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STATE OF ILLINOIS
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)

GRINDSTONE MANAGEMENT, L.L.C.
LITTLETON MINE

PUBLIC HEARING

WEDNESDAY, JANUARY 9, 2013

NPDES HEARING at 6:00 P.M.

SCHUYLER COUNTY COURTHOUSE
120 SOUTH CONGRESS
RUSHVILLE, ILLINOIS

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1 PRESENT:

2 MR. DEAN STUDER
Hearing Officer
3 Illinois Environmental Protection Agency
1021 North Grand Avenue East
4 P.O. Box 19276
Springfield, Illinois 62794-9276
5 (217)558-8280
dean.studer@illinois.gov

6 HEARING PANEL:

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9 P.O. Box 19276
Springfield, Illinois 62794-9276

10 MS. STEFANIE N. DIERS, Assistant Counsel
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15 MR. LARRY D. CRISLIP, P.E.
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Midwest Litigation Services
23 711 North Eleventh Street
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24 (314) 644-2191

1 HEARING OFFICER STUDER: Good evening. My
2 name is Dean Studer, and I am the hearing officer for
3 the Illinois Environmental Protection Agency. On
4 behalf of Interim Director, John Kim, and Bureau of
5 Water Chief, Marcia Willhite, I welcome you to
6 tonight's hearing. The Illinois EPA believes that the
7 public hearings that we hold are a crucial part of the
8 permit review process.

9 My purpose tonight is to ensure that these
10 proceedings run properly, according to rules and in a
11 fair but efficient manner. To that end, I will start
12 by reading an opening statement into the record.

13 This is an informational hearing before the
14 Illinois EPA in the matter of a National Pollutant
15 Discharge Elimination System (NPDES) permit
16 application for a proposed new surface coal mining
17 facility for the Grindstone Management, LLC-Littleton
18 Mine with proposed discharges into an unnamed
19 tributary of the West Branch of Sugar Creek and into
20 an unnamed tributary of Bauer Branch.

21 Illinois EPA is not the state agency
22 authorized to permit the mining operations at this
23 coal mine; the Office of Mines and Minerals (OMM) at
24 the Illinois Department of Natural Resources is the

1 state agency responsible for overseeing the actual
2 mining activities. Illinois EPA is empowered to
3 oversee certain environmental issues, including those
4 regarding the issuance, denial, or revision of the
5 NPDES permit, and that's permit No. IL0079405. Issues
6 relevant in this proceeding involve the NPDES permit,
7 including the anti-degradation assessment.

8 The authority for the Illinois EPA to issue
9 this permit is contained in Section 39 of the Illinois
10 Environmental Protection Act, 415 ILCS 5/39. In
11 pertinent part, this section reads, "It should be the
12 duty of the Agency to issue such a permit upon proof
13 by the applicant that the facility, equipment,
14 vehicle, vessel or aircraft will not cause a violation
15 of this Act or of regulations promulgated hereunder."
16 The decision by the Illinois EPA in this matter will
17 not be based upon -- excuse me -- will be based upon
18 the technical merits of the application as it relates
19 to compliance with this statute and regulations
20 promulgated under it. The Agency decision is not
21 based on how many people desire for the permit to be
22 issued or on how many people desire for the permit not
23 to be issued but rather on compliance with the law and
24 regulations.

1 I want to be clear: If a permit applicant
2 complies with the requirements for obtaining an NPDES
3 permit, Illinois EPA is required by state law to issue
4 the permit. And, two, if you oppose the issuance of
5 this permit, then it would assist the Illinois EPA
6 greatly if you state the law or regulation that would
7 not be met if the NPDES permit were to be issued.

8 The Illinois EPA has made a preliminary
9 determination that this proposed project meets the
10 requirements for obtaining a permit and has prepared a
11 draft permit for review. The Illinois EPA is holding
12 this hearing for the purpose of accepting comments
13 from the public on the draft permit; particularly, we
14 are interested in correcting items in error in the
15 permit as well as including any additional conditions
16 that may be required to prevent violations of the
17 Illinois Environmental Protection Act and any
18 regulations promulgated thereunder. Since we have a
19 limited time in which to conduct this hearing,
20 Illinois EPA staff members will be responding to
21 issues primarily for clarification purposes. I am
22 asking Illinois EPA staff to provide brief answers.
23 More in-depth answers may be provided in writing in
24 the responsiveness summary. I'll explain that in a

1 moment. Additionally, those commenting may be asked
2 clarification questions from any of those seated here
3 with me this evening. Our desire is to obtain an
4 accurate understanding of the issues raised tonight.

5 Issues relevant to the NPDES permit include
6 compliance with the requirements of the federal Clean
7 Water Act and with the Illinois Environmental
8 Protection Act as well as the regulations established
9 by the Illinois Pollution Control Board in 35 Illinois
10 Administrative Code, Subtitle C and Subtitle D,
11 including the anti-degradation requirements. Examples
12 of issues not relevant to the NPDES permit include
13 truck traffic and routes taken by trucks, issues
14 dealing with noise and other matters that are not
15 included in either the NPDES permit or in the
16 regulations governing the NPDES process.

17 This public hearing is being held under the
18 provisions of Illinois EPA's procedures for permit and
19 closure plan hearings which can be found in 35
20 Illinois Administrative Code Part 166, Subpart A and
21 in accordance with 35 Illinois Administrative Code
22 Part 309, Subpart A. Copies of these regulations are
23 available at the Illinois Pollution Control Board
24 website at www.ipcb.state.il.us, or if you do not have

1 easy access to the web, you may contact me and I can
2 get a copy for you.

3 I'd like to explain how tonight's hearing
4 is going to proceed. First, we will have the Illinois
5 EPA staff panel introduce themselves and provide a
6 sentence or two -- excuse me -- a sentence or two
7 regarding their involvement in the permit review
8 process. Then Illinois EPA staff members will make a
9 brief statement regarding this draft permit.
10 Following this Mr. Greg Arnett, representing the
11 permit applicant, will be given the opportunity to
12 make a brief statement. I then will provide further
13 instructions as to how statements and comments will be
14 taken during this hearing and as to the appropriate
15 conduct during this hearing tonight followed by the
16 public providing comments.

17 I intend to conduct a fair hearing and
18 remind everyone that it is important to be mindful of
19 others. I will enforce time limits for each speaker.
20 Initially the time limit will be six minutes. You may
21 want to prioritize your comments so that you can make
22 the comments at this hearing that you desire to make.
23 If you have lengthy comments, you should consider
24 giving only a summary of them at this hearing and

1 providing the comments to me in their entirety in
2 writing before the close of the comment period.

3 If you have not completed the registration
4 card at this point, please see Barb Lieberoff in the
5 registration area and she can provide you with a card.
6 You may indicate on the card that you would like to
7 provide comments at this NPDES hearing.

8 Everyone legibly completing a card at this
9 hearing or filing written comments in this proceeding
10 before the close of the hearing record will be
11 notified when the Illinois EPA reaches a final
12 decision in this matter.

13 After the close of the comment period,
14 Illinois EPA will prepare a responsiveness summary.
15 In the responsiveness summary, the Illinois EPA will
16 respond to all relevant and significant issues that
17 were raised at this hearing or were submitted to me
18 prior to the close of the comment period. The hearing
19 record in this matter will close on February 8th,
20 2013. I will accept written comments as long as they
21 are postmarked by February 8th.

22 Comments can be filed electronically by
23 email at epa.publichearingcom@illinois.gov and must
24 specify "Littleton Mine NPDES" or "IL0079405" in the

1 subject line. Please make sure that these words are
2 spelled correctly as emails are electronically sorted
3 and distributed and may not make it into the record if
4 words in the subject line are misspelled. When your
5 email arrives, the system should send you an automated
6 reply if the email was received before the comment
7 period ends and the email has been properly sorted and
8 distributed. I note that the server can become quite
9 busy in the minutes before the record closes, so you
10 may want to take this into account when submitting
11 your comments, as electronic comments received on or
12 after the stroke of midnight on February 8th, as the
13 date is changing to February 9th, will not be
14 considered timely filed. The comment instructions and
15 information are also included in the notice for this
16 hearing. If you require any further information after
17 this hearing on the filing of comments, you may
18 contact either Barb Lieberoff at (217)524-3038, or you
19 may contact me at (217)558-8280.

20 During this hearing and during the comment
21 period, all relevant comments, documents, or data will
22 be placed into the hearing record as exhibits. Please
23 send all written documents or data to my attention at
24 Dean Studer, Hearing Officer, Mail Code No. 5,

1 regarding the Littleton Mine NPDES, and that's at
2 Illinois EPA, 1021 North Grand Avenue East, P.O. Box
3 19276, Springfield, Illinois, 62794. This address is
4 also listed on the public notice for this hearing
5 tonight. Again, please indicate the NPDES number,
6 IL0079405, or reference Littleton Mine NPDES on your
7 comments to help ensure that they become part of this
8 hearing record.

9 I would now like to ask the Illinois EPA
10 staff panel members to introduce themselves. This
11 will be followed by an opportunity for the permit
12 applicant to make a brief statement. Following these,
13 I will provide additional information on proper
14 conduct during this hearing and how comments will be
15 taken for this proceeding.

16 Scott.

17 MR. TWAIT: Scott Twait. I work for the
18 Water Quality Standards Section. I did the water
19 quality memo and the anti-degradation memo.

20 MS. DIERS: Stefanie Diers, legal counsel.

21 MR. CRISLIP: Larry Crislip, Manager,
22 Permit Section, the Mine program.

23 HEARING OFFICER STUDER: Thank you. And I
24 believe that Stefanie has an opening statement that

1 she'll be making at this point.

2 MS. DIERS: Thank you for coming here
3 tonight. I just want to remind you that we are here
4 tonight to talk about the Littleton Mine hearing with
5 Grindstone Management. I understand that there have
6 been some comments made in this record concerning
7 Industry Mine and North Canton Mine. Industry is --
8 and North Canton are currently in-house. We are
9 working with those permits, going through the
10 responsiveness summary and everything on those cases.
11 We're not here tonight to take comments. The comment
12 period is closed on those cases. I know there's an
13 issue of who the applicant is. Our regulations and
14 laws under our act require us to consider the
15 applicant. So I would suggest if there are comments
16 that you want to make concerning that, who the
17 applicant is, we're looking at the applicant as
18 Grindstone Management, that should be something that
19 should be taken care of in written comments, and we
20 can further look at that.

21 Thank you.

22 HEARING OFFICER STUDER: Thanks, Stefanie.
23 I will go ahead and read instructions on how the
24 procedure will work for taking comments this evening,

1 and then I will provide Mr. Arnett the opportunity to
2 make a brief opening statement.

3 While the issues raised tonight may indeed
4 be heartfelt concerns to many of us in attendance,
5 applause is not appropriate during the course of this
6 hearing. Similarly, booing and hissing and jeering
7 are also not appropriate and will not be allowed this
8 evening.

9 Secondly, I'm going to try and allow only
10 statements that relate to the issues involved with the
11 NPDES permit to be made during this hearing.

12 Specifically, statements and comments that are of a
13 personal nature or reflect on the character or motive
14 of a person or group of people are not appropriate in
15 this hearing. If statements or comments begin to
16 drift into this area, I may interrupt the person
17 speaking. As hearing officer, I intend to treat
18 everyone here tonight in a fair and professional
19 manner and with respect. I ask the same respect be
20 shown to those raising relevant issues this evening.

21 If the conduct of persons attending this hearing
22 should become unruly, I am authorized to adjourn this
23 hearing should the actions warrant. In such a case,
24 the Illinois EPA would accept written comments through

1 the close of the comment period which ends on February
2 8, 2013.

3 Since we have a limited time in which to
4 conduct this hearing, the Illinois EPA staff members
5 will be responding to issues primarily for
6 clarification purposes. We are here tonight to listen
7 to environmental issues related to the NPDES permit.
8 You may disagree with or object to some of the
9 statements and comments made tonight, but this is a
10 public hearing and everyone has a right to express
11 their comments on this draft permit.

12 You may submit written comments to me at
13 this hearing and I will include them as an exhibit in
14 the hearing record. Written comments are given the
15 same consideration as statements made orally during
16 this hearing and may be submitted to the Illinois EPA
17 at any time within the public comment period, again
18 which ends at midnight on February 8, 2013. Although
19 we will continue to accept comments through that date,
20 tonight is the only time that we will accept oral
21 comments. Any person who wishes to make an oral
22 comment may do so as long as the statements are
23 relevant to the NPDES permit and time allows.

24 If you have lengthy comments, I am

1 requesting that you provide a summary of those
2 comments at this hearing and submit them to me in
3 their entirety in writing before the close of the
4 comment period, and I will ensure that they are
5 included in the hearing record as an exhibit. If your
6 comments fall outside the scope of this hearing, I may
7 ask you to proceed to another issue. Again the time
8 limit is six minutes per person.

9 In addition, we want to avoid repetition.
10 If anyone before you has already presented a statement
11 or a comment that is contained in your comments,
12 please skip over those issues when you speak. If
13 someone has already said what you intended to say, you
14 may pass when I call your name to come forward. Once
15 a point is made, it makes no difference if that point
16 is made once or whether it is made 99 times. It will
17 only be -- It will be considered and will only be
18 reflected once in the responsiveness summary. In the
19 event that we cannot accommodate everyone tonight who
20 wishes to make oral comments during the hearing this
21 evening, you have the option of submitting your
22 comments to us in writing. Written comments again are
23 given the same weight as comments made orally at this
24 hearing.

1 To assist those who wish to make written
2 comments, we have comments forms available in the
3 registration area. I also point out that it's not
4 necessary that the written comments be submitted on
5 the form as Illinois EPA will accept all comments as
6 long as the proceeding -- as long as they're relevant
7 to this proceeding and they file it within the comment
8 period.

9 For the benefit of the court reporter,
10 please keep the general background noise in the room
11 to a minimum so that she can hear and accurately
12 transcribe everything that is said. Illinois EPA will
13 post the transcript for this hearing on our web page
14 in the same general place where the hearing notice,
15 fact sheet, and draft permit have been posted. It is
16 my desire to have these posted in about two to two and
17 a half weeks following the close of this hearing, but
18 the actual date will depend on when I get the
19 transcript back from the court reporter.

20 The procedure for giving comments is to
21 come forward, and state your name and, if applicable,
22 any governmental body, organization, or association
23 that you represent. If you are not representing a
24 governmental body, an organization or an association,

1 you may simply indicate that you are a concerned
2 citizen or a member of the public. For the benefit of
3 the court reporter, I ask that you spell your last
4 name. If there are alternate spellings of your first
5 name, you may also spell your first name so that it is
6 accurately transcribed in the record. Once you spell
7 your name, I will start timing you. You will have six
8 minutes to complete your comments. I ask that while
9 you are speaking, that you direct your attention to
10 the hearing panel and to the court reporter to ensure
11 an accurate record of your comment is made. Prolonged
12 dialogue with members of the hearing panel or with
13 others here in attendance will not be permitted.
14 Comments directed to the audience are not allowed.
15 Again I remind everyone that the focus of this hearing
16 is the environmental issues associated with the NPDES
17 permit.

18 Are there any questions regarding the
19 procedures that we'll use for conducting this hearing
20 this evening?

21 Okay. Let the record indicate that there
22 were no hands raised.

23 I believe that Mr. Arnett has opening
24 remarks that he would like to make.

1 MR. ARNETT: Would you like a copy of what
2 I --

3 HEARING OFFICER STUDER: Yes, if you would
4 -- Yeah. State your name, your title, and spell your
5 name for the record, please, Mr. Arnett.

6 MR. ARNETT: My name is Greg Arnett,
7 A-r-n-e-t-t, and I'm here on behalf of the applicant
8 to talk about the NPDES Permit IL00794405 for a new
9 coal mine in Schuyler County. My company will be
10 mining the coal reserve at the Littleton Mine.

11 Here is something I'd like you to consider:
12 When your clock radio wakes you, you use a hair dryer,
13 curling iron or electric razor, or even brew a cup of
14 coffee, think of me.

15 When you turn on your computer and surf the
16 web and send an email, think of me.

17 When you do your laundry, get a cold one
18 out of the refrigerator, charge your electric car, or
19 come into your air-conditioned house on a hot summer
20 day, think of me.

21 This list can go on and on. The simple
22 truth is coal powers your world. It provides the
23 energy we all demand. That energy is what the
24 Littleton Mine will provide.

1 The issue at hand here tonight is whether
2 this mining operation as proposed will be compliant
3 with the stipulations of its NPDES Permit limits.

4 I have reviewed this application along with
5 the information contained in Mining Permit Application
6 No. 412 which is on file at this courthouse. I
7 believe this coal mining operation will comply with
8 the proposed NPDES permit limits.

9 Here are a few of the reasons why I feel it
10 will be compliant: All the drainage from affected
11 areas by mining operations will be directed to
12 sediment ponds prior to discharge from the permit
13 area. These ponds have been designed and sized to
14 clarify the water and prevent excessive sediment loads
15 from entering receiving streams.

16 Natural barriers will be left in place
17 between the mining and permit boundaries to keep
18 groundwater confined to the areas affected by mining.

19 Item 3. Coal refuse will not be returned
20 to the mining area thereby removing a potentially acid
21 forming substance from being placed in mined
22 overburden.

23 4. Clearing and topsoil removal activities
24 will be limited to a minimal distance ahead of the

1 mining operation. This will reduce the potential for
2 the development of erosion issues in the highwall
3 area.

4 5. Shale spoil material will be covered
5 with subsoil as soon as practical in the mining
6 process to minimize its exposure to the elements.
7 This will minimize the potential for the formation of
8 acidic water conditions in the mined overburden.

9 6. The topsoil will be spread and
10 vegetative cover established as soon as practical in
11 the mining sequence to minimize the potential for
12 erosion on the spoil side of the pit. Terraces and
13 dry dams are also included in the reclamation plan to
14 further reduce the potential for erosion.

15 These are the same practices that have been
16 successfully employed at the North Grindstone Mine in
17 McDonough County. There were no water quality
18 violations from the mining area outfalls in 2012 at
19 the North Grindstone Mine. Groundwater monitoring
20 results there for all four quarters of 2012 fell
21 within accepted ranges.

22 The plan as proposed for the Littleton Mine
23 will work and comply with the proposed NPDES permit
24 limits.

1 I would like to leave you with a few final
2 thoughts. The Littleton Mine will provide good jobs
3 for the local community and benefit the western
4 Illinois economy as a whole. It will provide the
5 energy used to power your world.

6 So if you're leaving here tonight and fill
7 your tank with ethanol and rich gasoline or you simply
8 go home and turn on the TV to watch your favorite
9 programs, think of what coal mining does for you.

10 Thank you.

11 HEARING OFFICER STUDER: Thank you, Mr.
12 Arnett. Daniel Moorehouse is the first person, and he
13 will be followed by Brian Perbix.

14 Mr. Moorehouse, if you'd come forward to
15 the podium --

16 MS. SEDGWICK: Can I ask that there be a
17 microphone up there? The sound's going that way, and
18 we can't hear.

19 HEARING OFFICER STUDER: Yeah, we may not
20 be able to reach that far out. I'll see if I can
21 extend my --

22 MS. SEDGWICK: Can they face towards us or
23 something? Yeah, we can't hear that well with their
24 back to us.

1 HEARING OFFICER STUDER: The other option
2 is we can bring the podium up here. Yeah, we'll do
3 that. I'm assuming you can hear me without a problem.

4 AUDIENCE: Yes, we can hear you.

5 HEARING OFFICER STUDER: I'm projecting my
6 voice.

7 MR. MOOREHOUSE: Should I face you or the
8 audience?

9 HEARING OFFICER STUDER: As long as we can
10 hear you and get an accurate transcription of what's
11 said is appropriate. I'm going to ask that you
12 project your voice though into the mic.

13 MR. MOOREHOUSE: Hi. My name is Daniel
14 Moorehouse, M-o-o-r-e-h-o-u-s-e. I'm the president of
15 the La Moine River Eco System Partnership, a
16 partnership that's over ten years old that includes
17 citizens, land owners. It's a grassroots
18 conservation-efforts organization that's basically
19 trying to make our La Moine River watershed safe, and
20 this project Sugar Creek is in our watershed, in our
21 district.

22 Now, we've been here before, and I do have
23 a few questions. The Springfield coal mine,
24 Grindstone Management Creek, I'm so happy that they're

1 here, or at least the Grindstone Management are here.
2 We all use it. I use this for -- for canoeing. We
3 fish it. Our members hunt it. We -- I, myself, have
4 been in the creeks to do water sampling and check
5 macroinvertebrates. So, you know, I've been in the
6 water myself. So it is important for us to have clean
7 water and a clean environment.

8 Now, IEPA permit hearing on April 12, 2011,
9 for the renewal of the Industry Mine, which is the
10 same company that operates this new permit issue, I
11 was wondering has it been finished because it's nearly
12 two years old. We haven't heard a thing about
13 anything. And can you go on and approve this new
14 permit without approving the last permit? You know,
15 we haven't heard a peep. And I was wondering if this
16 -- you take this into consideration.

17 Also, can you -- As you know, that
18 supposedly there's no violations in 2012. That's
19 probably due to the drought in the water there, but
20 there's been over 600 violations on the Industry Mine
21 that we know of. Do you take that into account? You
22 know, when I go up in front of a judge and I have a
23 traffic violation, say hmmm, you know, how many
24 misdemeanors, how many felonies, they look at you when

1 you say --

2 HEARING OFFICER STUDER: I'm going to
3 interrupt you at this point.

4 MR. MOOREHOUSE: Okay.

5 HEARING OFFICER STUDER: Stefanie made a
6 statement at the beginning about this issue, and the
7 issue is that the law in Illinois requires us to
8 consider the applicant. These are separate applicants
9 so what happens there is not relevant in this
10 proceeding.

11 MR. MOOREHOUSE: Even though Grindstone
12 Creek is the same company that's mining?

13 HEARING OFFICER STUDER: It's not relevant
14 in this proceeding. It is a different applicant.

15 MS. DIERS: As I stated earlier when I
16 began speaking, if you feel that they are the same
17 company, we're looking at it as a different applicant,
18 and our law says that we have to look at the
19 applicant, and then we may place conditions to address
20 issues that have come up in -- I know you're talking
21 about Industry. That is not what we're here to talk
22 about tonight. If you have information that you can
23 provide to us to help us establish that they are the
24 same applicant, please put them in comments so we can

1 take a look at it.

2 MR. MOOREHOUSE: Well, the very same --

3 MS. DIERS: If they are the same, then that
4 is something we'll have to look at in our act, but
5 right now as we sit here we're looking at two
6 different issues, and we are not here to talk about
7 Industry tonight.

8 MR. MOOREHOUSE: My -- My comment to that
9 will be the very same person who came and talked to
10 you at the last --

11 THE COURT REPORTER: I can't hear you.

12 MR. MOOREHOUSE: Sorry. The same person
13 that came to you last time at the last hearing is the
14 same person that's coming to you this time.

15 HEARING OFFICER STUDER: But that doesn't
16 necessarily mean they're the same applicant, and we've
17 opened the door to allow you to submit information to
18 prove that it's the same applicant.

19 MR. MOOREHOUSE: Okay. Okay. The design.
20 Just comparing it to the Industry Mine but not -- is
21 the same, you know, and I was wondering if you're
22 using the same design for the same mining by damming
23 up small little streams to use them as basins to
24 settle out the pollutants. You know, could we be

1 doing something else? Should you be requiring them to
2 make basins that are off-site or doing other things
3 that are or might improve, you know, the possibility
4 of violations in the future?

5 Are they going to be made to test the coal
6 stock pile for mercury? You know, they're going to be
7 storing coal on the site. Will the coal be tested for
8 mercury?

9 So -- and so I do realize that myself and
10 all of us use coal. You know, it is important in all
11 our lives, but we need basically to mine it right. We
12 need to have, you know, the stuff on the ground, the
13 design right and everything else right. So that when
14 we mine it, you know, it doesn't pollute our waters.
15 When I go in to sample water and with my own feet or
16 when I go fishing in it, you know, I'm hoping that
17 it's clean and I'm trusting that Grindstone Creek --
18 you know, Sugar Creek -- Sugar Creek will be clean.
19 So --

20 MS. DIERS: We appreciate your comments.
21 We'll look at what is raised in the responsiveness
22 summary. I do want to note that in the draft permit
23 that we have out there, it is monitoring for mercury.

24 MR. MOOREHOUSE: I do have another question

1 though. Since they're bringing coal from this mine to
2 the Industry Mine to wash it, these permits are
3 connected at least in my mind because they're taking
4 the coal from one mine and they're driving it across
5 the road about four miles and bringing it to another
6 mine to wash it. So they're basically taking
7 pollution from one part of the river and just moving
8 it down the road a little bit and dumping it off. In
9 my mind that's another reason that these are
10 connected. Do you take that into account that they're
11 taking this to a mine that has over 600 violations,
12 that has been in a lawsuit against the Attorney
13 General of the State of Illinois? Since they're
14 moving this coal there, I think that's the plan. And
15 because there's no mine -- no washing facility at the
16 site so they have to take it somewhere. Are you --
17 Will you take that into consideration? And I think
18 that's --

19 MR. CRISLIP: The coal from Littleton Mine
20 will be taken to the adjacent mine or the nearby mine
21 for processing, and the activity of processing that
22 coal will be evaluated under the permit for that
23 adjacent facility.

24 MR. MOOREHOUSE: That hasn't been approved

1 or hasn't been reviewed yet?

2 MR. CRISLIP: That is currently being
3 reviewed -- being worked on currently.

4 MR. MOOREHOUSE: Is there any chance that
5 they're going to get it in the next year or two?
6 Because if they're going to get that permit -- And
7 will that permit reflect that all this extra coal is
8 going into this other mine?

9 MR. CRISLIP: Yes.

10 MR. MOOREHOUSE: And you'll have another
11 hearing because of that -- because of the change of
12 that permit?

13 MR. CRISLIP: If that is already reflected
14 in that permit and considered in the anti-deg, very
15 likely not.

16 MR. MOOREHOUSE: But -- So if it wasn't
17 considered in that permit, you wouldn't have that --
18 you wouldn't have a meeting on it?

19 MR. CRISLIP: If it results in a change to
20 a --

21 THE COURT REPORTER: I'm sorry, I can't
22 hear him.

23 HEARING OFFICER STUDER: Larry, she can't
24 hear you. You're going to have to speak up.

1 MR. CRISLIP: Oh, I'm sorry. If the
2 processing on that coal at that adjacent facility
3 results in an expanded or an expanded discharge or a
4 change, it will be addressed in an anti-degradation
5 assessment, and we would modify that permit and give
6 public notice of it.

7 MR. MOOREHOUSE: Okay. So I just want to
8 make clear though that when they're bringing pollution
9 from one part of the watershed to another part of my
10 very own same watershed, the La Moine River, you know,
11 why is not -- to me that should be considered, you
12 know, the same mine, the same applicant, the same, you
13 know, because they're transferring the same pollution
14 from one mine to the next.

15 And, second, is the design there the same?
16 Looks to me like the design at the new mine is the
17 same as the mine at Industry. They're not using it
18 any differently. They're damming up small little
19 streams and letting that settle out. Why don't you,
20 you know, look at changing that design and having it,
21 you know, an off-site area or having some -- some
22 basin that's not in the watershed, not in the direct
23 stream to settle that pollution out?

24 MS. DIERS: As I said, we will take a look

1 at that. I also want to point out that I don't want
2 to talk about Industry, but because that case has been
3 adjudicated, which means the Pollution Control Board
4 has ruled, when we do issue that permit, under our
5 laws under Section 39 of the Act, we will look at that
6 permit and think about conditions that need to be in
7 there to address those water quality violations that were
8 adjudicated.

9 MR. MOOREHOUSE: So you have to wait until
10 it's adjudicated before you issue this permit?

11 MS. DIERS: Not this permit. I'm talking
12 about Industry. Two separate permits. But you keep
13 talking about Industry and their violations. That
14 case is out there. It's been adjudicated, but I do
15 want to point out there is a motion to reconsider.
16 That case it still playing itself out, but under the
17 law we would look at it, think about conditions that
18 address those violations.

19 MR. MOOREHOUSE: Thank you all very much
20 for being able to comment. Thank you very much.

21 HEARING OFFICER STUDER: Thank you, Mr.
22 Moorehouse.

23 Mr. Perbix. Brian Perbix, and he will be
24 followed by Joyce Blumenshine.

1 MR. PERBIX: Good evening. Can you hear
2 me?

3 I would like to begin by thanking the
4 Illinois Environmental Protection Agency for holding
5 this public hearing. My name is Brian Perbix, and I'm
6 an organizer with the Prairie Rivers Network, the
7 Illinois affiliate of the National Wildlife
8 Federation, and a statewide nonprofit organization
9 that works to protect Illinois' rivers and streams.
10 Several of our members, as well as members of the
11 Illinois Chapter of the Sierra Club, both live and
12 recreate in Schuyler County and depend on clean water
13 in streams and wetlands in the Sugar Creek watershed
14 for activities including agriculture, fishing,
15 hunting, recreation, and wildlife viewing.

16 I know of several of our local members who
17 are out of the state traveling this evening and could
18 not make it to tonight's hearing, but on behalf of our
19 members as well as the concerned members of the public
20 who could not attend today, we respectfully urge the
21 agency to deny this permit. We believe that the
22 agency erred in making a draft determination to issue
23 the permit, and we don't believe that the permit can
24 be lawfully issued unless and until our concerns are

1 addressed.

2 Specifically, we are concerned about the
3 adjudicated, though as yet unresolved, violations at
4 the Industry Mine, as well as the agency's draft
5 permits, failure to protect existing uses of waters of
6 the State of Illinois.

7 So to start out, as primary concern, of
8 course, is the abysmal NPDES compliance record at the
9 Industry Coal Mine, which we are aware is currently
10 owned by the Springfield Coal Company, and we will be
11 submitting written comments to the effect that the
12 owners of Grindstone Management are also the owners of
13 Springfield Coal Company; namely. Michael Caldwell,
14 Thomas Austin, and Brian Veldhuizen -- my apologies
15 for the pronunciation.

16 HEARING OFFICER STUDER: Can you spell it?

17 MR. PERBIX: I think it's
18 V-e-l-d-h-u-i-z-e-n. And there may be a couple more
19 that I'm forgetting. This is from memory on the drive
20 over.

21 So, of course, the Industry Coal Mine has
22 one of the worst compliance records of any coal mine
23 in the state. This has been the subject of ongoing
24 enforcement proceedings before the Illinois Pollution

1 Control Board for several years. And as Mr. Studer
2 mentioned, on November 15th the Pollution Control
3 Board granted summary judgment regarding liability for
4 those permit violations. And this decision, which
5 I'll submit into the record, acknowledges that between
6 Springfield Coal and its predecessor, Freeman United,
7 the Industry Mine violated its permit effluent limits
8 624 times between January, 2004, and September, 2011.
9 Violations occurred in all but one of the 90 months
10 that were reviewed at all but one of the mine's 17
11 outfalls, and for nine of the 11 pollutants that are
12 limited by the permit.

13 The Pollution Control Board, of course,
14 will consider whether the penalty can be assessed
15 against the companies, but the question is whether the
16 mine is in violation of its permit has been settled,
17 notwithstanding the motion to reconsider, and in
18 preparation for that hearing our groups will seek
19 additional Discharge Monitoring Reports since
20 September of 2011, which we do believe, contrary to
21 Mr. Arnett's statement, will confirm that the mine is
22 still out of compliance with its permit. At no point
23 over the course of this case has Springfield Coal
24 presented a viable plan to correct those violations.

1 In light of these facts, we ask the agency
2 -- I'll ask you how can you demonstrate that the
3 proposed discharges from the Littleton Mine will not
4 cause or contribute to the violation of water quality
5 standards in the West Branch Sugar Creek and Bauer
6 Branch? The weight of the evidence, we believe,
7 clearly shows that this group of companies has not
8 respected the effluent limitations that you put in
9 place at its other mine, and when problems have
10 developed, they've done nothing to correct them,
11 putting existing uses at risk. The agency should not
12 issue this permit unless the Industry Mine can come
13 into compliance with its NPDES permit and the
14 applicant for this mine explains specific steps that
15 it will take to prevent similar compliance problems
16 from arising here at Littleton Mine. We anticipate
17 that this would likely require alternative water
18 treatment technologies, many of which the applicant
19 rejected in its Alternatives Analysis dated June 23,
20 2011.

21 As you heard from Mr. Arnett, the water
22 treatment technologies that are proposed to be used
23 here at Littleton are effectively the same as are in
24 place at the Industry Mine.

1 Second, in the draft permit, the Illinois
2 Environmental Protection Agency continues to ignore
3 state law by allowing the applicant to use natural
4 waters of the state as treatment works for its
5 polluted mine runoff. Again, we ask how can the
6 agency justify removing protections for existing
7 aquatic life uses in the tributary streams onsite that
8 will be permanently destroyed to build sedimentation
9 basins? Water quality standards will not be met in
10 these streams, and they will not be able to support
11 the existing aquatic communities that currently exist,
12 and this is completely contrary to our state's
13 anti-degradation law, which is intended to maintain
14 water quality that exceeds applicable standards.

15 So I don't know if you're --

16 HEARING OFFICER STUDER: Brian, can you
17 project your voice more so they can hear you in the
18 back?

19 MR. PERBIX: Oh, sure. Just a question for
20 the agency. Are the tributaries that are proposed to
21 be dammed to form Ponds 1, 2, 3, and 4 "waters" of the
22 state?

23 MS. DIERS: Brian, we're going to take a
24 look at some maps and address that in the

1 responsiveness summary. Since you pointed that out,
2 we're going to take a look at that and investigate it.

3 MR. PERBIX: Thanks so much.

4 Third, the agency must identify and qualify
5 pollutant load increases from the proposed mine and
6 the potential impacts to those increases may have on
7 affected waters of the state. Based on the materials
8 that we have reviewed and the agency has reviewed, it
9 does not appear that the agency has estimated
10 potential pollutant load increases for the permitted
11 parameters, including sediments, chlorides, sulfates,
12 iron, manganese and pH, nor for mercury.

13 So just a quick question, has a formal
14 reasonable potential analysis been done?

15 MR. TWAIT: The agency cannot do a --

16 THE COURT REPORTER: I'm sorry, I can't
17 hear him.

18 HEARING OFFICER STUDER: You're going to
19 have to speak up.

20 MR. TWAIT: The agency cannot do a
21 reasonable potential without having actual data
22 collected. So we look at what the applicant has
23 provided for our estimates.

24 MR. PERBIX: Has the agency considered

1 using any of the effluent data from the nearby
2 Industry Mine, which is a similar design construction
3 presumably, unless shown otherwise, would have similar
4 quality effluent coming off of it?

5 MR. TWAIT: We have not.

6 MR. PERBIX: Okay. Because it seems to me
7 that if the effluent from the mines are in any way
8 similar, the agency would be expected -- you know, the
9 agency could reasonably expect that there's a
10 potential to exceed given the hundreds and hundreds of
11 exceedances that we have seen over the years at that
12 facility in McDonough and Schuyler County.

13 Couple of additional questions in this
14 line. Has the agency considered the potential
15 contribution of groundwater pollution to West Branch
16 and Bauer Branch from the mine site through seeps and
17 gaining reaches? So groundwater contribution of
18 surface water. I didn't see any of that considered in
19 the materials. So I just wanted to check.

20 MR. TWAIT: We talked to the applicant or
21 the consultant, and they were aware of some seeps, but
22 they mentioned that the seeps don't flow to the
23 streams. They're just wet areas.

24 MR. PERBIX: They don't expect that to

1 change with mining?

2 MR. TWAIT: We'll have to look at that.

3 MR. PERBIX: Okay. And finally in this
4 vein, in its anti-degradation assessment memo -- Well,
5 I can skip this one. Am I close to time?

6 HEARING OFFICER STUDER: Yeah, you are, but
7 you've got -- you've got one question.

8 MR. PERBIX: I might hold on that before we
9 go down that road.

10 HEARING OFFICER STUDER: You want --

11 MR. PERBIX: Well, okay, just a brief
12 question, and then if there's more time, I'll come up,
13 but if there's not --

14 HEARING OFFICER STUDER: Okay.

15 MR. PERBIX: Just to check. Was any
16 biological monitoring done on any of the tributaries
17 onsite?

18 MR. TWAIT: No.

19 MR. PERBIX: Thank you.

20 HEARING OFFICER STUDER: Joyce Blumenshine
21 is the next, and she'll be followed by -- is it Scott
22 Stant?

23 MR. STUNTZ: Stuntz.

24 HEARING OFFICER STUDER: Oh, I'm sorry.

1 MS. BLUMENSHINE: Thank you, Hearing
2 Officer Studer, and thank you members of the Illinois
3 Environmental Protection Agency. My name is Joyce
4 Blumenshine. I am currently chair for Heart of
5 Illinois Group Sierra Club, which includes Schuyler
6 and McDonough counties and other counties within the
7 central and western parts of Illinois. Our over 800
8 members value clean water and protection of our
9 environment.

10 HEARING OFFICER STUDER: Joyce, can you
11 spell your last name for the record?

12 MS. BLUMENSHINE: Yes, I'm sorry. My last
13 name is spelled B-l-u-m-e-n-s-h-i-n-e.

14 HEARING OFFICER STUDER: Thank you.

15 MS. BLUMENSHINE: Thank you, sir. My
16 apology. Our members in Sierra Club want protection
17 of our environment to ensure our health for our
18 families and for our future, and I'm here tonight on
19 behalf of our group to request that the IEPA deny the
20 Littleton Mine NPDES permit. We think there is
21 overwhelming evidence and factual basis for this. We
22 are very concerned that this strip mine will further
23 allow pollution that is ongoing in area creeks that
24 will cost the public and taxpayers more money for

1 sediment and health issues regarding our public water
2 supplies. People withdraw water from the La Moine
3 river and on downstream in the Illinois River, and we
4 are concerned about the health impacts from pollution
5 from this Littleton Mine.

6 I have several documents here I would like
7 to present as exhibits. The first is the federal
8 Environmental Protection Agency, ECHO, which is the
9 Enforcement and Compliance History Online search on
10 the Industry Mine, which is related because coal
11 processing will be done at the Industry Mine, which
12 has been verified tonight. So if Littleton Mine
13 proceeds, what is happening at the Industry Mine will
14 continue, and we are very distressed that the Illinois
15 EPA would be aiding and abetting over ten years of
16 NPDES blatant water permit violations in the hundreds
17 by approving the Littleton permit because it will just
18 be continuing operations at Industry Mine. So here is
19 the EPA report for Industry Mine which clearly shows
20 noncompliance in quarter after quarter after quarter
21 on the federal databases and in violation of their
22 NPDES.

23 HEARING OFFICER STUDER: Thank you.

24 MS. BLUMENSHINE: Similarly, the same group

1 which I'm about to get to is in charge of the Crown
2 III Mine that I have also brought the ECHO,
3 Enforcement Compliance and History EPA database
4 printout from that mine.

5 HEARING OFFICER STUDER: Could you provide
6 a reason why that's relevant to this proceeding?

7 MS. BLUMENSHINE: Yes, I am stating here
8 that the Industry Mine and the Crown III Mine are all
9 listed for Springfield Coal Company. There's the
10 Crown III.

11 HEARING OFFICER STUDER: But the applicant
12 is not the Springfield Coal Company.

13 MS. BLUMENSHINE: I do hear what you are
14 saying. I as a member of the public am outraged that
15 these coal companies can hide under new LLCs willy-
16 nilly, and cause the state huge amounts of staff time
17 and money from all you dedicated civil servants and
18 cause the public untold distress, frustration, and
19 continuing disbelief in our state government by
20 allowing these companies to have clear records of
21 blatant violations to go on and apply for new permits
22 taking all our time when they should be fined, and I
23 pardon the expression, in jail for their abuse of the
24 environment.

1 So here from the Illinois Secretary of
2 State's website is the Grindstone Management printout
3 which clearly shows, as Mr. Perbix was so kind to
4 mention, that the officers of Grindstone Management
5 are exactly the same people, the exact same agent
6 name, address in Chicago as the Springfield Coal
7 Corporation, and I have highlighted those lines for
8 the IEPA staff and legal adviser to please review to
9 see if they do not match in every way, and here are
10 those documents, Mr. Hearing Officer.

11 HEARING OFFICER STUDER: Thank you. I will
12 enter those as an exhibit into the record, and we will
13 consider it as data appropriate and contingent on the
14 legal review.

15 MS. BLUMENSHINE: Thank you so much, sir,
16 and we do respectfully acknowledge that the state EPA
17 has great responsibilities and many duties and that
18 you are diligently fulfilling your mission, but I
19 again repeat the dismay of the public in looking at
20 our environment and in the future of Illinois and
21 hearing such things as this permit now moving forward
22 in light of the fact, of which Mr. Perbix also so
23 helpfully mentioned, the Illinois Pollution Control
24 Board ruled against the Industry Mine showing that

1 hundreds of violations were factual.

2 Here is the decision from November which I
3 have also highlighted numerous parts pointing out
4 concerns about the actions of Industry which I again
5 will point out is directly tied to Littleton Mine
6 because the coal will be hauled there, the coal will
7 be processed there, and runoff will be ongoing because
8 if Littleton continues, Industry will continue, and
9 here is this Illinois Pollution Control Board case.

10 HEARING OFFICER STUDER: I do point out
11 that this is a duplicate of what Mr. Perbix provided.

12 MS. BLUMENSHINE: Yes, it is a duplicate.

13 HEARING OFFICER STUDER: I will, if you
14 want me to enter it as a separate exhibit, I will do
15 so.

16 MS. BLUMENSHINE: Please do so. I'd like
17 to point out in the NPDES draft permit for the
18 Littleton Mine that states the projected life is
19 approximately four years. So we know at least for
20 four years coal that will be mined at Littleton and
21 the ground will be stripped and the trees will be
22 taken down, and these dam streams that should serve
23 the public and the environment and the future for us
24 all in drought conditions, pardon me, you should pay

1 attention to that, will suffer the pollution, and the
2 coal will be hauled and processing at Industry Mine
3 will continue, and I do not find it comforting at all
4 that Mr. Greg Arnett, who has run and operated the
5 active part of the Industry Mine, claims he's had no
6 violations --

7 HEARING OFFICER STUDER: Let's not get into
8 personal issues here, please.

9 MS. BLUMENSHINE: I won't. Thank you, sir,
10 but I would like to point out that there is one NPDES
11 permit number for Industry Mine including the active
12 area and that that permit had blatant violations the
13 entire time with no apparent intelligent, honorable,
14 or sincere effort to stop the pollution because that
15 company is now closing up their mining there and they
16 need a new place to go and tear apart and pollute our
17 streams, and as long as the IEPA allows these --
18 pardon my expression -- this is my personal opinion --
19 rogue mine operators, who think they can get by for
20 years, grab their coal, grab their money and run, our
21 state will suffer for it. The public will suffer for
22 it due to manganese, which is directly known to be a
23 trigger for Parkinson's, due to selenium pollution,
24 sediment pollution which affects our wildlife, and the

1 future, folks, is not in coal. We see that now in
2 Illinois.

3 I'm from Peoria. Our city voted for one
4 hundred percent green energy credit as did hundreds of
5 thousands of people across Illinois paying for wind
6 energy, not coal. My sister's putting completely
7 solar panels in her house. She is getting off the
8 grid. I know other people who are cutting back on
9 energy use.

10 Our nation's future is not in coal. While
11 we thank that industry for its endeavors to keep the
12 power on, that is the dark ages. We need to move
13 forward to a true clean energy future; that is to put
14 the full efforts of the law in regulating coal mines
15 and making them follow the law and not allowing them
16 to proceed as has been done by certain people here and
17 the Industry Mine, and we fear at Littleton Mine if
18 this permit is approved.

19 Thank you so much.

20 HEARING OFFICER STUDER: Thank you, Ms.
21 Blumenshine. The next person was -- I can't make out
22 the last name.

23 MR. STUNTZ: My bad. It was -- I was
24 typing on a computer too much.

1 HEARING OFFICER STUDER: He'll be followed
2 by David Schneider. I do also want to point out if
3 you are reading a statement, when you come forward, it
4 would be helpful to the court reporter if you could
5 leave her a copy of the written remarks that you're
6 reading from. I cannot compel you to do so, but I can
7 ask.

8 MR. STUNTZ: Thank you. Hi, my name is
9 Scott Stuntz. I'm a reporter with Tri-States Public
10 Radio. We're based out of Macomb. And I'm just here
11 to take advantage of the fact that I have the members
12 of the Illinois EPA here to just ask a couple quick
13 questions.

14 One is I realize that they are -- that the
15 Industry Mine owners and the owners of the proposed
16 Littleton Mine are different applicants, and an
17 implication of that, does that mean that any
18 enforcement action on the Industry Mine will not
19 affect the permit application for this mine?

20 MS. DIERS: I think that what we're going
21 to have to do is go back and research. I know some
22 information has been submitted on Secretary of State
23 information, so we need to look at that question. Is
24 it two separate applicants or one applicant? If it is

1 one applicant, and if they're deemed, you know, the
2 same person, Springfield Coal, we would under our law
3 have to look at 39(a) of the Illinois Environmental
4 Protection Act that held when adjudication has
5 occurred, we may consider that and put conditions in
6 the permit to address those issues.

7 MR. STUNTZ: Okay. So that's not a
8 separate type hearing? That will be folded into the
9 permit application?

10 MS. DIERS: Correct.

11 MR. STUNTZ: Okay. And then since the
12 enforcement action -- Has enforcement actions or the
13 adjudication on the Industry Mine, not in relation to
14 this specific application, has there been any changes
15 since the review of data or any of the enforcement
16 applications, the policies or violation notices or
17 compliance agreements, has any of that changed since
18 the events at the Industry Mine?

19 MS. DIERS: Sitting here I can't answer
20 that question. I'm the legal counsel on policy.
21 Other people would have to address that.

22 MR. STUNTZ: I believe those are my
23 questions.

24 HEARING OFFICER STUDER: Thank you. David

1 Schneider, did you want to make comments this evening?
2 He'll be followed by Kim Sedgwick.

3 MR. SCHNEIDER: I'll be quick. My name is
4 David Schneider, S-c-h-n-e-i-d-e-r.

5 HEARING OFFICER STUDER: I'm going to ask
6 that you project your voice a little more.

7 MR. SCHNEIDER: Okay. That's fine. I'm
8 going to ask that -- really simple questions to
9 educate myself a little bit better, and I'm going to
10 play dumb a little bit because I'm an engineer, and I
11 have NPDES permits, but can you just explain the
12 acronym of what NPDES is?

13 HEARING OFFICER STUDER: Yes, it's National
14 Pollutant Discharge Elimination System.

15 MR. SCHNEIDER: Okay. So I've heard a lot
16 of different opinions. I want to get -- to find out a
17 little more about facts. I'm just curious, what was
18 your name? I'm sorry.

19 MR. PERBIX: My name is Brian.

20 MR. SCHNEIDER: Okay. Brian. Brian asked
21 some good questions, I thought, and I have some
22 questions from what he was asking. What is the
23 definition of the waters of State of Illinois? He was
24 talking about the ponds that were going to be filled.

1 What is the definition of and where is it finally
2 decided where a stream is essentially ending? I'm
3 just curious.

4 MS. DIERS: Water of the state is defined
5 -- It actually says waters in our Illinois
6 Environmental Protection Act -- in Section 3.550 of
7 the Illinois Environmental Protection Act defines
8 waters.

9 Your next question you asked, it can be
10 very tricky. We're looking at case law. Since you've
11 asked the question, I can go ahead and put it in the
12 responsiveness summary. I can better answer that
13 question for you.

14 MR. SCHNEIDER: Very good. Thank you.
15 What is the significance of a biological review as
16 Brian had asked? I don't understand, I guess. Does
17 that pertain to an NPDES?

18 MR. TWAIT: The anti-degradation
19 assessment, one of the requirements is to look at
20 biological data and assess the stream, and in this
21 instance because the watersheds are so small, the
22 agency has decided that the information that an
23 applicant would gather would not be beneficial because
24 what you find in the stream will depend on how much

1 rain you've gotten within a certain time period. If
2 it's really dry, and you go out there and the
3 watersheds are going to be -- since they're so small,
4 the receiving stream is going to be completely dry,
5 and you're not going to find any aquatic organisms.
6 If it's been raining for three months, you go out
7 there and you're going to find limited aquatic
8 organisms that can handle the wet and dry system.

9 MR. SCHNEIDER: Thank you. I'm just trying
10 to dumb it down for me. Then I want to share
11 something with the lady from --

12 HEARING OFFICER STUDER: Okay. Direct your
13 questions to the hearing panel.

14 MR. SCHNEIDER: Okay. I would just like to
15 share something in regards to energy in general that
16 was shared already. I'm familiar with solar, wind,
17 and coal. I would just like to share the fact that it
18 was presented the future is other alternative energy,
19 but currently the reason why primarily solar and wind
20 can't be considered a baseline energy source since
21 obviously it doesn't happen all the time and we don't
22 have storage capacity. There's no way to store wind,
23 and so maybe the future will change, but I would like
24 to point out the fact that coal is something that can

1 be burned at a consistent rate that we can use at all
2 times. That's all. Just a general fact to me.

3 That's all I have. Thank you.

4 HEARING OFFICER STUDER: Thank you, Mr.
5 Schneider. I have next Kim Sedgewick if you'd like to
6 come forward. She'll be followed by Dana Walker.

7 MS. SEDGWICK: Hi, Kim Sedgewick, K-i-m
8 S-e-d-g-w-i-c-k. I wasn't going to talk tonight, but
9 I can't help myself. All right. A lot of the stuff I
10 was going to say that I just briefly wrote down, I'll
11 submit this later and in an email or something, but it
12 has already been touched on, but basically I'm going
13 to ask some things that -- that everybody probably
14 already has asked. I ask that the water quality
15 standards be met and be in compliance at all the
16 Springfield Coal locations in question prior to the
17 granting of any and all new permits being sought by
18 this company and its directors, the same directors,
19 the same applicants, and the same proprietors.

20 I know that you are stating that we should
21 not discuss Industry, but as I wrote down, even before
22 they mentioned, if they're going to be washing the
23 coal at the previous location with the violations, I
24 ask that this permit -- that this permit is granted --

1 I also ask that if this permit is granted, and since
2 the plan will be to take the coal back to the other
3 place that we are able to talk about this because it
4 is connected, and that -- that it should be included
5 in this public hearing, or if it is not related to the
6 Littleton Mine whatsoever, and we're not supposed to
7 talk about it, then they need to find a different
8 washing facility because if it's going to be a
9 different permit completely, and has to be looked at
10 separately, then the washing of the coal needs to be
11 at a different location where the violations are not
12 taking place. And basically, you know, unless
13 everything is rectified at Industry, if Springfield
14 Coal even made an attempt to rectify what was taking
15 place there, maybe things could step forward, but
16 otherwise I just feel that the IEPA -- it's a conflict
17 of the IEPA's law to do that.

18 So thank you very much.

19 HEARING OFFICER STUDER: Thank you. I
20 believe it was Dana Walker was next.

21 MR. WALKER: That's me.

22 HEARING OFFICER STUDER: Okay. That will
23 be followed by Sara Wood.

24 MR. WALKER: Dana, D-a-n-a, Walker. I just

1 have one question about the coal washing facility at
2 the Industry Mine, which is obviously a part of this
3 application because that's -- it would be involved in
4 the operation of the Littleton Mine if it comes to
5 exist. Have there been violations or discharges from
6 the coal washing facility at Industry Mine? That's my
7 only question or comment this evening.

8 MS. DIERS: We don't know that offhand, but
9 we will definitely take a look at that when we're
10 going through this process.

11 MR. WALKER: It's our -- If there are
12 violations, that would be very pertinent for the
13 permit for Littleton.

14 HEARING OFFICER STUDER: Thank you, Mr.
15 Walker. And Sara Wood.

16 MS. WOOD: May I pass and give my time to
17 Brian Perbix?

18 HEARING OFFICER STUDER: Okay. I don't
19 allow times to be passed from one to the other, but
20 since you're the last card on here, we've still got
21 some time. So we do have some time for Mr. Perbix to
22 come forward --

23 MS. WOOD: Thank you.

24 HEARING OFFICER STUDER: -- and go for

1 another round.

2 MR. PERBIX: Is there anyone else?

3 HEARING OFFICER STUDER: I'm sorry?

4 MR. PERBIX: Is there anyone else?

5 HEARING OFFICER STUDER: Oh, okay. That's

6 a good question. Is there anyone in the room --

7 Brian, you've been to almost as many hearings as I

8 have. Is there anyone in the room that hasn't spoken

9 that would like to make comments on the record this

10 evening? Thank you, Brian. Okay.

11 MR. PERBIX: Thank you, Mr. Hearing

12 Officer, for your allowance of a little bit additional

13 time.

14 I just have a couple of brief points to

15 make. First, I just wanted to clarify in case I

16 wasn't being clear before, that, you know, we're

17 interested in what kind of biological and chemical

18 data the agency has or hasn't collected on the streams

19 that will be destroyed. We do continue to disagree

20 with the agency's policy that headwater streams of

21 watersheds under one quarter square mile are

22 uniformly, you know, not worthy of taking a closer

23 look at as a blanket policy across the state. We feel

24 that this unlawfully removes protections from those

1 waters, and that to continue to implement the policy
2 as such is not in the best interest of protecting
3 clean water in Illinois.

4 And then just I have one -- one last line
5 of questioning. Start off with a question. Did the
6 applicant provide -- So in the anti-degradation
7 assessment, of course, the -- or excuse me -- In the
8 Alternatives Analysis that was used to inform the
9 anti-degradation assessment, the applicant provided
10 discussion of several alternative treatment
11 technologies; however, I did not see any actual
12 estimates of, you know, feasibility particular to the
13 site, or an attempt to quantify the potential cost for
14 using of any of these treatment technologies. Was any
15 of that kind of information communicated to the agency
16 in other documents besides that -- that Alternatives
17 Analysis?

18 MR. TWAIT: I don't believe so, but we'll
19 answer that fully in the responsiveness summary.

20 MR. PERBIX: Okay. Thank you, and I bring
21 that up because, you know, it's clear from the draft
22 permit that if the project does move forward, the
23 agency will be allowing for the lowering of water
24 quality within Sugar Creek and Bauer Branch.

1 If you look at the attachment that I'll
2 submit titled, Surface Water Monitoring Data from
3 Littleton Mine, this is information the applicant
4 collected and submitted along with its mining permit
5 application.

6 HEARING OFFICER STUDER: You want this
7 entered as evidence?

8 MR. PERBIX: Yes, I do.

9 HEARING OFFICER STUDER: I will do. Thank
10 you.

11 MR. PERBIX: Chlorides would be allowed to
12 increase up to 500 mg/L, while currently they rarely
13 exceed 30 mg/L in area streams. Similarly, sulfate
14 discharges of up to 1,729 mg/L will be allowed, while
15 current levels in the streams rarely exceed 200 mg/L.
16 A similar comparison holds true for such parameters as
17 TDS, TSS, Manganese and iron to name a few. This is a
18 concern from the policy perspective because
19 concentrations of these parameters in West Branch,
20 Sugar Creek, and in Bauer Branch are typically
21 currently lower than applicable water quality
22 standards based on the applicant's information which
23 we've submitted, and under the state's
24 anti-degradation law, the agency is required to

1 maintain this level of water quality unless it has
2 been shown that alternatives to lowering water quality
3 are technically or economically infeasible.

4 The information that we have reviewed, the
5 agency and the applicant have not shown this to be the
6 case. While several alternative treatment options
7 were mentioned in the applicant's Alternatives
8 Analysis dated June 23rd, 2011, the applicant fails to
9 provide feasibility studies or cost estimates that
10 would actually allow such a determination to be made.

11 And, you know, just to take -- to show --
12 to illustrate by example some of the language that is
13 used in that Alternatives Analysis, they -- they --
14 Well, I'm lost here. They state that when discussing
15 the possibility of constructing instead, as Mr.
16 Moorehouse suggested, offline, out-of-channel
17 sedimentation ponds, you know, they state that the
18 sedimentation ponds as proposed are located
19 specifically to maximize the efficiency of the coal
20 mining operation within the proposed permit boundary,
21 and that any alterations will be a substantial burden
22 on the mining company; however, no actual feasibility
23 analysis and no cost estimates are provided.

24 So we would ask the agency to respond in

1 writing, you know, how did they actually determine
2 that it was technically or economically infeasible to
3 go with that particular alternative treatment method,
4 which we know would eliminate or address some of our
5 earlier concerns that we've raised here tonight about
6 the destruction of waters in the state.

7 And, similarly, why weren't the other
8 alternative treatment technologies discussed in that
9 memo where no similar cost figures is provided. We
10 feel that if this information is not provided, the
11 agency will not have fulfilled its obligations under
12 anti-degradation and that that would, of course, be
13 grounds for appeal.

14 So we thank the agency for your time
15 tonight and for the opportunity to provide additional
16 comments.

17 HEARING OFFICER STUDER: Thank you, Mr.
18 Perbix.

19 One last time, is there anyone that has not
20 spoken this evening that has any other comments or
21 anyone period that has any comments that they would
22 like to make on the record before I close the hearing
23 this evening?

24 Let the record indicate that no one raised

1 their hand. I remind everyone that the hearing record
2 is open for written comments until February 8th.

3 I thank you for your patience in dealing
4 with the acoustics this evening, and on behalf of the
5 Director Kim and Marcia Willhite, Bureau Chief For
6 Bureau of Water, I thank you for your attendance and
7 participation this evening.

8 Thank you. This hearing is adjourned.

9 (WHEREIN, the hearing was adjourned at 7:10
10 p.m.)

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CERTIFICATE OF REPORTER

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COUNTY OF SANGAMON)

I, Rhonda Rhodes Bentley, CSR, RPR, a
Certified Shorthand Reporter, Registered Professional
Reporter, within and for the State of Illinois, do
hereby certify that the hearing aforementioned was
held on the time and in the place previously
described.

Certified Shorthand Reporter

CSR #084-002706