BEFORE THE

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)

SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT

MADISON, MONROE and ST. CLAIR COUNTIES

PUBLIC HEARING

JANUARY 3, 2013
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BEFORE THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)

SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT
MADISON, MONROE and ST. CLAIR COUNTIES

A PUBLIC HEARING was held in the
above-captioned matter on the 3rd day of January,
2013, between the hours of 6:30 o'clock in the
evening and 8:06 o'clock in the evening, at the
Metro East Park & Recreational District, 104 United
Drive, in Collinsville, Illinois, before Pamela K.
Needham, CCR, CSR (MO, IL) and Notary Public, in a
certain cause now pending BEFORE THE ILLINOIS
ENVIRONMENTAL PROTECTION AGENCY (IEPA) regarding the
SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT of
MADISON, MONROE and ST. CLAIR COUNTIES.
APPEARANCES:

MEMBERS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY:

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P R O C E E D I N G S

HEARING OFFICER STUDER: Good evening. My name is Dean Studer, and I'm the hearing officer for the Illinois Environmental Protection Agency. On behalf of Interim Director John Kim and Bureau of Water Chief Marcia Willhite, I welcome you to the hearing this evening. Illinois EPA believes this public hearing and the overall public comment process is a crucial part of the certification review process. As hearing officer, my primary purpose tonight is to ensure that this proceeding is run properly and in accordance with established rules, and in an orderly but efficient manner. Therefore, I will not be responding to issues regarding the certification process or the proposed certification, but will defer these issues to the technical staff that are here with me this evening. However, I will assist those members from the public wishing to comment at this hearing to stay focused on the relevant issues. I point out that we have a limited amount of time for this hearing, and the hearing panel will be responding to issues when clarification is necessary. We are primarily here to listen to your concerns.

This informational hearing is being
The purpose of this hearing is to provide an opportunity for the public to present information to the Illinois EPA regarding the review of the Section 401 water quality certification application associated with three levee stabilization and enhancement projects submitted by the Southwestern Illinois Flood Prevention District Council. Illinois EPA will be accepting written comments on these 401 water quality certification applications through February 4th, 2013. Comment forms are available at the
registration desk. Comments do not necessarily have
to be submitted on these forms, but must be
postmarked no later than February 4th, 2013, to be
considered by the Illinois EPA as we deliberate
final action on these applications.

The process for this hearing
regarding 401 water quality certifications will be
as follows: I will finish reading this opening
statement into the record. After that, the panel
from Illinois EPA will introduce themselves, giving
a brief overview of the Section 401 water quality
certification process and their role in the agency
review of the proposed projects. The applicant will
then be given an opportunity to offer brief remarks.
This will be followed by comments from citizens,
organized groups and associations. People will be
called upon at a time to come forward -- one at a
time, excuse me -- to come forward and make comments
on the record. This hearing is the only opportunity
that the public will have to make oral comments on
the 401 proceeding. After the hearing is adjourned,
comments must be submitted in writing to be included
in the record.

Comments may be submitted in hard
copy by regular mail, or by email. Emailed comments
should be directed to: EPA dot public hearing com,
Illinois dot G-O-V. Email comments will be accepted
if received by midnight on February 4th, 2013.
Comments received at the stroke of midnight as the
date is changing to February 5th, 2013, will not be
considered timely filed. Emailed comments must
specify either SWIL Flood Prevention District
Council, or C hyphen 0001 hyphen 12, or C hyphen
0002 hyphen 12, or C hyphen 0003 hyphen 12 in the
subject line. Emails at EPA public hearing com at
Illinois dot GOV are automatically sorted and
distributed, so it is critical that the emails
contain the words in the subject line exactly as
indicated in the hearing notice to ensure that they
make it into the record and are considered. When
your email arrives, the system should send you an
automated reply if the email was received before the
comment period ends and the email has been properly
sorted and distributed. I note that the server can
become quite busy in the minutes before the record
closes, so you may want to take this into account
when submitting your comments, again, as electronic
comments received after midnight on February 4th as
the date is changing to February 5th will not be
Comments sent by regular mail must be postmarked again no later than February 4th, 2013. They should be addressed to: Dean Studer, Hearing Officer, Illinois Environmental Protection Agency, Office of Community Relations, Mail Code 5, regarding SWIL Flood Prevention District Council, 1021 North Grand Avenue East, PO Box 19276, Springfield, Illinois, 62794-9276. This contact information is included on the Notice of Public Hearing, as well as the comment forms, the email address, and what needs to be in the subject line are also in that notice. The hearing notice is posted on the Illinois EPA's web page. Once the hearing is adjourned tonight, the comment period will remain open again until February 4th, 2013.

Comments submitted in writing will be considered in the same manner and given the same weight as statements made on the record during the hearing. After the record closes in this matter, the Illinois EPA will develop a responsiveness summary. The responsiveness summary will address the significant issues raised during the hearing or submitted in writing prior to the close of the public comment period. The hearing transcript and
subsequent responsiveness summary will be posted on the Illinois EPA's website. The Agency will make every attempt to post the hearing transcript on our website in approximately two to two and a half weeks following this hearing, but the actually posting date will depend on when we get the transcript back from the court reporter.

The Illinois EPA has a tentative -- has made a tentative determination to issue the Section 401 water quality certifications in accordance with the provisions of 35 Illinois Administrative Code Part 395. However, any comments made as part of this hearing and the public comment process may cause the agency to request the applicant to revise the project to address the issues raised.

Issues that are relevant in this hearing are those arising from the application for the 401 water quality certifications and the antidegradation assessments specific to the 401 certifications that were included in the public notice fact sheets for these 401 certification projects. Relevant issues include the mitigation of wetland and stream impacts as they are related to the 401 certifications, and impacts due to discharge
of dredge and fill into surface waters or wetlands.

Any person who wishes to comment tonight may do so
as long as the comments are related to the issues
that I have just listed, or to the water quality
certification in some way, and time permits.

If you filled out a registration card
at the door, you were asked to indicate if you wish
to speak at this hearing. Persons will be called
forward to make comments one at a time. If you wish
to comment but have a time constraint, please see
Barb Lieberoff at the registration table now, and we
will try to call on you earlier in the proceeding
rather than later. As an alternative, you can make
written comments on one of the comment forms
available at the registration table, and I will
include it as an exhibit in the hearing record. If
anyone has exhibits that they want to present during
the hearing, you should give me a copy when you give
your testimony, and I will enter it into the record.

For the purpose of allowing everyone
to have a chance to comment, and to ensure an
efficient hearing process, I will give everyone six
minutes to comment. Once everyone that desires to
comment has been given that opportunity, if time
allows, I may come back to those that have already
spoken but initially ran out of time. If you have lengthy comments, I am requesting that you submit them to me in writing before the close of the comment period, and I will ensure that they are included in the hearing record as an exhibit.

When it is your turn to comment, if someone else has said what you intended to say, you can pass when your name is called. Persons coming forward to testify should first clearly state their name, and if applicable, identify any governmental body, any organization that they have or represent. You should also spell your last name so it can be accurately reflected in the record. If there are alternate spellings for your first name, you may also spell your first name. If you are representing yourself, you can simply state that you are an interested citizen. When you spell your name, I will start timing you. At the end of the time limit, I will bring the next person forward to make comments. In this way, we should be able to keep this hearing moving.

Comments should be: One, relevant to this proceeding, as I previously indicated; and two, not repetitious. Please understand that making the same point many times does not carry any more weight
in the record than the first time it is made.

Arguing or prolonged dialogue between agency panel members or the public will not be allowed. On a similar note, I will not allow anyone other than the person who has been given the floor to speak at the time. Because a verbatim record of this hearing is being made for the administrative record in this matter, I ask that you keep your conversation and noise levels to a minimum so that the court reporter can hear and accurately transcribe everything that is being said. Comments are to be addressed to the hearing panel.

As hearing officer, I intend to treat everyone here tonight in a professional manner and with respect. I ask that the same respect be shown to those raising relevant issues. While the issues discussed tonight may indeed be heartfelt concerns to many of us in attendance, this is a public hearing, and everyone has the right to comment on issues relevant to the water quality certification process. However, I intend to conduct an orderly hearing, and I will closely monitor what is said to ensure that the rules that I have just outlined are followed.

If the conduct of persons attending
this hearing should become unruly, I am authorized
to adjourn this hearing should the actions warrant.
In such a case, the Illinois EPA would accept
written comments through the time indicated in the
notice for this hearing.

Are there any questions for me on how
we'll proceed tonight? Okay, let the record -- oh,
yes.

MS. KATHY ANDRIA: How will the timing of
questions be?

HEARING OFFICER STUDER: We'll -- we allow
six minutes; if questions are asked, the response
time counts toward those six minutes.

Okay, since this hearing is governed
by Section 401, I'm also required to make mention of
the exhibits. Thusfar in the record I entered the
following exhibits into the record:

Exhibit 1 is the Notice of Hearing.
Exhibit 2, the Public Notice/Fact
Sheet for the Prairie du Pont and Fish Lake project.
Exhibit 3 is the Public Notice/Fact
Sheet for the Wood River Drainage and Levee
District.
Exhibit 4 is the Public Notice/Fact
Sheet for the Metro East Sanitary project.
Exhibits 5 through 7 are comments made to the Corps by Washington University School of Law; a joint comment from American Bottoms Conservancy, Prairie Rivers Network, and from the Illinois Chapter of the Sierra Club, and Exhibit 7 is the letter to, to the Corps from USEPA.

Exhibit 8 is the project overview map, and I believe those maps were also made available at the registration desk this evening.

Exhibits 9 through 16 are letters in support of the project from a Granite City resident, from the City of Alton, from IMPACT Strategies, Johnson Properties, from the Bank of Edwardsville, from America's Central Port, from StoneTree Fabrications, and from a Madison County resident.

I will now ask our agency panel members to introduce themselves and briefly describe their role in the review of the 401 certification process. This will be followed by Thaddeus Faught making a brief presentation regarding the 401 certification process and this application. I will then allow a representative from the Southwestern Illinois Flood Prevention District to come forward to make a brief statement. Following this, I will allow the public to come forward as their name is
called to make statements.

MR. KOCH: My name is Brian Koch, I work in the Water Quality Standards Unit, and I wrote the antidegradation assessment for this project.

MS. TERRANOVA: I'm Sara Terranova, I'm with the Division of Legal Counsel.

MR. FAUGHT: I'm Thaddeus Faught, I work in the Facility Evaluation Unit, and we review -- part of what we do is review 401 applications.

Projects that include the discharge of dredged or fill material in the waters of the United States are required to be covered by a permit issued by the US Army Corps of Engineers under Section 404 of the Clean Water Act. The Illinois EPA issues water quality certifications pursuant to Section 401 of the Clean Water Act to the Corps for Section 404 Corps permits. The 401 review is focused on potential impacts to water quality due to the proposed construction activity. Issuance of the 401 certification does not have any effect or bearing on what is required of the Southwestern Illinois Flood Prevention District Council by any other federal, state or local regulations.

HEARING OFFICER STUDER: Can you hear in the back?
UNIDENTIFIED ATTENDEES: Yes.

HEARING OFFICER STUDER: You can use the microphone if you want.

MR. FAUGHT: I'm almost finished.

The Illinois EPA received an application on December 20th, 2011, from the Southwestern Illinois Flood Prevention District Council for 401 water quality certification for the discharge of dredged or fill materials associated with construction of levee relief structures. Construction activities would result in discharge of dredged or fill material in approximately 1,150 linear feet of streams, and 26.13 acres of wetlands. The waters include unnamed wetlands, Indian Creek, and an unnamed stream. Mitigation for stream impacts would include the establishment of approximately 1.1 acres of planted riparian corridor and preservation of the approximately 6.4 acres of riparian area. Mitigation for wetland impacts would include establishment of approximately 55 acres of wetland habitat.

The Illinois EPA has reviewed the certification application with regard to Illinois water quality standards and certification regulations. Based on that review, the Illinois EPA
issued a public notice, including the
antidegradation assessment fact sheet on November 20th, 2012, to seek public comments on the project.

HEARING OFFICER STUDER: Thank you,

Thaddeus. Les, did you want to make a brief opening statement?

MR. STERMAN: Sure.

HEARING OFFICER STUDER: If you'd come forward and state your name and the organization you're representing, and if you would spell your last name and your first name for the record, please?

MR. STERMAN: My name is Les Sterman, I'm Chief Supervisor of the Southwestern Illinois Flood Prevention District Council, S-T-E-R-M-A-N.

First, thanks for being here and spending all that time, I, it's -- December 11, 2011, is when we submitted this, so it's been a year of work for, for us and for you in considering this application, so -- and we know that you've put in a lot of work and time on it, and we appreciate that.

Obviously the project that's the subject of this hearing is one that holds great significance for our community. The American Bottom, the area protected by the levee system that
we're talking about here tonight has been settled for hundreds of years, it's home to 156,000 people, 55,000 jobs. Failure of this system would lead to inundation of about 174 square miles. It would be an epic catastrophe rivalling that which befell New Orleans after Hurricane Katrina, so obviously this is a monumental issue for our community.

2007 FEMA and the Corps of Engineers came to town and said that this levee would no longer provide the protection from flooding that we've counted on for 50, 60 years in this community. That declaration caused us to mobilize on a regional basis in a, in an unprecedented way. A new dedicated tax was approved, a new regional organization was constituted to design and build levee improvements, bonds have been sold to finance the project. Now after three years of planning and design work, we're on the threshold of, of construction. Project would be complete hopefully in another three years.

Few man-made projects come entirely without impacts, we know that. Impacts on the environment. We've done our best to mitigate or avoid these impacts while achieving our objective of improving flood protection, and we're gratified that
IEPA has tentatively come to the conclusion that the impacts are indeed very small and effectively mitigated. Importantly, those impacts are particularly negligible when compared to the benefits of the project. While much has been made of the economic benefits of this project, and you'll, I'm sure you'll hear about that from some of the folks that will come before you tonight, the benefits are actually far more profound. In the absence of this project, 156,000 people and their homes are at risk. Inundation would cause an environmental catastrophe almost beyond measure, as industrial sites, many of them Brownfields, are inundated. It's because of the genuine understanding of these incredible impacts on our community that people did come together and rallied around this project.

Before I step aside and listen to the public comment myself, you know, I'd like to thank the staff of the IEPA who recognized the urgency and magnitude of the project for their diligence, thoroughness and hard work doing the careful analysis necessary to support the certification process. As they I'm sure will tell you, we were very impatient. We pressed them pretty hard to make
this process easier or go faster, but they
maintained a high standard throughout, and we hope
that the thorough documentation that we worked
together with them to prepare will address any
cconcerns about the impacts of the project.

I'm going to sit down now and look
forward to hearing the questions and comments, and
we will do our best working with IEPA to address
them in the coming weeks.

HEARING OFFICER STUDER: Thank you, Mr.
Sterman.

Okay, the first, first person to come
forward will be Mayor Alvin Parks from the City of
East St. Louis.

MAYOR ALVIN PARKS: Good evening, my name is
Alvin Parks, Mayor of the City of East St. Louis and
also a member of the Southwestern Illinois Flood
Prevention District, and first of all, ditto to
everything that Les Sterman just stated.

The second part of that is I'd like
to put in a little bit more perspective for the
panel the impact that this would have due to some of
the poverty of the communities like East St. Louis.
I think about the number of people who would have
absolutely no place to go. Individuals who, if we
don't repair these levees as quickly, as thoroughly, and as properly as possible, what will happen is complete devastation, displacement, and people not only having no place to go, but nothing to go with. If not for some of the people who came forth in East St. Louis for Christmas, as an example, people like our County Board Chairman Mark Kern, who distributed food coupons throughout the East St. Louis community for people to be able to go to Schnuck's, there would have been families without. I underscore that, because I think a lot of times what we think of is individuals who might be temporarily displaced, and they'll find someplace else to be. But when you don't have much, and you talk about the concept of things like mandatory flood insurance, that's the kind of thing that people in East St. Louis, I'll go as far as to say Centreville, Alorton, Washington Park, Brooklyn, Venice, I know Mayor Hamm is here to speak for his own community in Madison, but that's the kind of thing that individuals who don't have alternative resources don't recover from very quickly.

Another thing that I look at is industries like the Casino Queen. The Casino Queen is 45 percent of our general revenue fund in East
St. Louis. Sits right on the Mississippi River. If we don't continue moving the projects forward as quickly as possible, the role that you're playing, we thank you very much for the role that you're about to play with regard to the permitting, the role that the US Army Corps of Engineers plays, the role that any other agencies have to come forward and help make these repairs, where necessary, happen as quickly as possible. Without that, something like the Casino Queen would be devastated, and therefore, East St. Louis would be devastated.

I think that industries out in Sauget; I think about industries in other parts of the metro region. Les has already talked about the number of people who would be affected, but it's also the corporate climate, as we're trying to recover not only in the United States, but specifically through, through this American Bottoms region. If we can get our economy roaring again, it's going to make all ships rise, and we'll all be better for it.

Thank you for your time. And I apologize for having to leave, but I've got a council committee meeting that I've got to get to.

HEARING OFFICER STUDER: Thank you, Mayor
MAYOR ALVIN PARKS: Mm-hmm.

HEARING OFFICER STUDER: Mayor John Hamm

from Madison.

MAYOR JOHN HAMM: Good evening, my name is
John Hamm, I'm the Mayor for the City of Madison,
last name is H-A-M-M. Again, thanks to Mayor Parks
for bringing all the points that he has brought up.

Speaking for my community, we're just
now getting, getting out of some of the ruts that
we're in, we, and I'm also going to speak in behalf
of the Madison County Housing Authority, I'm the
executive director there. We've tore down a lot of
this old delapidated housing that we've had there,
we've just invested over $60 million in redoing this
housing. People like US Bank are investing in our
area. We have an industry in my community, Abengoa,
which is an ethanol plant that's just built, $234
million plant, and they're, these people are taking
a look at our communities at this time, they're
building in our communities with the anticipation
that these levees are going to be repaired. And I
see Dale Stewart here, there's been lots of jobs
that he's been working on where our city is kind of
pulling at the boot strings and making, making
efforts, but I can see that all just stopping dead
in, dead in the water, and all those investments
that's coming our way and making that are going to
go away. There's no two ways about that. And we're
thankful for them being in the prices of flood
insurance, I have devastated communities also right
along the river, the West Madison portions. These
people, like Mayor Parks says, have no place to go.
We can build affordable housing, but there are still
people who can't afford to leave that house that
they've been living in 60, 70 years that's kind of
falling down around them, and we're trying to build
them up. So it's vital to my community for sure,
and there, and, you know, Granite City and Venice
and that that we, that we get these levees repaired
and the permit process moves forward.

Right now the river's running dry.

Excellent time to get things done like the Port
Authority, I'm a commissioner for the Port Authority
for us to get the new port done in there. So there
again, it's all good stuff for the, for the economy
and stuff for our community, and we appreciate any,
any help that you guys can give us to get those
things done.

HEARING OFFICER STUDER: Thank you, Mayor
Hamm. The next person will be Mayor Kevin
Hutchison, and that will be followed by Kathy
Andria.

MAYOR KEVIN HUTCHISON: I'm Mayor Kevin
Hutchison, the Mayor of the City of Columbia. I
want to thank you all for being here tonight.

I really don't want to echo
everything that's already been said, but as every
mayor here that has land, has city limits along the
levees, it's a huge concern from both an economical
standpoint, and from a residential standpoint of
those living in this protected area that we continue
to move forward with the work that's been done by
the Southwest Illinois Flood Prevention District and
to get this approval so we can project the
properties that are currently down in the flood
districts.

But furthermore, I'm also a certified
insurance counselor and certified risk manager, and
I work for an insurance agency in St. Louis, and
I've written a lot of flood insurance both on the
Missouri side and on the Illinois side, both within
and outside of, you know, protected levee districts.
I've seen what special hazard flood districts and
the designations can do to premiums, and as Mayor
Parks and Mayor Hamm stated, not only is it devastating from the standpoint of you may not be protected, you may be in risk of losing your house, but furthermore, this is yet another step of insurance to make sure that we've done what we can to prevent the flood. But along with that, the other due diligence is transferring that risk through flood insurance, and the cost in an unprotected area if we were not to get this approval would absolutely devastate those that are currently paying flood insurance, because it would in some cases show a two, three and four times increase in flood insurance costs. So thank you very much for your time.

HEARING OFFICER STUDER: Thank you, Kevin Hutchison. Kathy Andria, as she's coming to the podium; following her will be Dale Stewart.

MS. KATHY ANDRIA: My name is Kathy Andria, I am president of the American Bottom Conservancy and Conservation Chair of the Kaskaskia Group of the Sierra Club. I make these comments on behalf of both organizations and our members, many of whom live in the American Bottom floodplain and will be impacted by the decisions made in permitting of levee repairs. ABC is a member of the Illinois EPA
Environmental Justice Community Advisors Group, and we ask that this matter be considered can under EJ guidelines.

The purpose of the levee improvements is said to be to restore the level of protection such that the levee systems will provide protection from a 100-year flood event, and many of the assumptions that are being used are based on that. But the premise is false. Neither AMEC nor the FPDC has decreased climate change and its impact on intense weather events. They have not determined what truly is a 100-year flood. In its draft finding of no significant impact, the Corps stated that no significant climatological changes are expected to occur over the next 50 years. We all know that's not true.

At a conference held in 2008, Professor Timothy Kuske of the Department of Earth and Atmospheric Sciences at St. Louis University said that global climate change models indicate that what used to be the 100-year flood along the Mississippi River may soon become the 7-year flood. A peer reviewed scientific study says that: The Corps has underestimated the 100-year flood by three to four feet. The river levels chart used by AMEC
use data through 2010. In 2011, the Mississippi River was above flood stage for much of the year. In 2012, the year just passed, river levels were at historic lows. AMEC used rainfall data from the 80's. The 80's. If assumptions are wrong, conclusions are wrong.

Why does it matter? The people who live and work in the American Bottom floodplain are being deluded that this levee repair project will provide them with an annual 1 percent or 100-year protection, and I believe that short cuts have been taken in the permitting process in order to meet FEMA standards so that people don't have to flood -- buy flood insurance, and development can continue in the floodplain. But by sanctioning the fiction of the 100-year protection, people won't buy flood insurance and will be at risk. They deserve to know their real risk. The people who live there, the people who might develop there.

We are being asked to comment on a project with incomplete information. The design isn't even completed yet. We are most concerned about the calculations used with regard to relief wells and pumping the water untreated into the river and releasing it into the surrounding wetlands.
Several pump stations lie just above water intakes for much of the public water supply in the Metro East. This is the water we drink. People fish in the river along the levee system, and many eat their catch. This is especially true of low income and middle earning families. There are PCB's and dioxins in fish tissue along Sauget. The -- many citizens walk the trails and hike along the wetlands next to the levees. There is kayaking and other recreational uses of the river by citizens on both sides of the river.

This is one of the most complex issues and sets of permits I've ever been involved with. I know you, IEPA, have been pressured to make a quick decision and issue the certification, as many of the people are urging you to do. We appreciate the time and care you have spent on this document, but on behalf of the people who will be affected by your decision, please make sure that you protect water quality and the health of those who could be affected. You should not grant 401 certification unless you can ensure that water quality standards, including antidegradation, are met, and you must require an NPDES permit for areas where there are clearly
anthropogenic pollutants in the ground water.

Understand, we do not oppose repairing the levees, we just want environmental laws followed and people protected. If there's time, I have questions.

HEARING OFFICER STUDER: Okay, go ahead.

You've got about two and a half minutes.

MS. KATHY ANDRIA: Can the Agency show that the concentration of pollutants such as iron, lead, copper, manganese, mercury, zinc, benzo (a) pyrene and bis in the Mississippi River in the land where wetlands to which ground water will being discharged is similar to the concentration of pollutants in the ground water being discharged?

MR. KOCH: Can you state that again? I'm sorry.

MS. KATHY ANDRIA: My time.

MR. KOCH: I know, I'm sorry.

MS. KATHY ANDRIA: Is there -- and this is the water transfer.

MR. KOCH: Yeah.

MS. KATHY ANDRIA: Is it the same on both sides?

MR. KOCH: Essentially. I mean the ground water -- the Mississippi River and the associated
ground water, I mean they're, they're hydrologically connected, yeah, I mean the Mississippi River recharges the ground water. During flood conditions the ground water is forced to up well. Yeah, I mean the ground water is comprised of metals that come from the river.

    MS. KATHY ANDRIA: Did the -- AMEC said that the metals are naturally occurring and they keep --

    MR. KOCH: Well, yeah, if you look at --

    MS. KATHY ANDRIA: I mean there's a lot of zinc and cadmium and all kinds of things that are along --

    MR. KOCH: I understand.

    MS. KATHY ANDRIA: -- I mean the whole place is contaminated from Alton down to Prairie du Pont. I mean most of, there's so many contaminated sites, and not all have been addressed.

    MR. KOCH: That's true. I mean if you look at ground water throughout the state, though, you'll see that typically ground water concentrations do have elevated concentrations of dissolved metals that, when you look at it from a surface water perspective, you know, it would violate the surface water standard. But again, this is ground water, when that ground water is brought up, it becomes
oxidized, the metals settle out, and that, this, we
see this across the state. I mean this isn't just
a, a problem we've seen in this site, we've seen it
across the state.

MS. KATHY ANDRIA: Do you -- why are you
using 1984 data? For ground water.

MR. KOCH: Well, that was the most I guess
widespread analysis that was done. There's plenty
of data throughout the whole American Bottoms
region, and it encompasses all three project areas
that looked at several different metals. For the
metals that we didn't feel comfortable with, mercury
being one, we went out and redid our own sampling,
because we found that the old mercury data used
older detection methods, which didn't get a low
enough level of detection.

So again, I mean we, we looked at
what the applicant gave us, there's other data
within the project areas, and as far as relief well
data, we looked at that, as well. We were pretty
comfortable with the data that we received
regarding, you know, the ground water data, you
know, with the background metals.

MS. KATHY ANDRIA: And you're assuming that
1984 was background.
MR. KOCH: I don't see why it would, it would change. I mean it's ground water.

MS. KATHY ANDRIA: But it could have been contaminated in 1984. Some of these sites go back decades.

MR. KOCH: Well, I just don't see the difference between the '84 data and data that we would collect now.

Again, our focus wasn't necessarily on metals data. I mean we're, we're aware of the high metals in some locations; we're mainly concerned with the two areas that had organic pollution. We were mainly concerned with the Sauget area and the Hartford area. We want to look into that data and make sure that the data we had was good and that they could meet standards.

MS. KATHY ANDRIA: Isn't there the potential to bring contamination of the, when the river is down like it is now for the contaminate -- the water flows then toward the river. Isn't that the contamination to have res -- the residue to be there, that when you pump, when it comes up that you can have new contamination?

MR. KOCH: That could happen, yes; but this activity is not adding these pollutants to the
water. I mean the pollutants are there. If the river goes up and down, the pollutants may move in and out, but, you know, the activity that we're, we're here to discuss does not, does not add any of these pollutants.

MS. KATHY ANDRIA: I have a bunch more questions, but I will let other people speak and ask them afterwards if there's time.

HEARING OFFICER STUDER: Yes, I'll keep your card here. And for the record, it's Kathy with a K, and the last name is spelled A-N-D-R-I-A.

MS. KATHY ANDRIA: Thank you.

HEARING OFFICER STUDER: Yes, thank you, Kathy, and I'll keep your card up here. Dale Stewart is coming forward, and he will be followed by Rich Conner. Mr. Stewart, if you'd go ahead.

MR. DALE STEWART: Yes. My name is Dale Stewart, S-T-E-W-A-R-T. I'm the Executive Secretary/Treasurer of the Southwestern Illinois Building Trades Council. Our council is made up of 14 affiliated international unions who perform work on various building construction projects, and our membership is roughly around 9,000 members.

When I took over as Executive Secretary/Treasurer in 2005 in the Southwestern
Illinois area here, we had a lot of new construction work going on, we had -- we built two ethanol plants, we've built the Sunco project, we have done warehouse work, we've done a lot of work at the ConocoPhillips power plant. All these projects were going on prior -- were already in the process when we opened prior to 2007, when we got the notice from the FEMA what was going to take place. We thought we would get this taken care of fairly quickly, it wasn't taken care of. This process has continued to drag this project down.

In the last almost two years now it's become stagnant in this area, we're not getting any work at all. Everybody is fearful what's going to take place, whether these levees are going to be taken care of or not. We feel in the building trades, which our people, the 80 -- the close to 9,000 members live and work here in the American Bottoms. We live right along here, we've worked and lived behind these levees for years, and we continue to plan on living here. I've heard previous speakers talk about different things that's taken on in their areas, that's true, but in the building part, it's literally went stagnant here in the last two years, and it's just because of the fact that
there is no security what's going to take place. We strongly ask that you would move forward with the permitting process and make this project come true. Thank you.

I also have three letters here I'd like to submit.

HEARING OFFICER STUDER: You'd like to enter these as exhibits?

MR. DALE STEWART: Yes.

HEARING OFFICER STUDER: Okay, thank you.

Rich Conner, and he will be followed by, looks like Mayor Harold, if I can make out the last name. Is it Simmons or Simonds? Simmons.

MR. RICH CONNER: I am Rich Conner, C-O-N-N-E-R. I serve as chairman of the St. Louis Metro East Levee Issues Alliance. The Levee Issues Alliance is a growing list of business and civic organizations, community leaders and concerned citizens in Southwestern Illinois and the greater St. Louis area that serves as a public watch dog and advocate for the successful completion of this project. We have been very involved with the Southern -- Southwestern Illinois Flood Prevention District Council, their engineering firm, and the US Army Corps of Engineers over the past few years.
I've attended and convened many meetings, and I've witnessed great sensitivity and care for environmental concerns by all of these organizations. I am pleased to see that the IEPA has made a tentative determination to issue the 401 water quality certifications for the levee system improvement.

Our experience gives us full confidence to agree with your analysis. We agree that there will be little or no impact on water quality, and we are certain that the benefits to the public in terms of safety and security alone far outweigh any such impacts. The control and management of flood water rather than uncontrolled under seepage seems environmentally responsible. But improving our levee systems and further reducing the risk of a levee failure is certainly important for avoiding an environmental catastrophe. The potential social and economic impact of the levees losing accreditation also would be substantial, underscoring the importance of this project moving forward in a timely fashion.

You've heard how important this project is to our entire region. The Levee Issue Alliance has found that delays to the levee work
will directly impact some of our most economically challenged communities in Southwestern Illinois. Let's keep in mind your prompt issuance of the 401 permit will specifically improve their financial outlook, their safety, as well as their environmental quality of life. Thank you.

HEARING OFFICER STUDER: Thank you, Rich. Terry -- Terry Milt will follow Mayor Simmons.

MAYOR HERBERT SIMMONS: Good evening. My name is Herbert Simmons, I'm the Mayor of East Carondelet, Illinois, have been for 29 years, Simmons, S-I-M-M-O-N-S.

I come here tonight pleading with the panel to move this process forward. Several years back when I was first notified of the levee issue, I was mad, because I had been at a meeting prior to being informed of this with the Corps of Engineers at our local levee district in Prairie du Pont and had been told that we had one of the best levee districts in the state of Illinois. Some six months later I hear about it that the levee is being decertified. On a weekly basis now I get calls or stop in and community from residents wanting to know what's going on, are we going to be forced out, do we put our homes up for sale. People that have
haven't been able to sell them. We had a little
cconvenience store in town that I've had two
different people try to open it back up now, but
unable to get financing because of this, this issue.
So I'm here tonight to plead with, with this
process. It's been a long, long battle, and I
understand the, the job that the protection,
protection district is doing. It's a slow process
but it's been a -- it's a long one for us. We're a
small community, don't have a lot going for us, but
I've got people that have raised their families
there.

I met with a contractor today that
wants to build some homes in town, but he's afraid
to, because you don't know what the outcome of this
project is going to be. So I just ask that you move
this on as quickly as possible to where we can let
our residents know that they can stay where they
are. Thank you.

HEARING OFFICER STUDER: Thank you Mayor
Simmons. Terry Milt. Mr. Milt will be followed by
Ron Dell.

MR. TERRY MILT: Thank you. Thank you for
the opportunity. I come from a different
perspective. My name is Terry Milt, that's M-I-L-T,
I'm the superintendent of Dupo School District Number 196. And I know I can speak for my fellow superintendents in the area, when I came to Dupo four years ago, I had a free reduced rate of 15 percent. As I entered the school year, I went to 67 percent. The economic impact of the levee discussions has had a direct impact on my school district.

Now you may ask how would I know that. I've been with my mayor, I've been with my village trustees, I've set with businesses such as Clayco that are wanting to come into our areas to develop, but they won't until this levee decision is made. I've watched my students and my EAV drop from 91 million to 72 million. Why? Because people leave. There's not jobs. There's not futures.

I urge the Commission to move forward with this to bring back an economic hope and development not only for the communities, but for the kids. Thank you.

HEARING OFFICER STUDER: Thank you, Mr. Milt.

Ron Dell. And Mr. Dell will be followed by Chip Casteel.

MAYOR RON DELL: My name is Ron Dell, I'm
Mayor for the village of Dupo. I can stand up here and echo the feelings of all the other mayors who have spoken tonight. I can also tell you that prior to the problems that came about with the levees, I also heard the same speech that Mayor Simmons heard that Prairie du Pont levee was one of the best levees in the area. And then we find out a little bit later, we're being told it's not.

Okay, last time we did a census, my community went from 3900 to people to almost 4500 people. Okay, we've had businesses that have come in. We want to see the project go forward for the simple fact that wellness and safety of the people in our community, and the economic impact. We all know that the economy out there is not in the greatest shape in the world. We need to improve on that, we need to improve on our levees. And with this project going forward, I think we can make our levees safer, which is going to be better for our people in our community, and these projects that had started can continue on, and maybe even more, and make our economy and our region down here in this area a lot better for everyone. Thank you.

HEARING OFFICER STUDER: Thank you, Mayor Dell. And Mr. Casteel will be followed by Allen
MR. CHIP CASTEEL: Good evening I'm Chip Casteel, C-A-S-T-E-E-L, Senior Vice-president of Public Policy for the St. Louis Regional Chamber of Commerce. Our organization represents the 16-county Bi-State Metropolitan region, including the counties of Madison, Monroe and -- Monroe and St. Clair, and our membership represents about 40 percent of the region's employment base, along with dozens of local governmental and economic development organizations.

We're pleased that the IEPA has made a tentative determination to issue the necessary water quality certifications for the Metro East levee system improvements, because we want to stress that this project is a top priority for the entire St. Louis metropolitan region, not just the Metro East.

In addition to the environmental benefits that this work -- of this work, it will help prevent FEMA decertification of the levees, which would lead to dramatic chilling effect of economic development activities and trigger massive cost increases in flood insurance. And I want to echo very briefly what a number of other people have said, we already have, also our organization, like
others have mentioned tonight, has experienced
direct information from potential business
relocations that are concerned about coming to this
area because of the existing challenges to the levee
process, so moving ahead with the project is very
important to us.

We support completion of the levee
project because it will provide critical
environmental safety and economic benefits affecting
the whole St. Louis region, and we ask your agency
to issue the water quality certifications necessary
for the Flood Prevention District Council to proceed
with its proceeding -- with its improvements.

Thank you for the opportunity to
present this perspective and position statement on
behalf of the business and civic community for the
Greater Bi-State Metropolitan Region.

HEARING OFFICER STUDER: Thank you, Mr.
Casteel. Ellen -- is it Krone?

MS. ELLEN KROHNE: Krohne.

HEARING OFFICER STUDER: I'm sorry.

MS. ELLEN KROHNE: I knew who you meant.

HEARING OFFICER STUDER: And she will be
followed by Delbert -- is it Wittenauer?

MR. DELBERT WITTENAUER: Mm-hmm.
HEARING OFFICER STUDER: Go ahead, Ms. Krohne.

MS. ELLEN KROHNE: My name is Ellen Krohne, K-R-O-H-N-E, and I'm the Executive Director of the Leadership Council for Southwestern Illinois. Our organization represents about 150 members that include business, industry, labor, education and government throughout Southwestern Illinois. Our mission is to unite the region of Southwestern Illinois for economic growth. I'm very pleased to see that the IEPA has made the tentative determination to issue the 401 water quality certification for the levee system improvements. These improvements to the Illinois levee system is a top priority for our membership to help us to continue to grow the region, and for the entire St. Louis region. In addition to the environmental benefits, the work will prevent decertification of our levees by FEMA, which, if that happens, will slow and potentially completely stop the growth in the American Bottoms, and that's really the prime spot for development and the ability to increase jobs in the region.

The Leadership Council and its board membership supports the certification, and we ask
you to issue the water quality certifications
necessary for the Southwestern Illinois Flood
Prevention District Council to proceed with the
proposed improvements.

I also have to present 43 letters
from our members supporting the certification, and I
thank you for the opportunity to speak tonight.

HEARING OFFICER STUDER: All right. And I
will go ahead and enter those as a group exhibit
into the record.

MS. ELLEN KROHNE: Thank you very much.

HEARING OFFICER STUDER: Thank you. And
it's Mr. Wittenauer is coming forward, he will be
followed by Mark Kern.

MR. DELBERT WITTENAUER: Good evening.

Thank you very much for coming down and listening to
our concern, we really appreciate that. I think we
need to work more in partnership a lot of times
than, than the way a lot of times that we don't
really work together. We really need to, to talk
about it and discuss it and figure out where we're
all coming from.

Monroe County's future is at stake
pretty much because we do need some economic
development in Monroe County. I am Monroe County
board chairman, and my name is Delbert Wittenauer, W-I-T-T-E-N-A-U-E-R, and our county has a very good school system. The problem that we have, that we're facing is we're very low in economic development. Without economic development, the burden on our taxpayers has become tremendous, and, and so this development here is the future of Monroe County.

We do have 75 miles of, of agricultural levees, and we're not wanting to do anything with them, we really want to maintain what we've got. These levees that are in this, in this decertification were 500 year levees, and we do have businesses, and we do have things wanting to come in, and like was voiced before we have development ready to come, and it really hit the skids when this decertification came, it was, it's pretty much over until we get moving on this thing.

One thing that you'll notice, too, is that it didn't take the three counties very long to figure out that we needed to get together to partnership, and we need to make this project move forward. We passed a quarter cent sales tax, which was really at a bad time. It really shouldn't have been done politically at that time, it was a really really bad time, and we did have some opposition, to
be honest with you, from some people who didn't want
to pay a quarter cent sales tax. But today this has
all changed, and all these people are asking is when
are we going to finish this project. They all have
an interest, they all have a vested interest in it,
nobody is opposed to this project, everybody wants
it to move forward because it's in the best interest
of all three counties for sure.

One thing on water quality is, if you
look at a sand boil, you see material moving. If we
don't repair these levees, you're not going to only
see destruction, but you're going to see water
quality go down. Actually, this project should
enhance water quality. If you take a sand boil and
you bring material up out of the, out of the ground,
pollutants are a lot more likely to occur inside the
levee at a distance that, where there are people and
different things that it could affect. If you, if
you put all these wells in that we have, actually
you're going to, when bringing water up, no
material, and you'll be pumping that back into the
river. So in reality, the people are safe from a
lot of pollution in that way.

And then another thing that's really
important is a lot of places in, in this area where
there could be pollution, there's slurry walls. These slurry, slurry walls lock everything out. And so a lot of places where pollution is a concern, we have -- the slurry walls are very expensive, by the way, but we have designated that we need to, we need to protect the environment, and so some of these slurry walls will have to be put in because of that.

Right now the river is low. It's almost at a record. If we, if we could have moved forward faster, we could be moving on this thing, and we could get this project done; it could save us a lot of money, a lot of time, and a lot of heartache.

Oh, another thing, too, is when you move water in, a lot of water, the wells will bring a lot more water in, to be honest with you, than it, than it did before. But when you move a lot of water, the percentage of pollution is a lot less, and, and then that water is all going back out. So, so it should be really environmentally sound I would think. I would think that we're actually enhancing the environment by, by finishing this project.

So I would ask you to, to issue us a 401 permit and, and let us move forward. I appreciate your time. Thanks much.
HEARING OFFICER STUDER: Thank you, Mr. Wittenauer. Mark Kern. And he will be followed by Edward Hillhouse.

MR. MARK KERN: I'm Mark Kern, K-E-R-N, I'm the Chairman of the St. Clair County Board, and I'm here tonight to ask for you to grant the certifications that are the subject of tonight's hearing.

These certifications will allow us to continue working towards the necessary improvements to our levees. Levees that protect some of the most economically challenged areas in our region where many people cannot afford expensive flood insurance for not only their homes, but also for their businesses. We're told by our engineers that we preserve water quality, and that wetlands will, will be mitigated.

It's time to remove the uncertainty from this process. Uncertainty that's hung above all our heads now for years like a sword of Damocles, that has a significant negative human and economic impact. People's lives hang in the balance with their own personal safety, onerous insurance rates, and their ability to buy and sell -- to buy insurance, and if they can't, the ability to buy and
sell their, their homes is all impacted by this. And in addition, job creation has slowed in the region because of, because of the levee, lack of FEMA accreditation on the levees. And so in order to bring our economic impact back in the region, we need to ask that these certifications be granted.

We need to expedite this project, water levels are now favorable for construction, and at this time people need employment. The people that would be working on these levees are out of jobs, and they could -- jobs would be created by putting this project forward. Our citizens deserve safety and the certainty that this project delivers.

Thank you.

HEARING OFFICER STUDER: Thank you. Edward Hillhouse.

MR. EDWARD HILLHOUSE: Thank you, and good evening. When you go last, last, you run the risk of it's good you bring your pen, because you've marked through an awfully lot of things that have already been said. Now I prepared a very good presentation. It's all marked up, because most of it has been said.

My name is Ed Hillhouse,

H-I-L-L-H-O-U-S-E. I'm Executive Director of
East/West Gateway Council of Governments, which represents both sides of the river. We represent in excess of 2.6 million people. We represent the three counties that have been mentioned here.

I have the numbers, but the former executive director gave the numbers. Many of the others have expressed the, the concern that, that they have about the economic development, and I had that, and then I thought, in a former life I was Superintendent of Schools, so I will speak from the standpoint of Superintendent of Schools, and I'll be darned if the Superintendent of Schools didn't get up and, and speak also.

But on, on a, from a historical standpoint, in 2007 it was our organization, East/West Gateway, that was asked by the leadership to look into and prepare a report that I think you're all aware of that we, we prepared on the levee. Came up with really some conclusions after the concern about the levee was to be deregulated, and as a result of that, then the Prevention District was formed in 2009. Basically representing East/West Gateway, I urge you to make a quick decision.

The environmental assessment of 2012
states in January that the impact to wetlands and
water quality will be minimized to the greatest
extent feasible, including best management practices
and erosion control implemented to minimize
short-term problems. Accordingly, approval of the
three applications, 401 water quality certification
is an important prerequisite to the improvement of
the Metro East levee system, and based on that
finding of no significant impact, plus the decisive
and surprising need -- surpassing need to protect
the public safety, I sincerely respectfully request
that you give your approval. And I thank you for
the time that you've spent.

HEARING OFFICER STUDER: Thank you,
Mr. Hillhouse. Kate -- is it Pawasarat? She'll be
followed by Jule Levin.

MS. KATE PAWASARAT: Hi, my name is Kate
interested citizen. And I guess I just had a few
questions to help me better understand the process
that you go through to issue the 401 permit.

HEARING OFFICER STUDER: Sure.

MS. KATE PAWASARAT: The first had to do
with the discussion of contamination and the fact
sheet for the MESD section of the levee system. It
looks like there was ground water that exceeded the
human health standard for bis (2-ethylhexyl)
phthalate, and I was wondering if you could maybe
explain a little bit more about how you take a look
at those test results and how you factor in dilution
with the river water to make sure that water quality
standards will be exceeded.

   MR. KOCH: Okay, yes. Yeah, there was one
detection of bis(2-ethylhexyl) phthalate that was
above the human health criterion for that substance.
The other samples were non-detects, and I believe I
mentioned that in that antidegradation assessment
for the MESD levee. Bis(2-ethylhexyl) phthalate is
a, it's a common laboratory artifact. We've seen
this several times at, you know, we see it at
municipal water treatment plants, we'll see it in
their effluent. Basically, that substance will show
up as an artifact due to contamination from sampling
bottles, or from the plastic tubing used to collect
the samples, what not.

   We're pretty certain that, that's the
reason for that, that one high hit, but besides
that, again, this is, this was a well sample taken
under low Mississippi River -- Mississippi River
water conditions. During flooding that water would,
would force ground water and other flood waters up.
If that were sent to a pump station, it would be
instantaneously dilution -- diluted with the river.
I mean given the, the marginal increase above the
standard in relation to the amount of water present,
there's just no way that that substance would exceed
the standard in the stream.

And another thing to consider about
the bis(2-ethylhexyl) standard -- sorry,
bis(2-ethylhexyl) phthalate standard is that in the
human health criterion, and those criteria, they're
designated to protect against human consumption of
fish that are contaminated with that substance, and
also human ingestion of water, and I know this isn't
a drinking water supply, you know, but basically the
human health criteria do have a factor that includes
drinking water. It's .001 liters per day. So
basically, someone would have to ingest this well
water every day, eat fish from a river contaminated
with that substance every day throughout their life
to, to basically be harmed by that substance. So
just to give you an idea of where the criteria
actually come from.

MS. KATE PAWASARAT: And so that, was that
pollutant, it hasn't shown up in past testing?

MR. KOCH: No, not to my knowledge, no. But
again, that's a pollutant that when we do our water
quality based effluent limit analysis for several
permits, you know, it doesn't have to be an
industry, it can be a municipal treatment plant or
what not, that substance does commonly show up, and
it comes up out of nowhere. And we've chased it
back to being laboratory error. Other states have
noticed that it's just one element when we see it
we're a little leery as to whether or not it's a
ture result.

MS. KATE PAWASARAT: And then my other
question had to do with how the 401 permit relates
to the need for NPDES permits, and if that works
together. There was an email from February of 2012
where IEPA said that: Metro East Sanitary District
portion of the project, including Sauget, contains
the highest level of contaminants and will need an
NPDES permit for discharge of pollutants, including
polluted ground water from the relief well system to
surface waters.

So I was just trying to figure out
how that fits in, or is that a completely
separate...

MR. FAUGHT: Sort of like connected is the,
for the 401 water quality certification we need to
basically verify that water quality standards will be met. So if we see a need that an NPDES permit will help make sure those standards are met, we may bring an NPDES permit then. But I guess as far as that February, the February document you saw, we did a little more review and I think determined that NPDES would not be necessary to verify that those water quality standards would be maintained. So that's sort of how they're connected.

MS. KATE PAWASARAT: Okay, so I guess my last question is probably not applicable anymore, but it sounded like in April the Flood Prevention District Council requested that the 401 permit be delinked from NPDES permits, and now you're saying that there won't be any NPDES permits.

MS. TERRANOVA: There won't be an NPDES permit because of the Federal Water Transfer Rule, and that says that water transfers such as this case where the water is being transferred for flood control is not subject to -- these water transfers aren't subject to regulation under NPDES. So due to that rule, we, we won't be issuing an NPDES. But that's what, we'll be looking at the water quality standards instead.

MS. KATE PAWASARAT: Okay.
HEARING OFFICER STUDER: Thank you. Jule Levin, and then following him will be Dennis Pulcher.

MR. JULE LEVIN: Thank you for letting me address the Board. A little of my background is I'm a fifth generation farmer, I understand the nature of wetlands. As an ex-engineer with IDOT and developer of the Prairie du Pont Business Park, I also understand the intricacies and technicalities of attaining a 404 permit, in my case it was three years, with the help of the leading Kennedy Group and Don Pirdy and Associates. As a, as a developer, they then hired me to help develop the criteria and construction methods of the design and construction of the 24-acre mitigation site for the St. Clair station.

Also as a levee board member, understanding the nature of the levees and the need for this project to proceed without further road blocks, would hope that the IEPA would understand the necessity of letting us go forward. The buildings of these wetlands isn't rocket science, riparian, the plant species needed, you know, I'm aware of all that, I think we, we can work through that. Like I say, we hold the lowest elected
position in the state of Illinois as levee board members, but the burden that's been placed on it, on us has been pretty heavy. We've worked very hard to get where we're at now, and we can only hope that the IEPA understands the importance and the necessity that we move forward without these further road blocks. Thank you.

HEARING OFFICER STUDER: Mr. Levin, for the record, it's L-E-V-I-N, and first name is J-U-L-E.

MR. JULE LEVIN: Yes.

HEARING OFFICER STUDER: Thank you. Dennis Pulcher.

MR. DENNIS PULCHER: Dennis Pulcher, P-U-L-C-H-E-R. I'm a local farmer along between the Jefferson Barracks Bridge and up to Cahokia along that levee, and I'm 64 years old, I've seen that river come up and down many many many times. I went through the '93 flood; I went through the '73 flood. And all of a sudden the levee's all of a sudden decertified. And okay, let's get them recertified, I support that. I'm also president of the Chamber of Commerce in Dupo/East Carondelet, and for their sake and the development issues that surround our community, you know, it's a positive thing, and I want to see that happen.
But on a personal note, some of the projects that are going to ensue to improve that levee is going to impact those of us that farm along the levee. And when I say along the levee, I'm two-tenths of a mile from the levee. Lived there, been there all my life.

And the water quality issues, I don't know, the only thing I can say is that after drinking all of that water, I'm bald headed; okay? So is there water quality issues? I don't know. You know, there wasn't, there wasn't 40 years ago, but now we can, now we can, now we can discover things in parts per billion. Now we can measure things much more precisely, and I don't know, does it make it better or not? I don't -- I don't really know. But I, I wonder about when you recertify the levees, and if you do and a 401 permit goes through, whether FEMA is going to follow your lead and whether the RMA is going to follow your lead and give us back those criteria necessary, you know, to ensure our properties are not, because I'm a fellow that pays 50 to $100,000 a year for crop insurance, and that crop insurance is predicated by the RMA, and they just decertified all the areas that are what's called high risk and called it, call it now
nonrated. And so I'm at the mercy of any insurance company that I have to buy insurance from.

You know, and great exercise for all the economic abilities that need to happen in this, in this region, but those, but those of us that rely on and produce food and fiber for the rest of the world, there are some intricate issues that are going to have to play out here. And that, you know, that's a big question for me. And when we decertified after the '93 flood, that was the biggest flood I've ever seen in my lifetime. And all of a sudden we're decertified. And, I, you know, it makes a real question mark in this old man's mind of why that was.

The interchanges with Clayco and the development, they're hinging on your decisions. They definitely are. And you will certainly impact positively with a positive determination on this 401 permit, okay, and I look, I look forward to that. But there are some other issues that when you get in the RMA and FEMA, you know, they're pretty much autonomous. I've tried to, I've tried to talk with them years ago, and they won't even come see you. They won't call you back, and they won't talk to you. They legislate what they choose to do when
they choose to do it. And so that's, that's an
interrelationship of government agencies that's
going to be affected I, hopefully by this, but
there's no indication anywhere that necessarily
that's going to happen. Thank you.

HEARING OFFICER STUDER: Thank you, Mr.
Pulcher.

Okay, I've got two registration cards
here that I don't see the -- Kathy, were you going
to speak for Kim?

MS. KATHY ANDRIA: Yes, they sent me
questions.

HEARING OFFICER STUDER: Okay, I normally
don't allow the times to go on, but I'll, what I'll
do is I'll allow you to do that, but I'm going to
make sure that everyone in the group that hasn't
spoke yet --

MS. KATHY ANDRIA: Sure.

HEARING OFFICER STUDER: -- has had that
opportunity, and then I'll come back --

MS. KATHY ANDRIA: Absolutely.

HEARING OFFICER STUDER: -- if that's okay.

MS. KATHY ANDRIA: No, absolutely.

HEARING OFFICER STUDER: Okay. Is there
anyone in the room that hasn't spoken this evening
that would like to make comments this evening?

(No response.)

HEARING OFFICER STUDER: Let the record indicate that there was no one that raised their hand. Go ahead, Kathy.

I believe Ms. Andrea has a couple of, she's representing a couple of people that she would like to ask questions on their behalf who could not be here this evening. I do want to point out that typically I don't allow the times to be added on to other people, but we have given everyone in the room that wanted the opportunity to speak that opportunity, so now we are in a part of the hearing where I will allow additional comments to be made.

MS. KATHY ANDRIA: The timing of the hearing was especially hard for people who had holiday plans outside.

This is from Kim Knowles, Prairie Rivers Network: What are the concentrations of total copper, total iron, total lead, total manganese, total mercury, totally zinc, benzo (a) pyrene and bis in the Mississippi River at the locations where the ground water is being discharged? And what are the concentrations of these pollutants in the wetlands to which they will
be discharged?

We're back to that, that issue again.

Have you -- can you identify the, the amount, the concentrations in both parts to verify that there's no transfer?

MR. KOCH: And you're saying in the Mississippi River? The ground water and the wetlands?

MS. KATHY ANDRIA: Right.

MR. KOCH: We don't, I mean we don't have data within some of the wetlands; we do have ground water data, we do have surface water data, but, you know, that data is not readily available, I'd have to retrieve that through our STORET system. But yes, that could be, that could be done.

MS. KATHY ANDRIA: Okay, and then we could get that from you before --

MR. KOCH: I could provide --

MS. KATHY ANDRIA: -- before the end of the comment period so that we could comment on it?

MR. KOCH: Sure. I'll do my best to do that.

MS. KATHY ANDRIA: Okay. Did -- you mentioned earlier that, that you did mercury sampling, IEPA did mercury sampling.
MR. KOCH: Correct.

MS. KATHY ANDRIA: Is that the only sampling you've done on, with IEPA, itself, and everything else you relied on --

MR. KOCH: Correct.

MS. KATHY ANDRIA: -- someone else's?

MR. KOCH: Correct. Again, the mercury data used the, used the older detection limits which were above our standards, so we went on and used the low level mercury at a couple of the most problematic sites in our mind. And that the average concentrations from that data was below the human health standard.

MS. KATHY ANDRIA: Kim also was concerned about the 1984 USGS data: It seems that the only data available regarding concentrations of metals is the 1984 USGS report. How can the agency claim that this data is representative of current conditions?

MR. KOCH: Well, I'm not sure if we're actually stating that that's what the present concentrations are. Basically our review focused on, again, the organic concentrations and the metals that are in the ground water, you know, we've, we understand that that's, that's going to be, it's going to be high, that all the concentrations are
going to be high, that's common throughout Illinois.

We didn't necessarily feel that new data would, would help us in any way in regards to the metals.

We saw the old data from the USGS report.

I mean there was some other data out there from the relief wells, but yeah, in general, much of it came from that USGS report.

MS. KATHY ANDRIA: I'm -- afterwards I want you to show me on maps where, where you've taken samples. Is it usual that you rely on someone else to, to do the testing rather than IEPA doing its on testing?

MR. KOCH: Depends on the, the scenario. Depends on if it's an NPDES situation or a 401 situation, but yeah, Illinois EPA, we do take our own surface water samples throughout the state, we have our Ambient Program, but we do rely on the applicants to collect their own data, their own effluent data. In some cases we'll make applicants do biosurveys of their potentially affected area, we'll make them take instream water quality samples, so yeah, we, generally we do require that they provide us with that data, and we feel comfortable with that data, we don't believe there's any reason to not believe that data is valid.
MS. KATHY ANDRIA: How can IEPA verify that installation of relief wells to drains, discharge pipes will not cause the transfer of ground water contaminants that would not be transferred but for the installation of these structures? In other words, can you verify that additional ground water contaminants will not be discharged from the landward area to the river, or to the landward wetlands?

MR. KOCH: The installation of these relief structures should not add or modify the pollutant loading in any way. I mean again, the only way this ground water comes to the surface is by way of the river, itself. I mean the actual process of fixing these relief structures is not going to add any pollutants.

MS. KATHY ANDRIA: Is there -- you haven't defined a mixing zone. Is -- you just assumed that the river is going to take whatever?

MR. KOCH: You don't, you don't have to define a mixing zone unless an acute water quality standard is exceeded. And in that instance, you do have to define a mixing zone, but outside of that, you don't need to actually calculate a --

HEARING OFFICER STUDER: We're starting to
get into some things that are more relevant to an
NPDES --

MS. KATHY ANDRIA: Okay.

HEARING OFFICER STUDER: -- rather than a
401.

MS. KATHY ANDRIA: Okay. Does -- at what point did you, in this process, did you decide that there weren't, there wasn't going to be any contamination? Because early in the process I thought you guys were pretty sure that there was contamination, because the, all the data is there.

MR. KOCH: Well, to be honest, I wasn't involved in the project, the project until later on, but I guess our initial concerns were that we, we thought it needed an NPDES permit, but we later found out that through the EPA Water Transfer Rule, an NPDES permit is not required, because this activity of transferring the water to another water of the United States without adding a pollutant, that does not require an NPDES. So that's where our initial concerns arose from.

MS. KATHY ANDRIA: Maybe the attorney could ask -- answer this. What's to stop from polluter from just getting some municipality to do the releasing, and then it's just a water transfer.
MS. TERRANOVA: Right. Well, I mean nothing essentially, but just because there's no NPDES permit doesn't mean that the pollutants aren't being addressed. I mean the water transfer only applies if there's no additional pollutants being added. If there are being pollutants being transferred, that's where they're addressing them through 401 to make sure water quality standards are met. So if they're naturally occurring, or if they're from a super fund site, the standards still have to be met.

MR. KOCH: If this water was conveyed through an NPDES facility, whether it's industrial discharge or a municipal discharger, that activity requires a permit, yeah, somebody already has a permit, but yeah, that's not necessarily the boldest one to take advantage of, I don't believe. I mean under that scenario the transfer rule, and I presume we'll provide you with this in response to the summary, but the transfer rule specifies that you can't intervene the water, you know, with an industrial, municipal or commercial use, and you can't add any pollutant to it. And under this scenario, we don't feel this project falls under the need for an NPDES permit.

MS. KATHY ANDRIA: Yeah, I think --
HEARING OFFICER STUDER: Let me interject here, too --

MS. KATHY ANDRIA: Sure.

HEARING OFFICER STUDER: -- whether an NPDES permit is issued or not really is not relevant in a 401.

MS. KATHY ANDRIA: Okay.

HEARING OFFICER STUDER: Now I've given a lot of liberty to allow some very basic questions, but I'm going to lower the boom here --

MS. KATHY ANDRIA: Okay.

HEARING OFFICER STUDER: -- it's not relevant in that proceeding.

MS. KATHY ANDRIA: Okay. Could you explain a little bit how relief wells operate to remove ground water? Do they remove the ground water that has seeped under the levee, and the water -- but also the water that is draining toward the river, and as such, might the discharge -- and I guess that's part of what you don't want me to talk about.

You made it hard, Dean. These are important questions.

HEARING OFFICER STUDER: If you, if you think that you really need them in the record, they can be submitted in writing --
MS. KATHY ANDRIA: Right.

HEARING OFFICER STUDER: -- because I won't be here to object.

MS. KATHY ANDRIA: Right.

HEARING OFFICER STUDER: However, we are not necessarily going to provide a response to items that are not relevant to the proceeding.

MS. KATHY ANDRIA: Right, no, I know, but the fact that you're, you're short circuiting the need for an NPDES with this process I think should allow us to ask questions about the NPDES, since presumably there won't be an NPDES hearing. So other -- you know, I think that's only fair.

HEARING OFFICER STUDER: You have your right to your opinion, however, we don't necessarily have to agree with this being the appropriate venue for that to take place.

MS. KATHY ANDRIA: And I appreciate you allowing me to say that.

I'd like to move to Cindy Skrukrud from the Sierra Club, her comments. Why did --

HEARING OFFICER STUDER: Can I interrupt for a second?

MS. KATHY ANDRIA: Sure.

HEARING OFFICER STUDER: She spoke for Kim
Knowles before, and --

MS. KATHY ANDRIA: K-N-O-W-L-E-S, Prairie Rivers Network, and I can provide you with the address.

HEARING OFFICER STUDER: And now she's proceeding with Cindy --

MS. KATHY ANDRIA: Cindy Skrukrud, who's the Clean Water Advocate for the Illinois Chapter of the Sierra Club.

Why did -- S-K-R-U-K-R-U-D.

Why did IEPA have the Flood Prevention District Council determine ground water quality and presumed quality of proposed discharge by determining averages? Why didn't you just require them to follow the standard reasonable potential to exceed water quality standards analysis or an RPA?

MR. KOCH: Well, again, this, a Reasonable Potential Analysis wasn't done on the data set. We looked at the averages, because in general, the standards that were, that had a potential to be exceeded were the chronic standards. A Reasonable Potential Analysis gets into, you know, the amount of data that you have and how certain, you know, what the uncertainty is of that data, and again,
we're not going to run that through the analysis, you need a multitude of data to actually do that analysis. And again, if this was an NPDES situation, you know, a permit that has five years of data, then sure, we'd run that through the analysis, but again, this is just based on background data we're looking at, you know, we're looking at background metals data, we're not going to do a Reasonable Potential Analysis on that.

MS. KATHY ANDRIA: The document states that the final construction drawings are estimated to be complete in late spring of 2013. Why are you proposing to certify this project now when final design has not yet been determined?

MR. FAUGHT: Well, we have a good idea of what the impacts are going to be, which is what the impacts of wetlands and the streams and any jurisdictional waters, and that's the, the, what we're supposed to be permitting, so we do have a, what, what impacts are going to occur that need to be reviewed in front us.

MS. KATHY ANDRIA: Does this happen in other cases? That you issue a permit before a project has a complete proposal?

MR. FAUGHT: Honestly, not often, but it has
before when, again, when we do know what, what
waters are going to be impacted and how they're
going to be mitigated for. As long as we have those
details, we usually have enough to proceed.

MS. KATHY ANDRIA: Do you -- does IEPA get
involved with the mitigation in terms of what --
where wetlands and what kind of wetlands are being
mitigated, mitigated? Or is that a Corps function?

MR. FAUGHT: Normally it would be both the
Corps and us to look at it. It's part of the, part
of the antidegradation review is the mitigation plan
and making sure for places of aquatic functions.

MS. KATHY ANDRIA: Okay. MES -- Metro East
Sanitary District has two new relief wells in
approximate stations, 113 -- 1133 and 1135. What
evaluation has been made of the impact which the
discharge from these wells will have on the water
quality of the receiving marsh and creek?

MR. FAUGHT: I think we're going to have to
get back to you on the responsive summary on that
one, I just don't have all the maps in front of me,
but we can get you that answer in the responsive
summary.

MS. KATHY ANDRIA: Has the IEP -- oh, well,
that, I know the answer to that.
Can you explain what factors have led to the situation in which ground water contamination in Sauget area Site R as described is found below the depth of levee relief wells, given that the contamination originally came from the surface? In other words, how is it contaminated down here, but not in between, when you're talking about the wells, there's a whole section --

MR. FAUGHT: Yeah. I honestly don't know all the geology, but I do know there's geological reports out there that basically define there are three geological layers. But I didn't do those reports, but a geologist person more familiar with that did. So we're basing it off those reports essentially.

MS. KATHY ANDRIA: So a geologist has to tell me about how something gets from the top to the bottom without going through the middle? Is that what you're saying?

MR. FAUGHT: No, I'm just saying there is a study done on the area that shows three defined layers. And that's what we know.

MS. KATHY ANDRIA: Does the table, the ground water monitoring well sample analytic data,
does that include all the organics and metals that were sampled in the area?

MR. KOCH: I believe so.

MS. KATHY ANDRIA: Iron, manganese, mercury, zinc, benzo (a) pyrene, bis, are all listed as exceeding water quality standards, is that correct?

MR. KOCH: I don't believe that's correct. I'd have to see the data you're looking at.

MS. KATHY ANDRIA: Okay, I'm reading her questions that she emailed me.

MR. KOCH: Oh, okay.

MS. KATHY ANDRIA: And I've got --

MR. KOCH: There was only one sample of bis(2-ethylhexyl) phthalate above the human health criterion. That was the substance, only substance of concern.

MS. KATHY ANDRIA: I think this is what she's...

(Ms. Andria hands document to Mr. Koch.)

(Mr. Koch peruses document.)

HEARING OFFICER STUDER: What I'm going to suggest is that a copy of that be submitted with post comment --

MS. KATHY ANDRIA: Okay.

HEARING OFFICER STUDER: -- comments during
the comment period, and we can respond more fully
then in the responsiveness summary to that question.

MS. KATHY ANDRIA: If a proper RPA had been
done, would other metals and organics on the list
show up as an concern? For example, what about
copper?

MR. KOCH: Well, I can't really answer that
without doing an analysis and actually looking at
all the copper data.

MS. KATHY ANDRIA: Okay. Well, we have some
discharge questions, which I will not ask --

HEARING OFFICER STUDER: Appreciate that.

MS. KATHY ANDRIA: -- per the penalty of
getting the hook.

The -- there's a document that we
have that was entitled -- and I, I tried to review
the documents, I forwarded the documents early to
IEPA and I was unable to review them, and I tried a
number of times and I couldn't get an answer back,
and then I was told they hadn't been cleared with an
attorney, and I'm very grateful to Les Sterman, he
did provide me with some of the documents that we
could, we could view, we didn't see your file, but,
you know, we really want to see your file, so I hope
that we can do that. I think that everybody seemed
to be on, through the holidays, no one was answering
the phone, so I understand it was a bad time, the
timing was bad, but ...

    Okay, now there's another attachment
A, there are, it's called Model Pollutants, and it's
got a whole bunch of ground water monitoring
analytical parameters, it's got a whole huge amount
of things under Sauget, under Hartford, under
Cremlick, and under ConocoPhillips. What do the
asterisks denote? It's not noted on here.

    MR. KOCH: I don't have that document in
front of me.

    (Ms. Andria presents document to Mr. Koch.)

    MR. KOCH: And again, I'll probably have to
get back to you as far as the summary.

    HEARING OFFICER STUDER: Again, I'll follow
the same suggestion that I did a few minutes ago,
and I'm going to suggest that that be submitted
along with post hearing comments, and we'll respond
more fully in writing in the responsiveness summary.

    MS. KATHY ANDRIA: Okay, I'm going to submit
the rest of the questions and the comments. And are
you, can we get -- call you and ask some of these
questions?

    MR. KOCH: Sure.
MS. KATHY ANDRIA: I mean they won't be on
the record, but maybe we could get answers, because
if we don't know the answers, then we can't comment
on them.

MR. KOCH: No, I understand. Yeah, you can
get my information afterwards.

MS. KATHY ANDRIA: Okay.

HEARING OFFICER STUDER: As long as you
understand that what happens on there obviously
wouldn't be in the record.

MS. KATHY ANDRIA: Right.

HEARING OFFICER STUDER: Okay.

MS. KATHY ANDRIA: No, I understand, I
appreciate it. And thank you very much, everybody.

HEARING OFFICER STUDER: Thank you. Before
we adjourn, I want to remind everyone that the
comment period is open until February 4th, 2013. I
appreciate your patience, and I appreciate everyone
showing up, especially over the, over the holiday
season, it is a bad time for, for everyone, and I
appreciate you all being here this evening.

If no one has anything else, this
hearing is adjourned. Thank you.

(Public Hearing adjourned at 8:06 p.m.)
CERTIFICATE OF REPORTER

I, Pamela K. Needham, Certified Court Reporter, Notary Public within and for the State of Missouri, do certify that the testimony which appears in the foregoing hearing was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

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Notary Public within and for the State of Missouri