

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)

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

PUBLIC HEARING

JANUARY 3, 2013

1	INDEX	
2		PAGE
3	OPENING STATEMENT BY	
4	THE HEARING OFFICER	5
5	IEPA SECTION 401 STATEMENT	16
6	OPENING STATEMENT BY LES STERMAN	18
7	STATEMENTS MADE BY LOCAL MAYORS	
8	MAYOR ALVIN PARKS	21
	MAYOR JOHN HAMM	24
9	MAYOR KEVIN HUTCHISON	26
	MAYOR HERBERT SIMMONS	39
10	MAYOR RON DELL	41
11	STATEMENTS BY MEMBERS OF THE PUBLIC	
12	KATHY ANDRIA	27/63
	DALE STEWART	35
13	RICH CONNER	37
	TERRY MILT	40
14	CHIP CASTEEL	43
	ELLEN KROHNE	45
15	DELBERT WITTENAUER	46
	MARK KERN	50
16	EDWARD HILLHOUSE	51
	KATE PAWASARAT	53
17	JULE LEVIN	58
	DENNIS PULCHER	59
18		
19		
20		
21		
22		
23		
24		
25		

1 BEFORE THE
2 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (IEPA)

3
4
5
6 SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT
7 MADISON, MONROE and ST. CLAIR COUNTIES

8
9
10 A PUBLIC HEARING was held in the
11 above-captioned matter on the 3rd day of January,
12 2013, between the hours of 6:30 o'clock in the
 evening and 8:06 o'clock in the evening, at the
13 Metro East Park & Recreational District, 104 United
 Drive, in Collinsville, Illinois, before Pamela K.
14 Needham, CCR, CSR (MO, IL) and Notary Public, in a
 certain cause now pending BEFORE THE ILLINOIS
15 ENVIRONMENTAL PROTECTION AGENCY (IEPA) regarding the
 SOUTHWESTERN ILLINOIS FLOOD PREVENTION DISTRICT of
16 MADISON, MONROE and ST. CLAIR COUNTIES.

17
18
19
20
21
22
23
24
25

1 APPEARANCES :

2

3 MEMBERS OF THE ILLINOIS

4 ENVIRONMENTAL PROTECTION AGENCY:

5 Mr. Dean Studer, Hearing Officer
6 Office of Community Relations
7 Illinois Environmental Protection Agency
8 1021 North Grand Avenue East
9 Springfield, IL 62702
10 (217) 558-8280
dean.studer@illinois.gov

11

12 Mr. Thaddeus Faught

13 Mr. Brian T. Koch

14 Illinois Environmental Protection Agency
15 1021 North Grand Avenue East
Springfield, IL 62702
(217) 558-2120
brian.koch@illinois.gov

16

17 Ms. Sara Terranova, Legal Counsel

18 Illinois Environmental Protection Agency

19

20

21 The Court Reporter:

22 Pamela K. Needham, IL CSR, MO CCR

Midwest Litigation Services

23 711 North 11th Street

St. Louis, MO 63101

24 314-644-2191

25

1 P R O C E E D I N G S

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

25 This informational hearing is being

1 held by the Illinois Environmental Protection Agency
2 Bureau of Water under the provisions of 35 Illinois
3 Administrative Code 164, Procedures for
4 Informational and Quasi-Legislative Public Hearings,
5 and 35 Illinois Administrative Code Part 395,
6 Procedures and Criteria for Certification of
7 Applications for Federal Permits or Licenses for
8 Discharges into Waters of the State. Copies of
9 these regulations are available at the website for
10 the Illinois Pollution Control Board at www dot IPCB
11 dot State dot IL dot US, or if you do not have ready
12 access to the web, they are available from me on
13 request.

14 The purpose of this hearing is to
15 provide an opportunity for the public to present
16 information to the Illinois EPA regarding the review
17 of the Section 401 water quality certification
18 application associated with three levee
19 stabilization and enhancement projects submitted by
20 the Southwestern Illinois Flood Prevention District
21 Council.

22 Illinois EPA will be accepting
23 written comments on these 401 water quality
24 certification applications through February 4th,
25 2013. Comment forms are available at the

1 registration desk. Comments do not necessarily have
2 to be submitted on these forms, but must be
3 postmarked no later than February 4th, 2013, to be
4 considered by the Illinois EPA as we deliberate
5 final action on these applications.

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

24 Comments may be submitted in hard
25 copy by regular mail, or by email. Emailed comments

1 should be directed to: EPA dot public hearing com,
2 that's EPA dot P-U-B-L-I-C-H-E-A-R-I-N-G-C-O-M, at
3 Illinois dot G-O-V. Email comments will be accepted
4 if received by midnight on February 4th, 2013.
5 Comments received at the stroke of midnight as the
6 date is changing to February 5th, 2013, will not be
7 considered timely filed. Emailed comments must
8 specify either SWIL Flood Prevention District
9 Council, or C hyphen 0001 hyphen 12, or C hyphen
10 0002 hyphen 12, or C hyphen 0003 hyphen 12 in the
11 subject line. Emails at EPA public hearing com at
12 Illinois dot GOV are automatically sorted and
13 distributed, so it is critical that the emails
14 contain the words in the subject line exactly as
15 indicated in the hearing notice to ensure that they
16 make it into the record and are considered. When
17 your email arrives, the system should send you an
18 automated reply if the email was received before the
19 comment period ends and the email has been properly
20 sorted and distributed. I note that the server can
21 become quite busy in the minutes before the record
22 closes, so you may want to take this into account
23 when submitting your comments, again, as electronic
24 comments received after midnight on February 4th as
25 the date is changing to February 5th will not be

1 considered timely filed.

2 Comments sent by regular mail must be
3 postmarked again no later than February 4th, 2013.
4 They should be addressed to: Dean Studer, Hearing
5 Officer, Illinois Environmental Protection Agency,
6 Office of Community Relations, Mail Code 5,
7 regarding SWIL Flood Prevention District Council,
8 1021 North Grand Avenue East, PO Box 19276,
9 Springfield, Illinois, 62794-9276. This contact
10 information is included on the Notice of Public
11 Hearing, as well as the comment forms, the email
12 address, and what needs to be in the subject line
13 are also in that notice. The hearing notice is
14 posted on the Illinois EPA's web page. Once the
15 hearing is adjourned tonight, the comment period
16 will remain open again until February 4th, 2013.

17 Comments submitted in writing will be
18 considered in the same manner and given the same
19 weight as statements made on the record during the
20 hearing. After the record closes in this matter,
21 the Illinois EPA will develop a responsiveness
22 summary. The responsiveness summary will address
23 the significant issues raised during the hearing or
24 submitted in writing prior to the close of the
25 public comment period. The hearing transcript and

1 subsequent responsiveness summary will be posted on
2 the Illinois EPA's website. The Agency will make
3 every attempt to post the hearing transcript on our
4 website in approximately two to two and a half weeks
5 following this hearing, but the actually posting
6 date will depend on when we get the transcript back
7 from the court reporter.

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

17 Issues that are relevant in this
18 hearing are those arising from the application for
19 the 401 water quality certifications and the
20 antidegradation assessments specific to the 401
21 certifications that were included in the public
22 notice fact sheets for these 401 certification
23 projects. Relevant issues include the mitigation of
24 wetland and stream impacts as they are related to
25 the 401 certifications, and impacts due to discharge

1 of dredge and fill into surface waters or wetlands.
2 Any person who wishes to comment tonight may do so
3 as long as the comments are related to the issues
4 that I have just listed, or to the water quality
5 certification in some way, and time permits.

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

20 For the purpose of allowing everyone
21 to have a chance to comment, and to ensure an
22 efficient hearing process, I will give everyone six
23 minutes to comment. Once everyone that desires to
24 comment has been given that opportunity, if time
25 allows, I may come back to those that have already

1 spoken but initially ran out of time. If you have
2 lengthy comments, I am requesting that you submit
3 them to me 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.

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

22 Comments should be: One, relevant to
23 this proceeding, as I previously indicated; and two,
24 not repetitious. Please understand that making the
25 same point many times does not carry any more weight

1 in the record than the first time it is made.

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

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

25 If the conduct of persons attending

1 this hearing should become unruly, I am authorized
2 to adjourn this hearing should the actions warrant.
3 In such a case, the Illinois EPA would accept
4 written comments through the time indicated in the
5 notice for this hearing.

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

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

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

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

18 Exhibit 1 is the Notice of Hearing.

19 Exhibit 2, the Public Notice/Fact
20 Sheet for the Prairie du Pont and Fish Lake project.

21 Exhibit 3 is the Public Notice/Fact
22 Sheet for the Wood River Drainage and Levee
23 District.

24 Exhibit 4 is the Public Notice/Fact
25 Sheet for the Metro East Sanitary project.

1 Exhibits 5 through 7 are comments
2 made to the Corps by Washington University School of
3 Law; a joint comment from American Bottoms
4 Conservancy, Prairie Rivers Network, and from the
5 Illinois Chapter of the Sierra Club, and Exhibit 7
6 is the letter to, to the Corps from USEPA.

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

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

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

1 called to make statements.

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

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

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

10 Projects that include the discharge
11 of dredged or fill material in the waters of the
12 United States are required to be covered by a permit
13 issued by the US Army Corps of Engineers under
14 Section 404 of the Clean Water Act. The Illinois
15 EPA issues water quality certifications pursuant to
16 Section 401 of the Clean Water Act to the Corps for
17 Section 404 Corps permits. The 401 review is
18 focused on potential impacts to water quality due to
19 the proposed construction activity. Issuance of the
20 401 certification does not have any effect or
21 bearing on what is required of the Southwestern
22 Illinois Flood Prevention District Council by any
23 other federal, state or local regulations.

24 HEARING OFFICER STUDER: Can you hear in the
25 back?

1 UNIDENTIFIED ATTENDEES: Yes.

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

4 MR. FAUGHT: I'm almost finished.

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

22 The Illinois EPA has reviewed the
23 certification application with regard to Illinois
24 water quality standards and certification
25 regulations. Based on that review, the Illinois EPA

1 issued a public notice, including the
2 antidegradation assessment fact sheet on November
3 20th, 2012, to seek public comments on the project.

4 HEARING OFFICER STUDER: Thank you,
5 Thaddeus. Les, did you want to make a brief opening
6 statement?

7 MR. STERMAN: Sure.

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

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

16 First, thanks for being here and
17 spending all that time, I, it's -- December 11,
18 2011, is when we submitted this, so it's been a year
19 of work for, for us and for you in considering this
20 application, so -- and we know that you've put in a
21 lot of work and time on it, and we appreciate that.

22 Obviously the project that's the
23 subject of this hearing is one that holds great
24 significance for our community. The American
25 Bottom, the area protected by the levee system that

1 we're talking about here tonight has been settled
2 for hundreds of years, it's home to 156,000 people,
3 55,000 jobs. Failure of this system would lead to
4 inundation of about 174 square miles. It would be
5 an epic catastrophe rivalling that which befell New
6 Orleans after Hurricane Katrina, so obviously this
7 is a monumental issue for our community.

8 2007 FEMA and the Corps of Engineers
9 came to town and said that this levee would no
10 longer provide the protection from flooding that
11 we've counted on for 50, 60 years in this community.
12 That declaration caused us to mobilize on a regional
13 basis in a, in an unprecedented way. A new
14 dedicated tax was approved, a new regional
15 organization was constituted to design and build
16 levee improvements, bonds have been sold to finance
17 the project. Now after three years of planning and
18 design work, we're on the threshold of, of
19 construction. Project would be complete hopefully
20 in another three years.

21 Few man-made projects come entirely
22 without impacts, we know that. Impacts on the
23 environment. We've done our best to mitigate or
24 avoid these impacts while achieving our objective of
25 improving flood protection, and we're gratified that

1 IEPA has tentatively come to the conclusion that the
2 impacts are indeed very small and effectively
3 mitigated. Importantly, those impacts are
4 particularly negligible when compared to the
5 benefits of the project. While much has been made
6 of the economic benefits of this project, and
7 you'll, I'm sure you'll hear about that from some of
8 the folks that will come before you tonight, the
9 benefits are actually far more profound. In the
10 absence of this project, 156,000 people and their
11 homes are at risk. Inundation would cause an
12 environmental catastrophe almost beyond measure, as
13 industrial sites, many of them Brownfields, are
14 inundated. It's because of the genuine
15 understanding of these incredible impacts on our
16 community that people did come together and rallied
17 around this project.

18 Before I step aside and listen to the
19 public comment myself, you know, I'd like to thank
20 the staff of the IEPA who recognized the urgency and
21 magnitude of the project for their diligence,
22 thoroughness and hard work doing the careful
23 analysis necessary to support the certification
24 process. As they I'm sure will tell you, we were
25 very impatient. We pressed them pretty hard to make

1 this process easier or go faster, but they
2 maintained a high standard throughout, and we hope
3 that the thorough documentation that we worked
4 together with them to prepare will address any
5 concerns about the impacts of the project.

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

10 HEARING OFFICER STUDER: Thank you, Mr.
11 Sterman.

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

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

20 The second part of that is I'd like
21 to put in a little bit more perspective for the
22 panel the impact that this would have due to some of
23 the poverty of the communities like East St. Louis.
24 I think about the number of people who would have
25 absolutely no place to go. Individuals who, if we

1 don't repair these levees as quickly, as thoroughly,
2 and as properly as possible, what will happen is
3 complete devastation, displacement, and people not
4 only having no place to go, but nothing to go with.
5 If not for some of the people who came forth in East
6 St. Louis for Christmas, as an example, people like
7 our County Board Chairman Mark Kern, who distributed
8 food coupons throughout the East St. Louis community
9 for people to be able to go to Schnuck's, there
10 would have been families without. I underscore
11 that, because I think a lot of times what we think
12 of is individuals who might be temporarily
13 displaced, and they'll find someplace else to be.
14 But when you don't have much, and you talk about the
15 concept of things like mandatory flood insurance,
16 that's the kind of thing that people in East St.
17 Louis, I'll go as far as to say Centreville,
18 Alorton, Washington Park, Brooklyn, Venice, I know
19 Mayor Hamm is here to speak for his own community in
20 Madison, but that's the kind of thing that
21 individuals who don't have alternative resources
22 don't recover from very quickly.

23 Another thing that I look at is
24 industries like the Casino Queen. The Casino Queen
25 is 45 percent of our general revenue fund in East

1 St. Louis. Sits right on the Mississippi River. If
2 we don't continue moving the projects forward as
3 quickly as possible, the role that you're playing,
4 we thank you very much for the role that you're
5 about to play with regard to the permitting, the
6 role that the US Army Corps of Engineers plays, the
7 role that any other agencies have to come forward
8 and help make these repairs, where necessary, happen
9 as quickly as possible. Without that, something
10 like the Casino Queen would be devastated, and
11 therefore, East St. Louis would be devastated.

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

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

25 HEARING OFFICER STUDER: Thank you, Mayor

1 Parks.

2 MAYOR ALVIN PARKS: Mm-hmm.

3 HEARING OFFICER STUDER: Mayor John Hamm
4 from Madison.

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

9 Speaking for my community, we're just
10 now getting, getting out of some of the ruts that
11 we're in, we, and I'm also going to speak in behalf
12 of the Madison County Housing Authority, I'm the
13 executive director there. We've tore down a lot of
14 this old delapidated housing that we've had there,
15 we've just invested over \$60 million in redoing this
16 housing. People like US Bank are investing in our
17 area. We have an industry in my community, Abengoa,
18 which is an ethanol plant that's just built, \$234
19 million plant, and they're, these people are taking
20 a look at our communities at this time, they're
21 building in our communities with the anticipation
22 that these levees are going to be repaired. And I
23 see Dale Stewart here, there's been lots of jobs
24 that he's been working on where our city is kind of
25 pulling at the boot strings and making, making

1 efforts, but I can see that all just stopping dead
2 in, dead in the water, and all those investments
3 that's coming our way and making that are going to
4 go away. There's no two ways about that. And we're
5 thankful for them being in the prices of flood
6 insurance, I have devastated communities also right
7 along the river, the West Madison portions. These
8 people, like Mayor Parks says, have no place to go.
9 We can build affordable housing, but there are still
10 people who can't afford to leave that house that
11 they've been living in 60, 70 years that's kind of
12 falling down around them, and we're trying to build
13 them up. So it's vital to my community for sure,
14 and there, and, you know, Granite City and Venice
15 and that that we, that we get these levees repaired
16 and the permit process moves forward.

17 Right now the river's running dry.
18 Excellent time to get things done like the Port
19 Authority, I'm a commissioner for the Port Authority
20 for us to get the new port done in there. So there
21 again, it's all good stuff for the, for the economy
22 and stuff for our community, and we appreciate any,
23 any help that you guys can give us to get those
24 things done.

25 HEARING OFFICER STUDER: Thank you, Mayor

1 Hamm. The next person will be Mayor Kevin
2 Hutchison, and that will be followed by Kathy
3 Andria.

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

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

18 But furthermore, I'm also a certified
19 insurance counselor and certified risk manager, and
20 I work for an insurance agency in St. Louis, and
21 I've written a lot of flood insurance both on the
22 Missouri side and on the Illinois side, both within
23 and outside of, you know, protected levee districts.
24 I've seen what special hazard flood districts and
25 the designations can do to premiums, and as Mayor

1 Parks and Mayor Hamm stated, not only is it
2 devastating from the standpoint of you may not be
3 protected, you may be in risk of losing your house,
4 but furthermore, this is yet another step of
5 insurance to make sure that we've done what we can
6 to prevent the flood. But along with that, the
7 other due diligence is transferring that risk
8 through flood insurance, and the cost in an
9 unprotected area if we were not to get this approval
10 would absolutely devastate those that are currently
11 paying flood insurance, because it would in some
12 cases show a two, three and four times increase in
13 flood insurance costs. So thank you very much for
14 your time.

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

18 MS. KATHY ANDRIA: My name is Kathy Andria,
19 I am president of the American Bottom Conservancy
20 and Conservation Chair of the Kaskaskia Group of the
21 Sierra Club. I make these comments on behalf of
22 both organizations and our members, many of whom
23 live in the American Bottom floodplain and will be
24 impacted by the decisions made in permitting of
25 levee repairs. ABC is a member of the Illinois EPA

1 Environmental Justice Community Advisors Group, and
2 we ask that this matter be considered can under EJ
3 guidelines.

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

17 At a conference held in 2008,
18 Professor Timothy Kuske of the Department of Earth
19 and Atmospheric Sciences at St. Louis University
20 said that global climate change models indicate that
21 what used to be the 100-year flood along the
22 Mississippi River may soon become the 7-year flood.
23 A peer reviewed scientific study says that: The
24 Corps has underestimated the 100-year flood by three
25 to four feet. The river levels chart used by AMEC

1 use data through 2010. In 2011, the Mississippi
2 River was above flood stage for much of the year.
3 In 2012, the year just passed, river levels were at
4 historic lows. AMEC used rainfall data from the
5 80's. The 80's. If assumptions are wrong,
6 conclusions are wrong.

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

20 We are being asked to comment on a
21 project with incomplete information. The design
22 isn't even completed yet. We are most concerned
23 about the calculations used with regard to relief
24 wells and pumping the water untreated into the river
25 and releasing it into the surrounding wetlands.

1 Several pump stations lie just above water intakes
2 for much of the public water supply in the Metro
3 East. This is the water we drink. People fish in
4 the river along the levee system, and many eat their
5 catch. This is especially true of low income and
6 middle earning families. There are PCB's and
7 dioxins in fish tissue along Sauget. The -- many
8 citizens walk the trails and hike along the wetlands
9 next to the levees. There is kayaking and other
10 recreational uses of the river by citizens on both
11 sides of the river.

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

1 anthropogenic pollutants in the ground water.

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

6 HEARING OFFICER STUDER: Okay, go ahead.
7 You've got about two and a half minutes.

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

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

17 MS. KATHY ANDRIA: My time.

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

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

21 MR. KOCH: Yeah.

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

24 MR. KOCH: Essentially. I mean the ground
25 water -- the Mississippi River and the associated

1 ground water, I mean they're, they're hydrologically
2 connected, yeah, I mean the Mississippi River
3 recharges the ground water. During flood conditions
4 the ground water is forced to up well. Yeah, I mean
5 the ground water is comprised of metals that come
6 from the river.

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

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

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

13 MR. KOCH: I understand.

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

18 MR. KOCH: That's true. I mean if you look
19 at ground water throughout the state, though, you'll
20 see that typically ground water concentrations do
21 have elevated concentrations of dissolved metals
22 that, when you look at it from a surface water
23 perspective, you know, it would violate the surface
24 water standard. But again, this is ground water,
25 when that ground water is brought up, it becomes

1 oxidized, the metals settle out, and that, this, we
2 see this across the state. I mean this isn't just
3 a, a problem we've seen in this site, we've seen it
4 across the state.

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

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

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

24 MS. KATHY ANDRIA: And you're assuming that
25 1984 was background.

1 MR. KOCH: I don't see why it would, it
2 would change. I mean it's ground water.

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

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

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

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

24 MR. KOCH: That could happen, yes; but this
25 activity is not adding these pollutants to the

1 water. I mean the pollutants are there. If the
2 river goes up and down, the pollutants may move in
3 and out, but, you know, the activity that we're,
4 we're here to discuss does not, does not add any of
5 these pollutants.

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

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

12 MS. KATHY ANDRIA: Thank you.

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

17 MR. DALE STEWART: Yes. My name is Dale
18 Stewart, S-T-E-W-A-R-T. I'm the Executive
19 Secretary/Treasurer of the Southwestern Illinois
20 Building Trades Council. Our council is made up of
21 14 affiliated international unions who perform work
22 on various building construction projects, and our
23 membership is roughly around 9,000 members.

24 When I took over as Executive
25 Secretary/Treasurer in 2005 in the Southwestern

1 Illinois area here, we had a lot of new construction
2 work going on, we had -- we built two ethanol
3 plants, we've built the Sunco project, we have done
4 warehouse work, we've done a lot of work at the
5 ConocoPhillips power plant. All these projects were
6 going on prior -- were already in the process when
7 we opened prior to 2007, when we got the notice from
8 the FEMA what was going to take place. We thought
9 we would get this taken care of fairly quickly, it
10 wasn't taken care of. This process has continued to
11 drag this project down.

12 In the last almost two years now it's
13 become stagnant in this area, we're not getting any
14 work at all. Everybody is fearful what's going to
15 take place, whether these levees are going to be
16 taken care of or not. We feel in the building
17 trades, which our people, the 80 -- the close to
18 9,000 members live and work here in the American
19 Bottoms. We live right along here, we've worked and
20 lived behind these levees for years, and we continue
21 to plan on living here. I've heard previous
22 speakers talk about different things that's taken on
23 in their areas, that's true, but in the building
24 part, it's literally went stagnant here in the last
25 two years, and it's just because of the fact that

1 there is no security what's going to take place. We
2 strongly ask that you would move forward with the
3 permitting process and make this project come true.
4 Thank you.

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

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

9 MR. DALE STEWART: Yes.

10 HEARING OFFICER STUDER: Okay, thank you.

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

14 MR. RICH CONNER: I am Rich Conner,
15 C-O-N-N-E-R. I serve as chairman of the St. Louis
16 Metro East Levee Issues Alliance. The Levee Issues
17 Alliance is a growing list of business and civic
18 organizations, community leaders and concerned
19 citizens in Southwestern Illinois and the greater
20 St. Louis area that serves as a public watch dog and
21 advocate for the successful completion of this
22 project. We have been very involved with the
23 Southern -- Southwestern Illinois Flood Prevention
24 District Council, their engineering firm, and the US
25 Army Corps of Engineers over the past few years.

1 I've attended and convened many meetings, and I've
2 witnessed great sensitivity and care for
3 environmental concerns by all of these
4 organizations. I am pleased to see that the IEPA
5 has made a tentative determination to issue the 401
6 water quality certifications for the levee system
7 improvement.

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

23 You've heard how important this
24 project is to our entire region. The Levee Issue
25 Alliance has found that delays to the levee work

1 will directly impact some of our most economically
2 challenged communities in Southwestern Illinois.
3 Let's keep in mind your prompt issuance of the 401
4 permit will specifically improve their financial
5 outlook, their safety, as well as their
6 environmental quality of life. Thank you.

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

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

13 I come here tonight pleading with the
14 panel to move this process forward. Several years
15 back when I was first notified of the levee issue, I
16 was mad, because I had been at a meeting prior to
17 being informed of this with the Corps of Engineers
18 at our local levee district in Prairie du Pont and
19 had been told that we had one of the best levee
20 districts in the state of Illinois. Some six months
21 later I hear about it that the levee is being
22 decertified. On a weekly basis now I get calls or
23 stop in and community from residents wanting to know
24 what's going on, are we going to be forced out, do
25 we put our homes up for sale. People that have

1 haven't been able to sell them. We had a little
2 convenience store in town that I've had two
3 different people try to open it back up now, but
4 unable to get financing because of this, this issue.
5 So I'm here tonight to plead with, with this
6 process. It's been a long, long battle, and I
7 understand the, the job that the protection,
8 protection district is doing. It's a slow process
9 but it's been a -- it's a long one for us. We're a
10 small community, don't have a lot going for us, but
11 I've got people that have raised their families
12 there.

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

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

23 MR. TERRY MILT: Thank you. Thank you for
24 the opportunity. I come from a different
25 perspective. My name is Terry Milt, that's M-I-L-T,

1 Mayor for the village of Dupo. I can stand up here
2 and echo the feelings of all the other mayors who
3 have spoken tonight. I can also tell you that prior
4 to the problems that came about with the levees, I
5 also heard the same speech that Mayor Simmons heard
6 that Prairie du Pont levee was one of the best
7 levees in the area. And then we find out a little
8 bit later, we're being told it's not.

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

24 HEARING OFFICER STUDER: Thank you, Mayor
25 Dell. And Mr. Casteel will be followed by Allen

1 Rome.

2 MR. CHIP CASTEEL: Good evening I'm Chip
3 Casteel, C-A-S-T-E-E-L, Senior Vice-president of
4 Public Policy for the St. Louis Regional Chamber of
5 Commerce. Our organization represents the 16-county
6 Bi-State Metropolitan region, including the counties
7 of Madison, Monroe and -- Monroe and St. Clair, and
8 our membership represents about 40 percent of the
9 region's employment base, along with dozens of local
10 governmental and economic development organizations.

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

18 In addition to the environmental
19 benefits that this work -- of this work, it will
20 help prevent FEMA decertification of the levees,
21 which would lead to dramatic chilling effect of
22 economic development activities and trigger massive
23 cost increases in flood insurance. And I want to
24 echo very briefly what a number of other people have
25 said, we already have, also our organization, like

1 others have mentioned tonight, has experienced
2 direct information from potential business
3 relocations that are concerned about coming to this
4 area because of the existing challenges to the levee
5 process, so moving ahead with the project is very
6 important to us.

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

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

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

20 MS. ELLEN KROHNE: Krohne.

21 HEARING OFFICER STUDER: I'm sorry.

22 MS. ELLEN KROHNE: I knew who you meant.

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

25 MR. DELBERT WITTENAUER: Mm-hmm.

1 HEARING OFFICER STUDER: Go ahead, Ms.

2 Krohne.

3 MS. ELLEN KROHNE: My name is Ellen Krohne,
4 K-R-O-H-N-E, and I'm the Executive Director of the
5 Leadership Council for Southwestern Illinois. Our
6 organization represents about 150 members that
7 include business, industry, labor, education and
8 government throughout Southwestern Illinois. Our
9 mission is to unite the region of Southwestern
10 Illinois for economic growth. I'm very pleased to
11 see that the IEPA has made the tentative
12 determination to issue the 401 water quality
13 certification for the levee system improvements.

14 These improvements to the Illinois
15 levee system is a top priority for our membership to
16 help us to continue to grow the region, and for the
17 entire St. Louis region. In addition to the
18 environmental benefits, the work will prevent
19 decertification of our levees by FEMA, which, if
20 that happens, will slow and potentially completely
21 stop the growth in the American Bottoms, and that's
22 really the prime spot for development and the
23 ability to increase jobs in the region.

24 The Leadership Council and its board
25 membership supports the certification, and we ask

1 you to issue the water quality certifications
2 necessary for the Southwestern Illinois Flood
3 Prevention District Council to proceed with the
4 proposed improvements.

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

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

11 MS. ELLEN KROHNE: Thank you very much.

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

15 MR. DELBERT WITTENAUER: Good evening.
16 Thank you very much for coming down and listening to
17 our concern, we really appreciate that. I think we
18 need to work more in partnership a lot of times
19 than, than the way a lot of times that we don't
20 really work together. We really need to, to talk
21 about it and discuss it and figure out where we're
22 all coming from.

23 Monroe County's future is at stake
24 pretty much because we do need some economic
25 development in Monroe County. I am Monroe County

1 board chairman, and my name is Delbert Wittenauer,
2 W-I-T-T-E-N-A-U-E-R, and our county has a very good
3 school system. The problem that we have, that we're
4 facing is we're very low in economic development.
5 Without economic development, the burden on our
6 taxpayers has become tremendous, and, and so this
7 development here is the future of Monroe County.

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

18 One thing that you'll notice, too, is
19 that it didn't take the three counties very long to
20 figure out that we needed to get together to
21 partnership, and we need to make this project move
22 forward. We passed a quarter cent sales tax, which
23 was really at a bad time. It really shouldn't have
24 been done politically at that time, it was a really
25 really bad time, and we did have some opposition, to

1 be honest with you, from some people who didn't want
2 to pay a quarter cent sales tax. But today this has
3 all changed, and all these people are asking is when
4 are we going to finish this project. They all have
5 an interest, they all have a vested interest in it,
6 nobody is opposed to this project, everybody wants
7 it to move forward because it's in the best interest
8 of all three counties for sure.

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

24 And then another thing that's really
25 important is a lot of places in, in this area where

1 there could be pollution, there's slurry walls.

2 These slurry, slurry walls lock everything out. And
3 so a lot of places where pollution is a concern, we
4 have -- the slurry walls are very expensive, by the
5 way, but we have designated that we need to, we need
6 to protect the environment, and so some of these
7 slurry walls will have to be put in because of that.

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

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

23 So I would ask you to, to issue us a
24 401 permit and, and let us move forward. I
25 appreciate your time. Thanks much.

1 HEARING OFFICER STUDER: Thank you, Mr.
2 Wittenauer. Mark Kern. And he will be followed by
3 Edward Hillhouse.

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

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

18 It's time to remove the uncertainty
19 from this process. Uncertainty that's hung above
20 all our heads now for years like a sword of
21 Damocles, that has a significant negative human and
22 economic impact. People's lives hang in the balance
23 with their own personal safety, onerous insurance
24 rates, and their ability to buy and sell -- to buy
25 insurance, and if they can't, the ability to buy and

1 sell their, their homes is all impacted by this.
2 And in addition, job creation has slowed in the
3 region because of, because of the levee, lack of
4 FEMA accreditation on the levees. And so in order
5 to bring our economic impact back in the region, we
6 need to ask that these certifications be granted.

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

15 HEARING OFFICER STUDER: Thank you. Edward
16 Hillhouse.

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

24 My name is Ed Hillhouse,
25 H-I-L-L-H-O-U-S-E. I'm Executive Director of

1 East/West Gateway Council of Governments, which
2 represents both sides of the river. We represent in
3 excess of 2.6 million people. We represent the
4 three counties that have been mentioned here.

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

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

25 The environmental assessment of 2012

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

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

17 MS. KATE PAWASARAT: Hi, my name is Kate
18 Pawasarat, it's P-A-W-A-S-A-R-A-T, and I'm an
19 interested citizen. And I guess I just had a few
20 questions to help me better understand the process
21 that you go through to issue the 401 permit.

22 HEARING OFFICER STUDER: Sure.

23 MS. KATE PAWASARAT: The first had to do
24 with the discussion of contamination and the fact
25 sheet for the MESD section of the levee system. It

1 looks like there was ground water that exceeded the
2 human health standard for bis (2-ethylhexyl)
3 phthalate, and I was wondering if you could maybe
4 explain a little bit more about how you take a look
5 at those test results and how you factor in dilution
6 with the river water to make sure that water quality
7 standards will be exceeded.

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

20 We're pretty certain that, that's the
21 reason for that, that one high hit, but besides
22 that, again, this is, this was a well sample taken
23 under low Mississippi River -- Mississippi River
24 water conditions. During flooding that water would,
25 would force ground water and other flood waters up.

1 If that were sent to a pump station, it would be
2 instantaneously dilution -- diluted with the river.
3 I mean given the, the marginal increase above the
4 standard in relation to the amount of water present,
5 there's just no way that that substance would exceed
6 the standard in the stream.

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

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

25 MR. KOCH: No, not to my knowledge, no. But

1 again, that's a pollutant that when we do our water
2 quality based effluent limit analysis for several
3 permits, you know, it doesn't have to be an
4 industry, it can be a municipal treatment plant or
5 what not, that substance does commonly show up, and
6 it comes up out of nowhere. And we've chased it
7 back to being laboratory error. Other states have
8 noticed that it's just one element when we see it
9 we're a little leery as to whether or not it's a
10 true result.

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

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

24 MR. FAUGHT: Sort of like connected is the,
25 for the 401 water quality certification we need to

1 basically verify that water quality standards will
2 be met. So if we see a need that an NPDES permit
3 will help make sure those standards are met, we may
4 bring an NPDES permit then. But I guess as far as
5 that February, the February document you saw, we did
6 a little more review and I think determined that
7 NPDES would not be necessary to verify that those
8 water quality standards would be maintained. So
9 that's sort of how they're connected.

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

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

25 MS. KATE PAWASARAT: Okay.

1 HEARING OFFICER STUDER: Thank you. Jule
2 Levin, and then following him will be Dennis
3 Pulcher.

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

17 Also as a levee board member,
18 understanding the nature of the levees and the need
19 for this project to proceed without further road
20 blocks, would hope that the IEPA would understand
21 the necessity of letting us go forward. The
22 buildings of these wetlands isn't rocket science,
23 riparian, the plant species needed, you know, I'm
24 aware of all that, I think we, we can work through
25 that. Like I say, we hold the lowest elected

1 position in the state of Illinois as levee board
2 members, but the burden that's been placed on it, on
3 us has been pretty heavy. We've worked very hard to
4 get where we're at now, and we can only hope that
5 the IEPA understands the importance and the
6 necessity that we move forward without these further
7 road blocks. Thank you.

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

10 MR. JULE LEVIN: Yes.

11 HEARING OFFICER STUDER: Thank you. Dennis
12 Pulcher.

13 MR. DENNIS PULCHER: Dennis Pulcher,
14 P-U-L-C-H-E-R. I'm a local farmer along between the
15 Jefferson Barracks Bridge and up to Cahokia along
16 that levee, and I'm 64 years old, I've seen that
17 river come up and down many many many many times. I
18 went through the '93 flood; I went through the '73
19 flood. And all of a sudden the levee's all of a
20 sudden decertified. And okay, let's get them
21 recertified, I support that. I'm also president of
22 the Chamber of Commerce in Dupon/East Carondelet, and
23 for their sake and the development issues that
24 surround our community, you know, it's a positive
25 thing, and I want to see that happen.

1 But on a personal note, some of the
2 projects that are going to ensue to improve that
3 levee is going to impact those of us that farm along
4 the levee. And when I say along the levee, I'm
5 two-tenths of a mile from the levee. Lived there,
6 been there all my life.

7 And the water quality issues, I don't
8 know, the only thing I can say is that after
9 drinking all of that water, I'm bald headed; okay?
10 So is there water quality issues? I don't know.
11 You know, there wasn't, there wasn't 40 years ago,
12 but now we can, now we can, now we can discover
13 things in parts per billion. Now we can measure
14 things much more precisely, and I don't know, does
15 it make it better or not? I don't -- I don't really
16 know. But I, I wonder about when you recertify the
17 levees, and if you do and a 401 permit goes through,
18 whether FEMA is going to follow your lead and
19 whether the RMA is going to follow your lead and
20 give us back those criteria necessary, you know, to
21 ensure our properties are not, because I'm a fellow
22 that pays 50 to \$100,000 a year for crop insurance,
23 and that crop insurance is predicated by the RMA,
24 and they just decertified all the areas that are
25 what's called high risk and called it, call it now

1 nonrated. And so I'm at the mercy of any insurance
2 company that I have to buy insurance from.

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

15 The interchanges with Clayco and the
16 development, they're hinging on your decisions.
17 They definitely are. And you will certainly impact
18 positively with a positive determination on this 401
19 permit, okay, and I look, I look forward to that.
20 But there are some other issues that when you get in
21 the RMA and FEMA, you know, they're pretty much
22 autonomous. I've tried to, I've tried to talk with
23 them years ago, and they won't even come see you.
24 They won't call you back, and they won't talk to
25 you. They legislate what they choose to do when

1 they choose to do it. And so that's, that's an
2 interrelationship of government agencies that's
3 going to be affected I, hopefully by this, but
4 there's no indication anywhere that necessarily
5 that's going to happen. Thank you.

6 HEARING OFFICER STUDER: Thank you, Mr.
7 Pulcher.

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

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

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

18 MS. KATHY ANDRIA: Sure.

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

21 MS. KATHY ANDRIA: Absolutely.

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

23 MS. KATHY ANDRIA: No, absolutely.

24 HEARING OFFICER STUDER: Okay. Is there
25 anyone in the room that hasn't spoken this evening

1 that would like to make comments this evening?

2 (No response.)

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

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

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

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

1 be discharged?

2 We're back to that, that issue again.

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

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

9 MS. KATHY ANDRIA: Right.

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

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

18 MR. KOCH: I could provide --

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

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

23 MS. KATHY ANDRIA: Okay. Did -- you
24 mentioned earlier that, that you did mercury
25 sampling, IEPA did mercury sampling.

1 MR. KOCH: Correct.

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

5 MR. KOCH: Correct.

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

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

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

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

1 going to be high, that's common throughout Illinois.
2 We didn't necessarily feel that new data would,
3 would help us in any way in regards to the metals.
4 We saw the old data from the USGS report.

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

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

13 MR. KOCH: Depends on the, the scenario.
14 Depends on if it's an NPDES situation or a 401
15 situation, but yeah, Illinois EPA, we do take our
16 own surface water samples throughout the state, we
17 have our Ambient Program, but we do rely on the
18 applicants to collect their own data, their own
19 effluent data. In some cases we'll make applicants
20 do biosurveys of their potentially affected area,
21 we'll make them take instream water quality samples,
22 so yeah, we, generally we do require that they
23 provide us with that data, and we feel comfortable
24 with that data, we don't believe there's any reason
25 to not believe that data is valid.

1 MS. KATHY ANDRIA: How can IEPA verify that
2 installation of relief wells to drains, discharge
3 pipes will not cause the transfer of ground water
4 contaminants that would not be transferred but for
5 the installation of these structures? In other
6 words, can you verify that additional ground water
7 contaminants will not be discharged from the
8 landward area to the river, or to the landward
9 wetlands?

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

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

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

25 HEARING OFFICER STUDER: We're starting to

1 get into some things that are more relevant to an
2 NPDES --

3 MS. KATHY ANDRIA: Okay.

4 HEARING OFFICER STUDER: -- rather than a
5 401.

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

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

22 MS. KATHY ANDRIA: Maybe the attorney could
23 ask -- answer this. What's to stop from polluter
24 from just getting some municipality to do the
25 releasing, and then it's just a water transfer.

1 MS. TERRANOVA: Right. Well, I mean nothing
2 essentially, but just because there's no NPDES permit
3 doesn't mean that the pollutants aren't being
4 addressed. I mean the water transfer only applies
5 if there's no additional pollutants being added. If
6 there are being pollutants being transferred, that's
7 where they're addressing them through 401 to make
8 sure water quality standards are met. So if they're
9 naturally occurring, or if they're from a super fund
10 site, the standards still have to be met.

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

25 MS. KATHY ANDRIA: Yeah, I think --

1 HEARING OFFICER STUDER: Let me interject
2 here, too --

3 MS. KATHY ANDRIA: Sure.

4 HEARING OFFICER STUDER: -- whether an NPDES
5 permit is issued or not really is not relevant in a
6 401.

7 MS. KATHY ANDRIA: Okay.

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

11 MS. KATHY ANDRIA: Okay.

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

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

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

23 HEARING OFFICER STUDER: If you, if you
24 think that you really need them in the record, they
25 can be submitted in writing --

1 MS. KATHY ANDRIA: Right.

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

4 MS. KATHY ANDRIA: Right.

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

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

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

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

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

22 HEARING OFFICER STUDER: Can I interrupt for
23 a second?

24 MS. KATHY ANDRIA: Sure.

25 HEARING OFFICER STUDER: She spoke for Kim

1 Knowles before, and --

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

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

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

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

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

18 MR. KOCH: Well, again, this, a Reasonable
19 Potential Analysis wasn't done on the data set. We
20 looked at the averages, because in general, the
21 standards that were, that had a potential to be
22 exceeded were the chronic standards. A Reasonable
23 Potential Analysis gets into, you know, the amount
24 of data that you have and how certain, you know,
25 what the uncertainty is of that data, and again,

1 we're not going to run that through the analysis,
2 you need a multitude of data to actually do that
3 analysis. And again, if this was an NPDES situation,
4 you know, a permit that has five years of data, then
5 sure, we'd run that through the analysis, but again,
6 this is just based on background data we're looking
7 at, you know, we're looking at background metals
8 data, we're not going to do a Reasonable Potential
9 Analysis on that.

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

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

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

25 MR. FAUGHT: Honestly, not often, but it has

1 before when, again, when we do know what, what
2 waters are going to be impacted and how they're
3 going to be mitigated for. As long as we have those
4 details, we usually have enough to proceed.

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

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

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

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

24 MS. KATHY ANDRIA: Has the IEP -- oh, well,
25 that, I know the answer to that.

1 Can you explain what factors have led
2 to the situation in which ground water contamination
3 in Sauget area Site R as described is found below
4 the depth of levee relief wells, given that the
5 contamination originally came from the surface?

6 In other words, how is it
7 contaminated down here, but not in between, when
8 you're talking about the wells, there's a whole
9 section --

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

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

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

24 MS. KATHY ANDRIA: Does the table, the
25 ground water monitoring well sample analytic data,

1 does that include all the organics and metals that
2 were sampled in the area?

3 MR. KOCH: I believe so.

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

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

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

11 MR. KOCH: Oh, okay.

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

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

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

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

20 (Mr. Koch peruses document.)

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

24 MS. KATHY ANDRIA: Okay.

25 HEARING OFFICER STUDER: -- comments during

1 the comment period, and we can respond more fully
2 then in the responsiveness summary to that question.

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

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

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

12 HEARING OFFICER STUDER: Appreciate that.

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

15 The -- there's a document that we
16 have that was entitled -- and I, I tried to review
17 the documents, I forwarded the documents early to
18 IEPA and I was unable to review them, and I tried a
19 number of times and I couldn't get an answer back,
20 and then I was told they hadn't been cleared with an
21 attorney, and I'm very grateful to Les Sterman, he
22 did provide me with some of the documents that we
23 could, we could view, we didn't see your file, but,
24 you know, we really want to see your file, so I hope
25 that we can do that. I think that everybody seemed

1 to be on, through the holidays, no one was answering
2 the phone, so I understand it was a bad time, the
3 timing was bad, but ...

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

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

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

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

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

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

25 MR. KOCH: Sure.

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

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

7 MS. KATHY ANDRIA: Okay.

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

11 MS. KATHY ANDRIA: Right.

12 HEARING OFFICER STUDER: Okay.

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

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

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

24 (Public Hearing adjourned at 8:06 p.m.)

25

CERTIFICATE OF REPORTER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

Notary Public within and for
the State of Missouri