone above its permitted  
7 levels of pollutants. So already pollutants are  
8 entering the area water system around Hillsboro, and  
9 here's just a few examples: In their discharge at  
10 point 003, total suspended solids in the most recent  
11 quarter, which was ending June of 2011, was 426  
12 percent above the limited amount. There are many  
13 other violations that are three and four times above  
14 the established permit levels for pollutants such as  
15 iron, suspended solids, other things that will cause  
16 problems to the environment or could be at some point  
17 potential health concerns. These are already  
18 occurring at this mine. For instance, from discharge  
19 point 006, iron levels were 290 percent above limits.

20 So I ask IDNR how many exceedances -- and  
21 this is a question, please. How many exceedances does  
22 IDNR have to see occur until you determine there is a  
23 negative impact to the hydrology or the hydrology  
24 balance of the area? Is that five, you know, problems

1 in a row? Or six? Well, we have 19. Thank you.

2 So right now it is not very comforting to  
3 those of us who are concerned about water quality and  
4 what mines have been seen to do in Illinois to see the  
5 status right now of Deer Run Mine, knowing that they  
6 will be ramping up their production.

7 I also can't help but comment about the  
8 newspaper report today in The Journal-News. This is a  
9 bit of an aside, but I would like to suggest for  
10 anyone with The Journal-News that they might try to  
11 get a more balanced presentation, and for you in the  
12 community, you might seek more balanced information  
13 because in the community paper, on the front page, it  
14 said, "Presentation from the mine on the progress and  
15 the safeguards in place to ensure the site conforms  
16 with all governmental regulations from requirements  
17 for water discharge to construction requirements."  
18 Case in point. We have a few issues. They are not in  
19 compliance with their water permits. It didn't seem  
20 like that got mentioned to the public on that tour, to  
21 the county leaders, to the city leaders, or to the  
22 newspaper.

23 I'd like to ask also just a few more  
24 questions. Thank you. On the permit application, it

1 does state -- and there is a small drainage way  
2 present in the northeast corner of the coal RDA. It  
3 says this drainage way slopes to the northeast to  
4 adjoin the aforementioned intermittent tributary,  
5 which is a little tributary going off down to Big  
6 Four. I'd like to ask what specific review was given  
7 to the small drainage way in the northeast portion of  
8 the coal RDA since this Significant Revision 1?

9           There were quite a few questions from  
10 Mr. Perbix on the modeling. I won't go into that. I  
11 do have one question that wasn't covered. It talked  
12 about the Aquaterra and their analysis of a  
13 contaminant that could come from this site. In their  
14 modeling, it says that they assume the aquifer is  
15 uniform in thickness and is laterally extensive. I'm  
16 not a scientist, but I looked at the soil borings. I  
17 read things about the area geology. There are sand  
18 lenses out there, and even the cross-section map shows  
19 sand lenses to the north.

20           COURT REPORTER: Sand --

21           MS. BLUMENSHINE: Sand lenses,  
22 l-e-n-s-e-s. Like, seams of sand where water and  
23 other pollutants can more quickly travel.

24           So my other question is how does the

1 modeling that was submitted to IDNR account for sand  
2 lenses and is IDNR considering that in their review?

3 And I'm almost to my last question. Also,  
4 in Volume II, in the engineering design plan, it talks  
5 to scarifying, s-c-a-r-i-f-y-i-n-g, or tracking the  
6 previously compacted surfaces, and that's in the  
7 perimeter around the RDA. It says that shall be  
8 required to minimize seepage. I'm no technician. I  
9 just have had other comments from people saying, for  
10 this construction -- and this is a question: For this  
11 RDA construction, where is the keyway? K-e-y-w-a-y.  
12 Also sometimes referred to as a key trench. Is that  
13 part of this design? Or, if it isn't, why isn't it?  
14 And does this tracking or scarifying provide as  
15 adequate seepage protection as a keyway design?

16 For individuals who haven't seen the full  
17 map of this RDA, this is the mapping that I now have  
18 in an easel before the group that shows the RDA.  
19 These yellow lines below it are the longwall mining  
20 panels where coal will be removed and the land will  
21 subside an average of over five feet. So you can see  
22 these RDAs cannot go south. The mine will have  
23 subsided that land. Here's the town of Hillsboro, and  
24 these yellow lines on the top here are the old

1 underground coal works. The mine can't go toward town  
2 for more RDAs. So, for those of you that live in the  
3 area, what's north and what's to the east? How many  
4 more RDAs are going to fit in there? And that  
5 question has been asked tonight.

6 Thank you very much.

7 HEARING OFFICER PFLEDERER: Susan Hutcher.

8 MS. HUCKER: Hucker.

9 HEARING OFFICER PFLEDERER: Okay. Sorry.

10 MS. HUCKER: That's all right. Am I on?

11 Okay. My name is Susan Hucker,

12 H-u-c-k-e-r.

13 I've lived in this community all my life.

14 I'm in my mid 60s. I'm a retired RN and a retired

15 respiratory therapist.

16 My concern is about the community's people

17 and their welfares, their health. I didn't know

18 anything about all this until August. I've since

19 learned a lot.

20 First of all, my question is what -- is

21 there a safer way? The first permit that was

22 granted -- why don't we -- why don't you just consider

23 it? Apparently it's safer. There's not this

24 hazardous 1 -- high hazardous 1 dam and pond.

1 I'm not against a coal mine or a -- being  
2 here. I agree the jobs are important. But if there  
3 is leakage, this will not only affect Hillsboro, it  
4 will affect Taylor Springs, Schram City, Coffeen, and  
5 Graham Correctional Center. We brought the mine here  
6 for jobs. That was the big -- the big idea.  
7 If Graham closes, 450-plus jobs will be lost to this  
8 community. I was an RN at Graham for nine years.  
9 It's right across the highway from the mine.

10 On the weekend of July 30th and 31st,  
11 there was a burning coal pile, and apparently it  
12 obstructed the visibility on Route 185. It went over  
13 into the correctional center where my fiance works and  
14 where other nurses that I have worked with were there.  
15 They said that the smell and the toxic -- not just the  
16 odor but the ability to breathe was -- was very  
17 dangerous. The center -- it was trapped inside the  
18 center.

19 So I know that IDNR is mostly for the dam  
20 and the pond, that's what you're reviewing, but that  
21 also has to be looked at. Since the mine is in our  
22 city and since the only permit to burn is with yard  
23 waste, this, of course, was a very dangerous  
24 situation, and I don't believe anyone did anything

1 about it until the following Monday.

2 That's all I have to say. Thank you for  
3 your -- for your time.

4 HEARING OFFICER PFLEDERER: Mr. Marley.

5 MR. MARLEY: Well, I'm not from the  
6 immediate area.

7 HEARING OFFICER PFLEDERER: Sir, could you  
8 give us your first name, please?

9 MR. MARLEY: C.F.

10 HEARING OFFICER PFLEDERER: Okay.

11 MR. MARLEY: Marley.

12 HEARING OFFICER PFLEDERER: Okay.

13 MR. MARLEY: I'm not from the immediate  
14 area, but I'm a farm writer, and I'm concerned about  
15 everything that goes on.

16 There is -- something that I've always  
17 been interested in is township government. And I say  
18 that you have a citizen's right to call your township  
19 to action if you'd like to do it.

20 I brought along this little thing here.  
21 It's a list of the powers that the electors have at a  
22 town meeting, and any citizen can call a town meeting  
23 anytime he gets -- I forget -- a given number of  
24 people to sign a petition.

1           Anyhow, there's one provision here that I  
2 would call your attention to. One power that you have  
3 is to provide for the institution, defense, or  
4 disposition of civil actions in all controversies  
5 between the town and any other town or any individual  
6 or corporation in which the town is interested.

7           Thank you.

8           HEARING OFFICER PFLEDERER: Samantha  
9 Blain, B-l-a-i-n.

10           MS. BLAIN: Hi. I'm Samantha Blain, and I  
11 live on 16103 Fillmore Trail not far from the coal  
12 mine.

13           Does anybody know what is printed on the  
14 sign -- on the "Welcome to Hillsboro" sign just a few  
15 feet away from the viaduct? It says, "Welcome to  
16 Hillsboro. Make our town your town." And not  
17 everybody is all for this coal mine and the choices  
18 that they make; so --

19           Okay. Who has kids? And when you tell or  
20 told your kids "no," did you often say, "No means no"?

21           Well, personally I think adults lose their  
22 lessons and morals as the years pass. Basically what  
23 I'm trying to say is that, when the mine asked for the  
24 Class 1 dam to be passed, they were told no. I am



1 almost 12, and I often rebel against my parents'  
2 wishes and commands, but at the end of the day, no  
3 still means no, and wait for approval means wait, not  
4 go ahead and do it.

5 I think some adults don't care what  
6 happens and who they hurt. Just because some people  
7 have money, they don't have to wait until it's legal  
8 to build stuff or do things that they wish to do.

9 Poisonous water pretty much means  
10 devastation. The hospital was seen in the display of  
11 pictures that we were shown by Ms. Joyce Blumenshine,  
12 and she also mentioned some of that poisonous water  
13 eventually flows to the Old Hillsboro Lake, and 25  
14 percent of the Hillsboro's water is taken from the Old  
15 Hillsboro Lake.

16 Personally, I would like to live long  
17 enough to have a job and a family of my own. And I am  
18 personally fine with God calling me home, but I cannot  
19 stand the thought of some wild yahoos claiming my life  
20 because of recklessness.

21 Thank you.

22 HEARING OFFICER PFLEDERER: That is the  
23 last individual we had signed up. Was there any  
24 other -- anyone else that came in later that didn't

1 get the opportunity?

2 With that --

3 MR. FULLERTON: Could I ask a question?

4 HEARING OFFICER PFLEDERER: Yes, sir.

5 You're going to have to give --

6 MR. FULLERTON: I speak loud enough --

7 HEARING OFFICER PFLEDERER: Wait a second,  
8 sir. You're going to have to give us your name and  
9 address.

10 MR. FULLERTON: My name is George  
11 Fullerton, 521 South Spruce Street, Nokomis.

12 HEARING OFFICER PFLEDERER: Okay.

13 COURT REPORTER: Fullerton?

14 MR. FULLERTON: Fullerton,  
15 F-u-l-l-e-r-t-o-n.

16 COURT REPORTER: Thank you.

17 MR. FULLERTON: All you people at the  
18 table there, are you associated with the Department of  
19 Mines and Minerals?

20 MR. FOWLER: Yes, we are.

21 MR. FULLERTON: Who is responsible for  
22 having given the permit to sink the mine to start  
23 with?

24 MR. FOWLER: Our --

1 MR. FULLERTON: My next -- go ahead.

2 MR. FOWLER: Our division did approve the  
3 original permit, yes.

4 MR. FULLERTON: Was all specs of the  
5 construction written into that request for permission  
6 to put that mine there?

7 MR. FOWLER: All of our requirements under  
8 our regulations were met and permit was issued.

9 MR. FULLERTON: Did that include the  
10 impoundment?

11 MR. FOWLER: All materials that were  
12 permitted at the time were approved.

13 MR. FULLERTON: Well, what I'm trying to  
14 get at was the impoundment in the specs of that -- the  
15 construction for that mine?

16 MR. FOWLER: Not at the original permit.  
17 That's what this hearing is for today on the  
18 significant revision -- to make that an impoundment --  
19 an impounding structure.

20 MR. FULLERTON: I think that impoundment  
21 should have been included in the original application  
22 for permit to that.

23 I don't know if you people realize it or  
24 not, but it costs a hell of a lot of money to sink a

1 coal mine. I would imagine this mine out here -- I'm  
2 an old coal miner. I imagine this mine out here is  
3 going to cost between 50- and \$75 million. What do we  
4 do? Push all the muck back into the hole and forget  
5 about it?

6 Those decisions should have been made  
7 before the permit was ever given.

8 AUDIENCE MEMBER: They wouldn't have given  
9 the permit then.

10 MR. FULLERTON: Well, if they wasn't given  
11 a permit, they wouldn't be spending 50- to \$75 million  
12 to build one. I mean, that's -- I think there was a  
13 failure someplace on the Department of Mines and  
14 Minerals for having -- for giving a partial permit for  
15 the construction of that mine out there.

16 I've been around a few mines in my 36 1/2  
17 years, and I haven't seen -- in Illinois I haven't  
18 seen an impoundment that burst yet. Peabody's got one  
19 down by Freeburg. I know it's at least -- oh, 71 --  
20 I'll bet you it's about 80 years old, and it's still  
21 sitting there. It hasn't overflowed; it hasn't  
22 contaminated anything.

23 Can you tell me how many of these  
24 impoundments in the State of Illinois have collapsed

1 or whatever you want to call it?

2 Crown 1 over at Farmersville -- I started  
3 there. They dumped the gob and refuse and everything  
4 out on the field out there. Back in those days, they  
5 wouldn't have given a thought about the contamination  
6 or anything else like that. But it polluted the  
7 water, the stream, a little creek that went by there,  
8 and they're still doctoring the water which goes to  
9 that creek because of the pollution where that Crown  
10 No. 1 stood. It's got about three foot of clay on it  
11 and about a foot of top soil on that mound there.

12 But since that time they went to these  
13 impoundments. All the mines I worked at in my 36 1/2  
14 years -- their impoundments are still standing there,  
15 not -- they're not doing any damage to anybody that I  
16 know of. And like I asked you people of the  
17 Department of Mines and Mineral, how many impoundments  
18 in the State of Illinois do you know that have  
19 collapsed?

20 MR. FOWLER: As far as we know, none.

21 MR. FULLERTON: There you go.

22 AUDIENCE MEMBER: I kind of wish you would  
23 have asked how many contaminant --

24 HEARING OFFICER PFLEDERER: All right.

1 Ma'am, we're not here to debate now. The gentleman  
2 got to make his comments. That's fine.

3 We're going to -- I've gone through all  
4 the speaker lists. It appears everyone that wanted to  
5 speak got the opportunity to do so.

6 So noting that all those who wish to make  
7 comments have done so, I will restate that the hearing  
8 record will remain open until October 21st for  
9 interested parties to submit written comments for the  
10 record.

11 As noted earlier, once the hearing record  
12 is closed, the Land Reclamation Division will then  
13 review all comments made here at the informal conf --  
14 or at the public hearing and at the informal  
15 conference and received in writing as well as the  
16 application and any comments received from other  
17 agencies.

18 A decision will then be made to issue,  
19 deny, or require modifications to the application. If  
20 modifications are required, we'll notify the applicant  
21 of those required modifications; and once we have  
22 reviewed those responses, we will issue our final  
23 decision.

24 Comments made here at this hearing as well

1 as comments received in writing will be addressed in  
2 our decision finding. Anyone who spoke tonight, who  
3 has simply indicated they're in attendance, or who  
4 sends us written comments will receive a copy of our  
5 written decision finding when it is issued.

6 We thank you for your participation. The  
7 hearing is now adjourned.

8 MR. FULLERTON: Oh, one more question.  
9 How many of you people up there connected with the  
10 Department of Mines and Minerals have some mining  
11 background?

12 MR. FOWLER: I do.

13 MR. FULLERTON: How many?

14 AUDIENCE MEMBER: As a miner?

15 MR. FOWLER: 22 years.

16 MR. FULLERTON: How many?

17 MR. FOWLER: 22.

18 AUDIENCE MEMBER: Underground mine?

19 MR. FOWLER: Pardon?

20 AUDIENCE MEMBER: Underground?

21 MR. FOWLER: At an underground mine, yes.

22 HEARING OFFICER PFLEDERER: Okay. We're  
23 adjourned.

24 Mr. Fowler, do you want to address how

1 we're going to handle --

2 MR. FOWLER: We're going take a small  
3 break here, give the court reporter some time and  
4 anybody else who might need to use the restroom to  
5 take a little break. And then maybe five, ten minutes  
6 we'll come back and try to go through the list of  
7 questions and any follow-up questions that you might  
8 have.

9 (Short recess.)

10 MR. FOWLER: All right, folks. I know  
11 that there will be additional follow-up questions, and  
12 we may not have captured the intent of your question  
13 initially up here. You may have to ask us to clarify  
14 your question, but I'm going to have to ask that we do  
15 it orderly. We have a court reporter here who is  
16 going to have to capture who is making what comment,  
17 you know, out from the audience or additional  
18 question. So you may have to slow up and identify  
19 yourself so that we can get everything on the record.

20 I think the first question we wrote down  
21 is kind of apparent, you know. Is there opportunity  
22 to ask questions later?

23 Yes, there is, and we're going to answer  
24 them -- answer them now and, like I said, any



1 follow-up that you have.

2 Is there a safer way to produce coal with  
3 less hazardous conditions for citizens in the town  
4 over the life of the mine and the Class 1 high hazard  
5 dam?

6 This is an industry-accepted method of  
7 refuse disposal. It is the safest that we know of for  
8 this type of structure. We're going to make sure that  
9 all the components of our review -- make sure that  
10 they comply with the regulations.

11 Okay. Five to six years of life of this  
12 dam. What's the potential for additional dams and  
13 where? What will be done with dams at the end of the  
14 life?

15 Okay. This is an extension or basically  
16 in addition to the original impoundment. They're  
17 adding on an impounding structure, which is something  
18 they had identified in the original permit that was  
19 going to happen. That there are other areas  
20 identified in the original permit where additional  
21 refuse disposal will take place; and potentially  
22 throughout the life of the mine, if they acquire  
23 different -- additional properties, there may be other  
24 areas that they will try to permit, and we'll go

1 through this same permitting process for any other  
2 refuse disposal areas within the mine's life.

3 What hazards to groundwater, soil -- and  
4 soil from the dam?

5 That is also part of our permitting  
6 process -- to make sure that there -- or at least to  
7 assure the best as possible that there won't be any  
8 impacts to the groundwater or to the soils from the  
9 installation of this structure. We'll do the best  
10 technical processes available to make sure that the  
11 groundwater is protected, soils.

12 Number 5: No decision on the dam but  
13 permit is issued. How can that happen?

14 Dan.

15 MR. BARKLEY: Okay. I'm probably loud  
16 enough not to need that mic. Everybody can hear me, I  
17 hope.

18 I want to make it clear, just like in the  
19 last hearing, that what is being conducted out there  
20 is approved by the Land Reclamation Division. The  
21 original permit approved in 2009 had refuse to  
22 elevation 710, 75 feet above the ground. It was left  
23 with a notch so that slurry was not impounded. The  
24 slurry was incised. Okay.

1           So what is being placed out there in the  
2 corner up there is approved. It is not violating the  
3 Land Reclamation Division's permit in any way. There  
4 is no impounding structure currently there because the  
5 elevation controlling natural drainage is 626. Okay.  
6 That can drain the way it does now just like it always  
7 has. Okay.

8           That's what everyone needs to understand:  
9 There is nothing being constructed now that has the  
10 capability of above-grade impounding of slurry. That  
11 will not occur until if and when we approve this  
12 permit, which is to close that notch and construct  
13 that thing as an impounding structure. It goes up  
14 uniformly, but they must leave that notch in it so  
15 that there is no above-grade impounding slurry. That  
16 is exactly what is being constructed now. It is  
17 approved by our office, was approved in '09, and it  
18 was modified in terms of where that notch was and the  
19 shape of it in the IPR that was mentioned earlier.

20           MR. FOWLER: What info is required for the  
21 PHC, the probable hydrologic consequences, that's  
22 supposed to be provided by the company?

23           We evaluate what they provide in the  
24 permit submittal, and it's got to meet the

1 requirements of our regulations. So there are no  
2 basic assumptions that are given. It's all based upon  
3 site-specific information for that particular mine  
4 site for what the hydrologic -- potential hydrologic  
5 consequences could be for that mine. So that's what  
6 we will evaluate, as we look at their permit  
7 application, to make sure that they have covered all  
8 the bases, I guess, for what's required within the  
9 permit application.

10 Yes, Brian. Brian Perbix.

11 Mr. PERBIX: Thank you, Scott. If I could  
12 just clarify. This is Brian Perbix.

13 Do -- so, I mean, does IDNR require any  
14 kind of time frame for looking at what the  
15 consequences to the groundwater are going to be, you  
16 know, out into the future? There's no set date you  
17 have to model for? Because, like I said, what was  
18 presented in the permit application was a groundwater  
19 model that only covered five years post closure. And  
20 so I'm just wondering at other sites has IDNR required  
21 modeling beyond that point?

22 MR. FOWLER: No. That's is what the  
23 regulations require -- five years past post closure  
24 that the groundwater environment is -- is consistent

1 and stable at that period of time. And at the end of  
2 the five years, if it is, if it doesn't show signs of  
3 deterioration, then -- then the requirements and  
4 regulations allow us to release bond. But obviously  
5 this could be several years out into the future. You  
6 know, they have to have closed it out, and there's a  
7 five-year period after the closure of the structure.

8 Yes, ma'am. I don't know your name so  
9 you're going to have to speak up for the court  
10 reporter.

11 MS. BAKER: My name is Tara Baker. I have  
12 a question.

13 So am I to understand that, after a  
14 five-year period, there will be no more testing of the  
15 groundwater for any contaminants that might leaking  
16 after a five-year period from when it's closed?

17 MR. FOWLER: That's correct. That's what  
18 the regulations require. After they end their -- it  
19 is closed for five years. It has been reclaimed and  
20 closed, and the monitoring goes on for at least five  
21 years after that. If it's stable, if there doesn't  
22 show any increases in any contamination, then, yes,  
23 that can be released.

24 MS. BAKER: So, then, after five years, if

1 something should happen to break or something gets  
2 contaminated, how will we know?

3 MR. FOWLER: Well, it's going to be  
4 reclaimed at that time. There's -- there's, that I  
5 know of, anything to break. But -- but that -- it  
6 will be reclaimed at that time. The mine will be gone  
7 at that time. You know, there's -- there's nothing  
8 else to pump out there. There's nothing else to go.  
9 This will be a reclaimed operation. It's going to be  
10 covered, seeded, and reclaimed.

11 MR. BARKLEY: I think it probably is a  
12 question down the road, but what everybody needs to  
13 understand is that there is soil and subsoil  
14 stockpiled for the final reclamation of this, which  
15 includes capping it. Someone talked about that  
16 earlier. These things are capped, and then they're  
17 covered over. That prevents infiltration of water.  
18 So, you know, that's why, after we get to that point,  
19 if everything's been stable and you don't see a higher  
20 rise in contaminants, then you shouldn't expect it to  
21 be a problem in the long run. But I think everyone's  
22 confused thinking this thing's going to remain as a  
23 coarse refuse embankment. It is covered. It is  
24 vegetated at the end. It is capped and covered over.

1 It is not left as an open impoundment, and we walk  
2 away and give the bond back.

3 MS. BAKER: But it will be sealed up, and  
4 it will be left there in that state; correct?

5 MR. BARKLEY: What state?

6 MR. FOWLER: It will be sealed up and  
7 reclaimed, yes. It will be -- the water will be  
8 removed from the inside.

9 MS. BAKER: Can you define "reclaimed"?  
10 What does that mean exactly?

11 MR. FOWLER: That there's going to be -- I  
12 think right now it's four feet of non-toxic material,  
13 dirt, placed over the top. It's going to be seeded  
14 and grown. There's going to be water drainage in a  
15 positive manner so water comes off of the pile so it  
16 doesn't sit up there and soak in. Basically, it will  
17 look like a hill.

18 Yes, sir, but you'll have to give your  
19 name.

20 MR. COUFAL: Donald Gayle Coufal,  
21 C-o-u-f-a-l.

22 If that thing's going to be there forever,  
23 why isn't the bond going to be on there forever?

24 MR. FOWLER: Because the bond is there to

1 require reclamation of the site, to make sure it gets  
2 reclaimed. It gets to a point that it's stable and no  
3 longer could be an environmental threat.

4 MR. COUFAL: So if anything does happen,  
5 it falls back on the taxpayers, then, it sounds like  
6 to me, because the coal company going to be gone.

7 MR. FOWLER: The rules and regulations are  
8 put in place to make sure that that doesn't happen,  
9 that the site is reclaimed and that future  
10 deterioration doesn't happen.

11 MR. COUFAL: Oh, boy.

12 MR. FOWLER: Yeah. Joyce.

13 MS. BLUMENSHINE: Mr. Fowler, thank you.  
14 Joyce Blumenshine. Just a brief comment.

15 I'm sorry if we repeat, but I don't think  
16 the public really accepts the IDNR interpretation of  
17 reclaim because when you put soil over this toxic  
18 impoundment, the heavy metals, arsenic, iron,  
19 everything is still in there. Even though it's  
20 covered up with grass, it will never be farmland  
21 again. You can't built houses on it. You can't plant  
22 a garden on it. So actually the problems are still  
23 inside there, and they will at some point go somewhere  
24 underground or somewhere. I mean, this is not a



1 guarantee that there will never be problems.

2           So I would just ask at some point that  
3 perhaps IDNR could address this because calling it  
4 reclaimed, to us, the public, is just kind of like  
5 window dressing. It really -- the top is covered.  
6 It is what it is. It is still a toxic slurry  
7 impoundment.

8           MR. FOWLER: It -- the material inside  
9 will be encapsulated. It has a liner underneath it.  
10 It will be reclaimed as per the regulations and the  
11 law, and that's what we're enforcing. You know, like  
12 I said many times, if you don't like the law, you  
13 know, got to get it changed because that's what we  
14 have. We don't have that authority to change the  
15 rules by ourselves. We just don't have that.

16           MS. BLUMENSHINE: Joyce Blumenshine. One  
17 last comment.

18           With all due respect to IDNR, it is your  
19 interpretation of the law that says a toxic coal  
20 slurry impoundment can be retained because you cover  
21 it up. And we, the citizens, say, no, that is not the  
22 law, that is for the convenience of the coal company  
23 and IDNR, and I realize that historically has been  
24 done, but that is not the way the law should be

1 interpreted.

2 MR. FOWLER: That is our interpretation,  
3 and that's what we're going to regulate, and there are  
4 avenues/provisions out there if you don't think we're  
5 doing it right.

6 Yes, ma'am.

7 MS. CAMERON: I have two questions. Kyle  
8 Cameron.

9 How many tons of slurry are going to be  
10 buried in that impound dam?

11 MR. BARKLEY: It's in the permit, ma'am.  
12 I don't have the number in my head, but it would be in  
13 a volume, not in a tonnage. When you say slurry,  
14 you're talking about volumes.

15 MS. CAMERON: Okay. How many volumes?  
16 Because I know that the three of you have been working  
17 specifically on this permit, and I'm sure you've got  
18 some general number. What is the idea of the size of  
19 the slurry that's going to be impounded?

20 And I know that you are laughing and you  
21 think this is funny, but this is very serious.

22 HEARING OFFICER PFLEDERER: No. Ma'am.  
23 Ma'am, we're not laughing at all.

24 MS. CAMERON: Okay. I just saw you kind

1 of laugh and --

2 HEARING OFFICER PFLEDERER: No, we're not  
3 laughing at all here. We're taking your comments very  
4 seriously.

5 MS. CAMERON: I hope so.

6 HEARING OFFICER PFLEDERER: But we really  
7 don't --

8 MS. CAMERON: -- live here.

9 HEARING OFFICER PFLEDERER: We don't have  
10 the whole application memorized; so --

11 MS. CAMERON: Okay. I understand that  
12 but --

13 MR. BARKLEY: Yeah. And I honestly don't  
14 want to throw a number out because it would be just --  
15 you got to understand, as been explained before, our  
16 technical review is yet to come. We're taking your  
17 comments and your concerns that we take into  
18 consideration during our technical review.

19 The actual volume in that particular cell  
20 is really not any larger or any smaller than what we  
21 typically deal with throughout the state. But I can't  
22 just throw a number out at you and have it be close.  
23 I'm sorry.

24 MS. CAMERON: Okay. Well --

1 MR. BARKLEY: But I'd happy, if you'd give  
2 me your name and number, I'll look it up in the permit  
3 when I go back tomorrow and I'll call you tomorrow and  
4 give you the exact number.

5 MS. CAMERON: Okay. Then, if this is  
6 something you're familiar with --

7 MR. BARKLEY: Yes.

8 MS. CAMERON: -- and doing it all these  
9 other places, what is the general size then? Can you  
10 just give me an idea of it? My question is because --

11 MR. BARKLEY: It's millions and millions  
12 of gallons of slurry, but I can't give you a specific  
13 number.

14 MS. CAMERON: Okay. That's fine.  
15 Millions of gallons of slurry.

16 My question with that is the liner that is  
17 required for this -- how is it proven to last a  
18 lifetime of, say, I'm guessing, 50 years? Because  
19 you're talking a 30-year mine. Then you're talking  
20 five years after that. Then it can be reclaimed. So  
21 that's 35, almost 40 years. So if someone was to buy  
22 property anywhere close to there 50 years down the  
23 road, what is the guarantee that that's going -- that  
24 liner will hold?

1 MS. BROOMHEAD: I just -- it's kind of a  
2 comparison, but these same types of geosynthetic  
3 liners have been used at hazardous waste and municipal  
4 waste landfills for years.

5 MS. CAMERON: Okay.

6 MS. BROOMHEAD: The expected life of these  
7 liners is about a hundred years.

8 MS. CAMERON: Okay. That was my question.

9 MS. BROOMHEAD: I don't think anywhere in  
10 the state or probably even in the country have they  
11 been in place and in use for a hundred years, but that  
12 is the expected technical expectation of that liner to  
13 perform the way it's supposed to perform and designed  
14 to for a hundred years.

15 MS. CAMERON: That's what's hoped for.

16 MS. BROOMHEAD: Okay? That's what's hoped  
17 for. So this same liner system is a very similar  
18 liner system to what is put, like I said, in a  
19 hazardous waste landfill or a municipal waste  
20 landfill. Okay. So the industry has been proven.  
21 The technology has been proven. It is something that  
22 IEPA looks at, and IEPA also granted approval for this  
23 liner system.

24 MS. CAMERON: That was my question. Thank

1 you for answering it.

2 MR. SCHRAUT: Lee Schraut. I was told  
3 today that the landfill over there in Litchfield has a  
4 60-mil liner. Now you're telling me that this 40-mil  
5 liner is going to be just as good as that 60-mil is?

6 MS. BROOMHEAD: I can't speak for the  
7 landfill liner. But there are criteria for each of  
8 the milliliters thickness of those liners, and IEPA  
9 approved a 40-mil liner at this facility.

10 MR. SCHRAUT: Well, again, we spoke --  
11 that doesn't really cut too much with us general  
12 public, saying that some agency says it's all right  
13 because we have -- we have put up with enough from  
14 these agencies to know that they're just wrong just as  
15 many times as they are right.

16 MS. BROOMHEAD: Okay.

17 MR. FOWLER: Okay. Next question. I  
18 think we've talked about the time period for  
19 groundwater modeling.

20 What kind of assumptions do DNR make on  
21 evaluation of PHC?

22 We don't make any assumptions. We take  
23 what comes in. You know, there are no basic  
24 assumptions going into it. It's based upon each

1 site's specific location.

2 What will DNR do to ensure adequate  
3 vegetation on the impoundment walls?

4 Well, there is a bond that's placed with  
5 us from the coal company in an amount enough to ensure  
6 that this happens whether the coal company does it or,  
7 if they don't, we will. So the vegetation at the end  
8 of the life of the impoundment is guaranteed through  
9 that bond that's in place.

10 Mr. Perbix.

11 MR. PERBIX: I think in my question I was  
12 referring to during the active phase while it's still  
13 taking on slurry because we have seen sites --

14 MR. BARKLEY: During the active phase, the  
15 impoundment is constructed, slurry goes in, and the  
16 impoundment is raised sequently with it. There is no  
17 soil placed on the exterior. However, during the  
18 whole life of this thing as it goes up, the coarse  
19 refuse is what you will see. You've pointed that out  
20 in your discussions.

21 The erosion you talk about -- it's  
22 inspected regularly. MSHA requires inspections.  
23 These impoundments are walked. If you see an erosion  
24 gully this deep, that is no concern for stability.

1 None. Okay? It has to do with the overall integrity  
2 of that very large structure, and there is not the  
3 same concern you hold on small erosion gullies on it.

4 Now, all that drainage goes into a  
5 sediment pond that goes through an NPDES point that  
6 comes off of that. It will be covered at the end  
7 because it makes no sense to put dirt on and then put  
8 coarse refuse above it that's going to drain down onto  
9 your soil. You preserve that soil until the end in a  
10 stockpile when it's time to reclaim.

11 MR. FOWLER: So as long as there's  
12 construction still going on above the area, we're not  
13 going to require dirt to be put down below to have  
14 that refuse come down and contaminate the soil.

15 MR. BARKLEY: But it is inspected for  
16 stability. So your concerns, as it was pointed out by  
17 the gentleman here, we have not -- I have no knowledge  
18 of an impoundment failing in the State of Illinois,  
19 and we don't expect this one to because it will be  
20 constructed hopefully to the design standards that are  
21 set and then it will be inspected regularly through  
22 the whole life of it.

23 MR. FOWLER: Okay. When will the internal  
24 drain be active? During disposal? After reclamation?



1 All the above. You know, when they put  
2 the internal drains in, they are active from the day  
3 that they're put in. They keep the phreatic surface  
4 down in the dam itself. It's draining water out of  
5 the dam structure. So it will go throughout the life,  
6 and at the end after it's capped, it will continue to  
7 drain until the water levels are down. It will -- it  
8 will slow down through time, but still all throughout  
9 that time.

10 The next question is where does it go?

11 It's going to go to the sediment pond.

12 MR. BARKLEY: The Pond 5, which is the  
13 moat, as we had discussed. It discharges into that.

14 MR. FOWLER: So it's all controlled and  
15 monitored through the NPDES point.

16 Does IDNR have a -- okay.

17 When did bottom elevation change from 620  
18 to 595?

19 It was through an IPR.

20 MR. BARKLEY: I don't remember the number  
21 of the insignificant permit revision, but it was done  
22 as part of an insignificant permit revision. It went  
23 deeper. I think it was at the same time the four-foot  
24 clay liner was replaced with the synthetic liner.

1 MR. FOWLER: Does IDNR have ability to  
2 require best available technology? If so, is this it?

3 MR. BARKLEY: Our regulations require -- I  
4 mean, we require them to meet our regulations. Best  
5 technologies is a moving target, and as long as they  
6 propose something that we feel meets the intent of the  
7 permit performance standards we operate under, we're  
8 going to accept it if it's an approvable plan. But, I  
9 guess, to answer your question, whatever you might  
10 consider best technologies, there's nothing in the  
11 regs that says they must use that in their processing  
12 and disposal.

13 MR. FOWLER: How proposed changes affect  
14 the post mining land use and how does that affect the  
15 reclamation plan?

16 I believe the proposed changes of the plan  
17 aren't changing any of the post mining land uses.  
18 That the impoundment area -- it's not affecting any  
19 more area than what's already out there, and I believe  
20 it's going to --

21 MR. BARKLEY: I think it's going to the  
22 exact -- I'd have to look --

23 MR. FOWLER: -- wildlife? I'm not sure.

24 Mr. BARKLEY: It's in the permit in terms

1 of the acreages of land use post mining, and it should  
2 not be changing in terms of the footprint is not  
3 changing. This is not getting -- expanding outward.  
4 It's going upward.

5 MR. FOWLER: Ms. Blumenshine.

6 MS. BLUMENSHINE: Joyce Blumenshine. I  
7 had just a short question specifically related to  
8 that.

9 In the original Permit 399 of the C  
10 design, the upper corner was crimped in, and it's now  
11 pushed out. Is that about five acres or additional  
12 area that has been changed with this?

13 MR. BARKLEY: Yeah. The overall footprint  
14 has changed in that IPR by a couple acres. I don't  
15 remember what the total was, but, again, it was within  
16 the approved permit. It was considered part of the  
17 insignificant permit revision. It was not a major  
18 change.

19 MS. BLUMENSHINE: Thank you.

20 MS. EDMISTON: And, of course, we are  
21 aware that in the permit it tells that a great number  
22 of the acreages will be wetlands and wildlife and it's  
23 taken away from farming. Many, many, many more acres  
24 at the end of the mining will be wetlands and wildlife

1 that was originally farm.

2 MR. FOWLER: That's part of the original  
3 Permit 399, and we won't go into that tonight.

4 How can IDNR permit impoundment to meet  
5 regs and post mining land use? I don't know if that's  
6 meaning that -- how can it exist afterwards?

7 Our interpretation of the regs is that the  
8 post mining land use has to change from an impoundment  
9 to something other than an impoundment and probably  
10 wildlife. Be covered, reclaimed, and changed to  
11 wildlife, and therefore it's no longer a land use of  
12 being an impoundment.

13 Why is work continuing without permits?

14 They do have permits from us to do what --  
15 as Dan said, whatever operations they're doing out  
16 there, they are in compliance with our regulations and  
17 our permit.

18 MR. BARKLEY: Again, pointing out, like  
19 the last hearing, OWR and Land Reclamation operate  
20 under two sets of regulations, two totally different  
21 programs. Our permit process has approved what is  
22 going on out there as of today, as of last week, as of  
23 the month before. They're operating under an approved  
24 permit that we have issued.

1 MR. FOWLER: Okay. Is it true MSHA permit  
2 is required?

3 And the answer is, yes, it is.

4 Why wasn't the consultant licensed?

5 The consultant's engineers are licensed,  
6 and they turned in the application. The company did  
7 get -- its firm licensing was brought up, and the --  
8 it will be part of the final evaluation. You know,  
9 the original application is not complete and done  
10 until we've approved it.

11 MR. BARKLEY: Our regulations require it  
12 to be sealed by a licensed professional engineer in  
13 the State of Illinois, and it was.

14 The firm issue was brought up by a citizen  
15 that brought up a concern that the firm itself wasn't  
16 licensed. When that was raised to their attention,  
17 they got their license as well as -- the firm itself,  
18 but our regs specify that it be sealed by a licensed  
19 PE in the State of Illinois.

20 MR. FOWLER: Do -- excuse me.

21 MR. SCHRAUT: Lee Schraut.

22 Why wasn't -- didn't your agency catch  
23 that? Why do we citizens have to bring that to your  
24 attention? Were you asleep at the wheel again? Well!

1 MR. BARKLEY: Well, sir, that regulation  
2 was not made known to us nor to the Office of Water  
3 Resources either. And we did communicate, once it was  
4 brought to our attention, with Department of  
5 Professional Regulation, made it aware that that is  
6 also a requirement. We checked to see if they were a  
7 firm licensed. In fact, we checked all of the firms  
8 at that time and found out which ones were and which  
9 ones weren't -- had that separate firm registration.  
10 But, again, our regulations -- our regulations require  
11 it to be sealed by a licensed professional.

12 MR. SCHRAUT: I understand that, but I say  
13 you weren't aware of it until it was brought -- some  
14 citizen brought it to your attention.

15 MR. BARKLEY: You are correct.

16 MR. FOWLER: Yep. That's why we're here  
17 tonight. This is what this hearing is about.

18 MR. SCHRAUT: You guys aren't doing your  
19 job then.

20 MR. FOWLER: Okay. Onward to the next  
21 question.

22 Do IPR approvals give mine authority to  
23 build a dam?

24 Was that -- I don't think any of the IPRs

1 did that.

2 MR. BARKLEY: The insignificant permit  
3 revisions approved were not for construction of a dam.

4 MR. FOWLER: Has work stopped on the  
5 impoundment?

6 Like we said, you know, they are building  
7 in compliance with our permit and regulations at the  
8 moment.

9 How many tons of slurry?

10 We've talked about that.

11 Where will other impoundments be?

12 Again, I think we've talked about that.  
13 They have some identified within the original permit.  
14 And whether they get additional lands and bring forth,  
15 again, it will all go through the same permitting  
16 actions as a significant revision does here today with  
17 all public involvement.

18 How many homes will be affected?

19 We don't anticipate any homes being  
20 affected.

21 MR. BARKLEY: They would have to own the  
22 property itself to -- I assume we're talking about  
23 expansion of other -- into other areas. They would  
24 first have to acquire that land, and obviously, if

1 there was a structure on it, they would acquire that  
2 as well if they wanted to go there, and that would be  
3 up to the landowner.

4 MR. FOWLER: How many acres of farmland  
5 would be eliminated from the tax rolls?

6 At this point we don't know, you know,  
7 how many and where those impoundments will be other  
8 than what's already been shown within the original  
9 permit -- those areas.

10 Failure liability -- who takes it?

11 The company does. The company is liable  
12 for any failure of the impoundment.

13 MS. CAMERON: Sir?

14 MR. FOWLER: Yes.

15 MS. CAMERON: Who is responsible -- Kyle  
16 Cameron.

17 Who is responsible for this thing after  
18 the mine is gone? Like, after they close, like, the  
19 mine down and then leave and if it was to fail then.

20 MR. BARKLEY: Well, there's a -- our  
21 permit has a finite time line. That's why we collect  
22 the bond. You have a bond. There has to be some  
23 point when you release the bond back to the company.  
24 Obviously, we have a process to go through: closure,



1 capping.

2           The Office of Water Resources -- their  
3 permit will not end when our permit ends. They will  
4 have to prove to the Office of Water Resources that  
5 that has no flowable material in the interior of that  
6 before they will release it from their Class 1 high  
7 hazard standards.

8           And I wanted to repeat that because we  
9 don't categorize impoundments as high hazard Class 1's  
10 or Class 3's. That is the other agency, the Office of  
11 Water Resources, that does that. Their permit will  
12 continue beyond ours until that is proven to not be a  
13 flowable fill to release it from their standards.

14           MR. SCHRAUT: Lee Schraut again.

15           Would you folks -- I mean, IDNR care to  
16 show -- give a show of hands as to how secure and safe  
17 you would feel if one of these things was being built  
18 in your backyard? How safe and secure would you feel?  
19 If you would feel --

20           MR. BARKLEY: Following the standards that  
21 we require?

22           MR. SCHRAUT: Yeah.

23           MR. BARKLEY: Very safe. As we've pointed  
24 out, there have been no failures, and they have to

1 follow those standards.

2 MR. SCHRAUT: Well, that's what they said  
3 in West Virginia too, but it happened.

4 MR. BARKLEY: Yes, it did.

5 MR. SCHRAUT: You're not going to show  
6 us -- have a show of hands about feeling secure about  
7 it then, huh?

8 MR. BARKLEY: I just said I would feel  
9 very comfortable. That's what I said. You want me --  
10 how's that?

11 MR. FOWLER: What changes can IDNR  
12 require?

13 We can require any changes to the permit  
14 application that don't meet our regulations. And the  
15 company will have to make those changes to meet the  
16 regulations or they will not get the permit approved.

17 Land value changes?

18 Fortunately our regulations don't deal  
19 with land value changes. There's no provisions within  
20 our program to assess or make any decisions based on  
21 that.

22 How many more high hazard dams will be  
23 built?

24 I think we've answered this one three or

1 four times. You know, probably more. They've got  
2 some identified within the permit.

3 How can reconfiguration of Pond 5 function  
4 as a sediment pond?

5 MR. BARKLEY: Sediment control is based on  
6 volume. Okay? And the volume of the sediment ditch  
7 around it is as equal to the originally approved pond  
8 or greater than that pond was. It also has step-down  
9 baffles in it, if you will. They're like dry dams.  
10 So each step down has a sediment trap in it. There  
11 are also baffles proposed at the discharge point. So  
12 the pond itself met or exceeded what we needed to see  
13 to allow it to be reconfigured from the corner  
14 configuration to the configuration surrounding the  
15 impoundment.

16 MR. FOWLER: How does this Significant  
17 Revision 1 design protect Old Lake Hillsboro?

18 In this design, as in the other, the  
19 drainage off of this mine permit does not go in that  
20 direction. It goes to the southwest --

21 MR. BARKLEY: Goes to NPDES 25 which is in  
22 the south -- do it right -- southwest corner.

23 MR. FOWLER: So there's no surface --

24 MR. BARKLEY: Does not drain to the

1 northeast.

2 MR. FOWLER: There's no surface drainage  
3 off of this permit going to -- to the drainage that  
4 goes to Old Lake Hillsboro.

5 How many exceedances does DNR have to see  
6 occur until this -- determine that there's a negative  
7 impact on hydrologic balance?

8 Material damage to the hydrologic balance  
9 is a permanent or significant damage that cannot be  
10 corrected or fixed or mitigated. There is time. So  
11 this -- yes, there will be exceedances that are  
12 violations, but they're not material damage to the  
13 hydrologic balance.

14 The Illinois EPA is the agency that we're  
15 working with to make determinations on violations to  
16 their program, their NPDES program. So we -- we deal  
17 with them on making determinations of what kind of  
18 enforcement action to take.

19 What review was given to the northeast  
20 corner drainage in Significant 1 review?

21 I assume that's the same question.

22 MR. BARKLEY: I'm not sure what the intent  
23 was to that. Again, the drainage hasn't change. It  
24 is not going to the northeast corner.

1 MR. FOWLER: Or if you're talking about  
2 the drainage way out there, it's -- it's -- it's  
3 outside the distance for the stream buffer zone rule.  
4 So there's a distance. So the stream buffer zone rule  
5 doesn't apply for that stream that's off to the  
6 northeast corner.

7 MS. EDMISTON: They changed that stream  
8 buffer zone rule in just recent years, didn't they,  
9 from --

10 MR. FOWLER: No.

11 MS. EDMISTON: -- its original?

12 MR. FOWLER: They have not changed it.

13 MS. EDMISTON: I read that in --

14 MR. FOWLER: There was a --

15 MS. EDMISTON: One President kind of --

16 MR. FOWLER: Tried -- it was -- it was  
17 challenged, and the new rule was removed. So we are  
18 not implementing a new rule on steam buffer zone.

19 MS. EDMISTON: It was challenged; so we  
20 didn't change it then.

21 MR. FOWLER: It was challenged -- the  
22 change was challenged, it was removed, and I believe  
23 there is a court -- well, there's some sort of  
24 agreement to rewrite that rule. They're back to the

1 original rule. There's no change to the steam buffer  
2 zone rule in Illinois.

3 MR. BARKLEY: If and when a rule is  
4 changed, it is done at the federal level through the  
5 Office of Surface Mining, and then they would dictate  
6 to us we have to come in compliance with that new  
7 rule. It has not been done.

8 MS. EDMISTON: It's federal only.

9 MR. FOWLER: Okay. How does modeling  
10 account for sand lenses? Does IDNR review this?

11 Well, my understanding, the modeling is  
12 done in a more conservative manner than the -- than  
13 initial sand lenses. They're assuming a consistent  
14 sand lens underneath the impoundment. So it's even a  
15 more conservative approach than trying to model  
16 individual segments of sand within it.

17 Where is the keyway and key notch? Is  
18 this part of the design? Does scarifying provide  
19 adequate seepage protection as a keyway design?

20 MR. BARKLEY: On the first question about  
21 the keyway cut, keyway cuts are usually used to anchor  
22 upon into bedrock, in shallow topography where you  
23 want to anchor it into the bedrock itself. So you cut  
24 a trench, and you compact into it, and it creates a

1 greater flow path for seepage.

2 Keyway cuts can be placed in impoundments  
3 that are not in bedrock, and it is done. This  
4 particular proposal has no keyway cut proposed. It is  
5 relying on the massive base of this structure and the  
6 size and the weight of that structure as being  
7 adequate to prevent any failures or any concern with  
8 failure or seepage through it. So you can design it  
9 with them; you can design them without them. As long  
10 as it is designed properly, it can work both ways.

11 MR. FOWLER: Okay. Why don't you consider  
12 only the original permit?

13 Well, the original permit was approved as  
14 it was. The company has come in with the request for  
15 a significant revision to change it, and we are  
16 reviewing and evaluating that.

17 Ms. HUCKER: Susan Hucker.

18 If the original permit is the safer way to  
19 go, why would you even consider the revisions?

20 MR. FOWLER: We don't consider this, if we  
21 approve it, to be any more unsafe. We consider this  
22 to be safe.

23 MS. HUCKER: Well, you're saying a  
24 hundred -- you're saying a hundred years is what

1 they're thinking these liners will last. What after a  
2 hundred years? What about natural disasters? I mean,  
3 listen, if --

4 MR. BARKLEY: The liner, ma'am, was  
5 approved in the original permit already. It has  
6 nothing -- real bearing on this particular permit.  
7 The liner was already approved under the original  
8 permit. So that has not changed from what was  
9 approved.

10 MS. HUCKER: All right. So what happens  
11 after a hundred years?

12 MR. BARKLEY: Well, again, the modeling is  
13 showing that's how long it will last. But I want to  
14 try and address your question about why was that not  
15 adequate. Well, all these mines that go in, they  
16 expand, and this one will expand through the 30 years  
17 as it goes, if it lasts that long. Maybe it will last  
18 five years. Maybe it will last ten years. Maybe it  
19 will last 30. They do not design impoundments that  
20 will contain 30 years' worth of material because they  
21 do it in cells, and that was described in the first  
22 permit. It is done in a cell basis. This is not the  
23 only mine that does this. We have mines that expand  
24 with cell after cell after cell to expand their refuse



1 area.

2 MS. HUCKER: Well, okay. What about  
3 natural disasters? You know, Hillsboro's in an  
4 earthquake zone. There's a lot of those. When I  
5 worked at Graham, we were always in the spring on  
6 tornado alert. What would those do to our dam?

7 MR. BARKLEY: First of all, start with  
8 earthquakes.

9 MS. HUCKER: Okay.

10 MR. BARKLEY: The earthquake is part of  
11 the design process. There is a seismic safety factor  
12 calculated for this impoundment and every impoundment.  
13 It's a requirement of the regulations. Mine Safety  
14 and Health Administration will review that, Office of  
15 Water Resources will review that, and it's also in our  
16 permit. So there's three agencies looking at the  
17 seismic stability of this particular structure.

18 MS. HUCKER: All right.

19 MR. BARKLEY: Okay. Tornadoes are not  
20 considered because I don't believe a tornado is going  
21 to do damage to an impounding structure. That is not  
22 part of the review process. There's no, quote, safety  
23 factor required for the potential of a tornado to hit  
24 it. But it is designed for great storm events, a

1 hundred-year, six-hour storm event. There has to be  
2 enough storage in there so that that thing will not  
3 overtop --

4 MS. HUCKER: Overflow.

5 MR. BARKLEY: -- in a serious, serious  
6 rainfall, a hundred-year storm event.

7 MS. HUCKER: Well, I mean, I'm just --  
8 we've all seen in this last year what Mother Nature  
9 has done, not just in the United States but throughout  
10 the world. Just to take a chance just seems not  
11 right.

12 MR. FOWLER: Okay. Who gave the original  
13 approval for the permit?

14 I assume it's --

15 MR. BARKLEY: Several agencies.

16 MR. FOWLER: Yeah, several agencies, but  
17 ours did. EPA did.

18 MR. BARKLEY: Corps of Engineers were  
19 involved. Mine Safety and Health Administration.

20 MR. FOWLER: U.S. Fish and Wildlife were  
21 consulted. You know, there's a number of agencies  
22 involved in the original permitting decision.

23 Was impoundment included in the original  
24 permit?

1 MR. BARKLEY: Yeah. Again, we -- I think  
2 we've explained this before. The slurry itself was  
3 designed into an incised portion of the impoundment.  
4 The surrounding ring, as has been pointed out by  
5 others in the audience, was not a closed loop, but  
6 refuse was designed in it to go 75 feet high in the  
7 original permit with a notch in it. So that was all  
8 part of the original permit.

9 And it's a matter semantics. An  
10 impoundment can be something that is incised, and then  
11 you have an impounding structure which is an  
12 above-grade feature. So there was an impoundment in  
13 the original permit because it was an incised hole in  
14 the ground for placement of slurry, but it became an  
15 impounding structure or will be an impounding  
16 structure if they get approval to close this notch and  
17 make it an above-grade structure.

18 MR. FOWLER: How many impoundments in  
19 Illinois have failed? Collapsed?

20 Like I said, we don't know of any that  
21 have.

22 MS. EDMISTON: What about the Germantown  
23 one that leaked into the wells and the aquifer?

24 MR. FOWLER: Well, there's not a

1 structural collapse or failure of that impounding  
2 structure or the dam.

3 MS. EDMISTON: Six times too much arsenic  
4 in the wells. People got cancer. You know, that  
5 would be a failure in my book.

6 MR. FOWLER: The impoundments that are  
7 being constructed and designed today are much  
8 different than the impoundments that were built back  
9 in the '70s --

10 MR. BARKLEY: Early '70s, late '60s.

11 MR. FOWLER: -- that were done. They're  
12 much different. They have much greater protection for  
13 groundwater than those did. Yes, those other ones  
14 are leaking, but they're being mitigated. They're  
15 being -- they're being contained, and no well outside  
16 of that impoundment or the mine area has been impacted  
17 by the mine. That's been determined by EPA and by the  
18 mine's monitoring.

19 MR. BARKLEY: And, quite honestly, that's  
20 why we're looking at a 40-mil liner in this situation.  
21 We've learned through the years that there can be  
22 problems, and that's why the level has risen in  
23 groundwater protection to four-foot clay liners to  
24 artificial liners to be more like landfills. So

1 that's why we're looking at this permit with higher  
2 standards than that one ever experienced pre any of  
3 our regulations.

4 MS. BATES: What about the slide here --

5 COURT REPORTER: I'm sorry?

6 MS. BATES: Mary Bates. There was a slide  
7 on the end -- on the west side of the Monterey 2.  
8 There was a slide, and they were out there over the  
9 weekend fixing it.

10 MR. FOWLER: No. At Monterey 2, as far as  
11 I know, there was no slide. There was a seep that the  
12 water was seeping along horizontally. There was no  
13 structural --

14 MS. BATES: The whole --

15 MR. FOWLER: No, they dug in --

16 MS. BATES: The whole side just slid down.

17 MR. FOWLER: No. They dug into that side  
18 to try to fix the seep that was coming through. There  
19 was no failure of that impoundment. They -- they --  
20 the mine itself went in and dug that out. It was not  
21 a slide.

22 MS. BATES: But it was a seep.

23 MR. FOWLER: A seep that came through on a  
24 horizontal plane, and they were trying to plug that.

1 MS. BATES: Are they going to fix the seep  
2 on Shay 1? Because there's seepage over there.  
3 There's erosion and seepage over there. What are they  
4 going to do about that?

5 MR. BARKLEY: We can't be that specific.  
6 I'm not sure where you mean on Shay 1 there's a seep  
7 and erosion.

8 MS. BATES: On the south side.

9 MR. FOWLER: Well, there are probably  
10 gullies that come through from rain that erode down,  
11 but I don't know if there's any seepage through the  
12 impoundment.

13 MS. BATES: There's white patches.  
14 There's no vegetation. There's white patches on the  
15 south side.

16 MR. FOWLER: There's been no vegetation  
17 planted on the impoundment.

18 MR. BARKLEY: All impoundments are  
19 monitored for the phreatic surface, and sometimes  
20 there is seeps in certain areas. That doesn't mean  
21 that there is instability because there is a seep in  
22 an active impoundment. The companies and the  
23 regulatory authorities monitor for the changes in  
24 phreatic surface, and that's a trigger to get more

1 concerned with stability if we see drastic changes in  
2 the phreatic surface. But just a seep itself does not  
3 mean there is going to be imminent failure.

4 MS. BATES: So a seep on the -- on RDA 5,  
5 there's a seep on the -- I think it's the north side  
6 near the spillway. Now, is that an instability --  
7 that seep that's going on over there?

8 MR. BARKLEY: I'm not sure where you're  
9 getting your information about where these seeps are.  
10 Is this something you've observed?

11 MS. BATES: Well, it's something that --  
12 Brian, have you -- you want to talk about that?

13 MR. PERBIX: I think local residents have  
14 observed them.

15 MR. BARKLEY: Those local residents should  
16 contact us, and we'll look into it further.

17 MR. FOWLER: Okay. That's all we have on  
18 the list.

19 Are there any additional questions that  
20 anybody had?

21 Yes, sir.

22 MR. COUFAL: Coufal.

23 Can you give me the date the permit was  
24 issued?

1 MR. FOWLER: Which permit?

2 MR. BARKLEY: Which permit, sir?

3 MR. COUFAL: 399.

4 MR. BARKLEY: I probably can.

5 MR. COUFAL: All right.

6 MR. BARKLEY: Promise not to quote me on  
7 this in case I'm wrong, but it's close. It's going to  
8 be the original permit approved February 11, 2009.

9 MR. COUFAL: And when did they start  
10 construction on this impoundment?

11 MR. BARKLEY: Well, the first step was  
12 clearing. I mean, it's a long process. They clear.  
13 They dig the incised -- well, first, they stockpile  
14 the top soil and the subsoil for reclamation purposes,  
15 and then they begin the incised portion. So I'm not  
16 sure, when you say "begin construction," of what  
17 portion of it, sir.

18 MR. COUFAL: Well, any of it. Did they  
19 start it before that date? That's what I'm trying --

20 MR. BARKLEY: No, sir, they did not.

21 MR. COUFAL: They did not?

22 MR. BARKLEY: No.

23 MR. COUFAL: Okay. We have wells around  
24 that. How many?



1 MR. FOWLER: Do you know how many?

2 MS. BROOMHEAD: I don't know an exact  
3 number. It is probably approximately 20.

4 MR. COUFAL: And who does the testing of  
5 the wells?

6 MR. BARKLEY: Who samples the wells?

7 MR. COUFAL: Yes.

8 MR. BARKLEY: The company does and reports  
9 that to us through the labs.

10 MR. COUFAL: Isn't that like putting the  
11 fox in charge of the hen house safety or security?

12 MS. BROOMHEAD: That's the standard  
13 practice in industry both --

14 MR. COUFAL: I know. I -- industry always  
15 wants that. I understand.

16 MS. BROOMHEAD: But that's also the  
17 standard practice at a landfill -- hazardous waste or  
18 municipal landfill.

19 MR. COUFAL: I agree with you. It is  
20 always that. Why? That's the question. I mean,  
21 politicians -- well, God, it's so obvious what's wrong  
22 that -- with that kind of stuff, you hate to even ask  
23 the question because it is so obvious.

24 MR. BARKLEY: But at the same time people

1 are reporting excursions. So obviously sometimes the  
2 companies are reporting excursions, are they not?

3 When we're made aware of those. I mean --

4 MR. COUFAL: Say that again.

5 MR. FOWLER: When they're out of  
6 compliance.

7 MR. BARKLEY: When they're out of  
8 compliance, that is reported. They have to report  
9 that, and it is, as people have pointed out.

10 MR. COUFAL: And they report it?

11 MR. FOWLER: Yes.

12 MS. BROOMHEAD: Yes, sir. It's a  
13 requirement.

14 MR. BARKLEY: It's a requirement.

15 MR. COUFAL: That must be something new  
16 going on. I hadn't heard about it.

17 MS. BAKER: Tara Baker. I just have a  
18 question.

19 How often are they checked? Daily?  
20 Weekly? Once a month?

21 MR. BARKLEY: The impoundments themselves?

22 MS. BAKER: The wells. Monitoring wells.

23 MR. BARKLEY: The wells.

24 MS. BROOMHEAD: The wells are monitored on

1 a quarterly basis. So four times a year.

2 MR. FOWLER: Yes.

3 MS. DRESSEN: Karyl Dressen.

4 I just -- I don't have a question, but I  
5 can just have a short comment. And know so many of us  
6 have asked about how many more of these impoundments  
7 are we going to see, and I know you can't maybe answer  
8 it, but figuring that this one's going to last between  
9 four and five years, it's going to be -- I mean, we  
10 can do the math then -- that we're going to look at  
11 several more of these.

12 I have a little bit of a problem with the  
13 40-mil liner when you're telling me that landfills use  
14 60 mil and the materials in this impoundment are  
15 certainly going to be as toxic as what we're seeing in  
16 the landfill here over at Litchfield. And I know you  
17 said that the expected life span is a hundred years,  
18 but we don't know. I mean, that's just the projected  
19 life span, and, as you said, you really don't -- can't  
20 guarantee that this 40-mil liner is going to last a  
21 hundred years.

22 MS. BROOMHEAD: That's correct. I would  
23 like to provide a comment back to you on the thickness  
24 of those liners.

1                   40 mil has been accepted at landfills by  
2 IEPA. If a facility chooses to propose a thicker  
3 liner, that is their choice, and it will be approved.  
4 But a minimum requirement liner is 40 mil.

5                   MS. DRESSEN: Okay. So we're looking at  
6 the minimum requirement is what we're using.

7                   MS. BROOMHEAD: The minimum that will  
8 protective of the groundwater resources that the liner  
9 is designed to protect.

10                  MS. DRESSEN: Maybe this won't fail in my  
11 lifetime. Maybe I won't see the leakage from it. But  
12 even if this thing does last a hundred years, the  
13 generations like Samantha back here are the ones that  
14 are going to be paying the price for these impoundment  
15 areas that are going to be there permanently.

16                  Just like Joyce said, you take a bunch of  
17 toxic material, just because you cover it up with  
18 dirt, doesn't make it, poof, go away. That's going to  
19 be there for future generations.

20                  We brought the mine in. We're promising  
21 jobs. It's going to be good for Hillsboro, good for  
22 Montgomery County. Generations from now is the fact  
23 that we've got five or six impoundments within the  
24 City of Hillsboro going to bring in people into our

1 town then? I don't think so.

2 MR. FOWLER: Thank you.

3 MS. DRESSEN: Thank you. That's just my  
4 comment on --

5 MR. FOWLER: Anybody else?

6 Not seeing any other questions, I think  
7 we're at the end for tonight. I bet your fingers are  
8 tired.

9 COURT REPORTER: Yes.

10 MS. BAKER: I have a question.

11 MR. FOWLER: I'm sorry.

12 MS. BAKER: Tara Baker.

13 Is there some kind of an alternate plan  
14 instead of leaving this slurry here? I mean, is there  
15 something else they can do, a safer method, even if it  
16 might be more costly?

17 MR. BARKLEY: The only other disposal  
18 method being used in the country, other than putting  
19 it in disposal sites, is putting it underground.

20 MS. HUCKER: Could the Deer Run Mine --  
21 Susan Hucker. I'm sorry -- transport their waste to  
22 an area where there's -- it wouldn't affect  
23 groundwater, wouldn't affect a community of people? I  
24 mean, could that be done? I mean, could that be an

1 option for them? Because I know it would cost more  
2 money, but, gee, this is right next to our town, and  
3 it just seems like you're -- you know, they need to  
4 think about the people who live here and who have  
5 lived here all their lives, and I can't understand why  
6 we couldn't transport this to a -- they buy some area  
7 where they're -- it wouldn't affect or maybe it's more  
8 bedrock, maybe it's safer.

9 I mean, even though you're saying it's  
10 safer, after a hundred years, we won't be here, but  
11 our children's children and their children will be  
12 here. And, my goodness, why would you even jeopardize  
13 their health that way? Why would you even consider  
14 it? I mean, I know you're not making the rules, but,  
15 I mean, you are making the judgment on this permit,  
16 and we are right next to it -- a town -- not out in  
17 the middle of nowhere. Do you understand what I'm  
18 saying?

19 MR. BARKLEY: Yes, I do.

20 MS. HUCKER: Okay.

21 MS. CAMERON: Kyle Cameron.

22 I'd like to just piggyback on what she  
23 said. It's not right next to our town; it is in our  
24 town. It's inside our city limits. It is right next

1 to -- within very few miles a prison. That's if it's  
2 even a mile. The prison, the hospitals, schools, all  
3 of the houses, the residential areas, the water  
4 supply. It's not just close to it, it is in the town.

5 MS. HUCKER: So also -- Susan Hucker --  
6 why couldn't they transport it to wherever they're  
7 going, whether it's to a power plant, and let them  
8 clean it? Why do we have to undertake that? Why do  
9 we have to have it done right here? I mean, there's  
10 other options, and those ought to be looked at by you  
11 and by the mine itself. I mean, this is our lives  
12 we're talking about.

13 MR. SCHRAUT: Lee Schraut again.

14 Tara asked what the other alternatives  
15 might be. One alternative might be to leave the coal  
16 where it's at rather than sending it over to China to  
17 begin with.

18 AUDIENCE MEMBER: It's called big bucks  
19 for some people.

20 MR. FOWLER: Any other comments?  
21 Questions?

22 Yes, Joyce.

23 MS. BLUMENSHINE: I'm sorry. Just a  
24 procedural item, Mr. Fowler. Joyce Blumenshine

1 speaking.

2 Is it possible to have the deadline for  
3 written comments due, like, ten days after the  
4 transcript could be posted to the OMM website?

5 HEARING OFFICER PFLEDERER: Ma'am, we're  
6 going to leave it open till the 21st.

7 MS. BLUMENSHINE: And there's no way to --

8 HEARING OFFICER PFLEDERER: We want your  
9 comments on the application, not on the transcript.  
10 So you've had plenty of time to review the  
11 application. We're giving you another ten days.

12 MR. BLUMENSHINE: Thank you very much, Mr.  
13 Pfleederer.

14 MR. FOWLER: Okay. Mr. Coufal.

15 MR. COUFAL: What part --

16 COURT REPORTER: I can't hear you. I  
17 can't hear you.

18 MR. FOWLER: We can't hear you.

19 HEARING OFFICER PFLEDERER: Sir, you're  
20 going to have to speak up, please.

21 MR. COUFAL: What part do the lobbyists  
22 from the coal industry have in writing a lot of the  
23 regulations that they are supposed to live by?

24 MR. FOWLER: Don't know.



1 MR. COUFAL: I do.

2 MR. FOWLER: Okay.

3 MS. HUCKER: I want to make one more  
4 comment. I want to thank you for all coming down here  
5 and giving us the opportunity to speak our minds.  
6 Thank you again.

7 (Hearing adjourned at 8:34 P.M.)

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