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REPORT OF THE PROCEEDINGS of the
Illinois Environmental Protection Agency (IEPA) Water
Discharge Permit Public Hearing, NPDES Permit
IL0079936 taken at the Harris-Pruett Community
Building, 107 East Church Street, Harrisburg,
Illinois, on the 18th day of February, 2014.

1 HEARING OFFICER STUDER: As you can
2 tell, we do have a full house this evening, therefore
3 we will keep things moving this evening. I will
4 limit and time speakers. We will allow three minutes
5 per person. We have another hearing that begins at
6 roughly 7 o'clock this evening. We will be taking
7 about a 15-minute break at the end of this hearing
8 before that hearing starts, but I would like to start
9 that hearing as close to 7 o'clock as we can this
10 evening.

11 Good evening. My name is Dean Studer and
12 I'm the hearing officer for the Illinois
13 Environmental Protection Agency. On behalf of
14 Director Lisa Bonnet and Bureau of Water Chief Marcia
15 Willhite, I welcome you to this hearing. This
16 Illinois EPA believes that the public hearings that
17 we hold are a crucial part of the permit review
18 process. My purpose tonight is to ensure that these
19 proceedings run properly and according to rules. To
20 that end, I will finish reading this opening
21 statement into the record.

22 This is an informational hearing
23 before the Illinois EPA in the matter of a new
24 National Pollutant Discharge Elimination System, also
25 referred to as NPDES, permit for a surface coal

1 mining facility by Peabody Arclar Mining, LLC, with
2 proposed discharges of treated wastewater into
3 unnamed tributaries to Rocky Branch, Cockerel Branch
4 and to an unnamed pond.

5 I want to point out that we will
6 be conducting another hearing this evening following
7 this NPDES hearing. The second hearing involves a
8 401 water quality certification for the same facility
9 and is a separate proceeding before Illinois EPA.
10 Issues relevant in the second hearing are different
11 from those for this NPDES hearing.

12 Issues relevant to this hearing
13 include compliance with the requirements of the Clean
14 Water Act and the rules set forth in 35 Illinois
15 Administrative Code, Subtitle C and D and the
16 anti-degradation assessment. The Illinois EPA has
17 made a preliminary determination that the project
18 meets the requirements for obtaining the permit and
19 has prepared a draft permit for review.

20 The Illinois EPA is holding this
21 hearing for the purpose of accepting comments on the
22 draft permit. This public hearing is being held
23 under the provisions of Illinois EPA's procedures for
24 permit and closure plan hearings which can be found
25 in 35 Illinois Administrative Code, Part 166, Subpart

1 A and under Illinois Pollution Control Board
2 regulations at 35 Illinois Administrative Code
3 309.115 through 309.119. Copies of these regulations
4 are available at the Illinois Pollution Control Board
5 website, and that's www.ipcb.state.il.us or, if you
6 do not have easy access to the web, you can contact
7 me and I can get a copy for you.

8 An informational public hearing
9 means exactly that. This is strictly an
10 informational hearing. It is an opportunity for you
11 to provide information to the Illinois EPA
12 concerning -- concerning the permit so that such
13 information can be considered when taking final
14 action on this permit application. This is not a
15 contested case hearing.

16 I would like to explain how
17 tonight's hearing is going to proceed. First, we'll
18 have the Illinois EPA panel introduce themselves and
19 provide a sentence or two regarding their involvement
20 in the permit review process. Then Larry Crislip,
21 from the Mine Pollution Control Program at Illinois
22 EPA, will provide a brief explanation of the permit.
23 Following this overview, I will provide further
24 instructions as to how statements and comments will
25 be taken during this hearing and as to appropriate

1 conduct during this hearing. I will then allow the
2 public to provide comments, starting with John
3 Keller, Operations Manager, representing the
4 applicant, which is Peabody Arclar Mining, LLC.

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

10 Everyone legibly completing a card tonight or
11 providing written or e-mail comments in this
12 proceeding will be notified when the Illinois EPA
13 reaches a final decision in the matter as well as
14 when final decision in the 401 proceeding is reached.
15 And the 401 proceeding is the second hearing. We are
16 maintaining only one mailing list for the two
17 facilities, so you'll be notified, if you're on our
18 mailing list, of the final decision in each matter.
19 A responsive summary will be made available at the
20 time of each decision for each proceeding. Note that
21 the regulations review process and other factors are
22 different for the two proceedings and therefore, the
23 final decisions may be made at different times.

24 In the responsiveness summary the
25 Illinois EPA will respond to all relevant and

1 significant issues that were raised at the hearing or
2 submitted to me prior to the close of the comment
3 period. The hearing record in this matter will close
4 on March 19, 2014. I will accept written comments as
5 long as they are e-mailed or postmarked by March 19,
6 2014.

7 Illinois EPA is committed to
8 resolving outstanding issues and reaching a final
9 decision in this matter in an expeditious manner.
10 However, the final decision will depend on the number
11 of comments received, the substantive contents of
12 those comments, as well as other factors.

13 During this hearing and during
14 the comment period all relevant comments, documents
15 and data will be placed into the hearing record as an
16 exhibit. Please send all written documents or data
17 to my attention at Dean Studer, Hearing Officer,
18 regarding Rocky Branch Mine NPDES, Illinois EPA, 1021
19 North Grand Avenue East, P.O. Box 19276, Springfield,
20 Illinois 62794. This address is also listed on the
21 public notice for this hearing tonight. Please
22 indicate the NPDES permit number or reference Rocky
23 Branch Mine NPDES on your comments to help ensure
24 that they become part of this hearing record. The
25 NPDES number for this facility is IL0079936. I note

1 that we have a 401 water quality certification
2 proceeding for this same facility open, so please be
3 sure and mark your comments in the NPDES matter with
4 the letters NPDES or the NPDES permit number to
5 ensure that they become part of this hearing record.

6 Illinois EPA will also accept
7 e-mail comments in this NPDES proceeding. E-mails
8 originating on a third party server designed to
9 submit comments of the same or nearly the same
10 content for multiple users will not be accepted
11 without my prior written approval. E-mail comments
12 are to be sent to epa.publichearingcom, and that's
13 E-P-A dot P-U-B-L-I-C-H-E-A-R-I-N-G-C-O-M,
14 @illinois.gov. E-mails need to be received no later
15 than March 19, 2014, and must specify either Rocky
16 Branch NPDES or IL0079936 in the subject line.
17 E-mails are electronically sorted and distributed, so
18 please make sure that the words in the subject line
19 are spelled correctly. Electronic comments filed
20 during normal agency business hours should get an
21 automated reply from the server. I will also attempt
22 to send a reply to e-mail comments within a few
23 business days indicating the exhibit number assigned
24 to the electronic submittal. If you do not receive
25 such a reply, you may contact me and I can provide

1 that information to you.

2 I would now like to ask the
3 Illinois EPA panel members to introduce themselves
4 and provide a sentence or two as to their involvement
5 in the permit review process.

6 MR. KOCH: Hi, my name is Brian Koch
7 and I work in the water quality standards section and
8 my main duty associated with this permit is to verify
9 that water quality standards will be attained.

10 MS. DIERS: Stephanie Diers, legal
11 counsel.

12 MR. CRISLIP: Larry Crislip, manager
13 of the permit section for the mine pollution control
14 program. My group compiles all of the information,
15 reviews the application and prepares the draft permit
16 that we're having the hearing on tonight.

17 HEARING OFFICER STUDER: I've been
18 informed that Larry is not going to be giving an
19 opening statement this evening. Part of the reason
20 for that is due to the time constraints that we are
21 currently under. We want to have as much time as
22 possible for members of the public to be able to make
23 comments.

24 As hearing officer I intend to
25 treat everyone here tonight with respect and in a

1 professional manner. I ask that the same respect be
2 shown by the hearing panel and members of the
3 audience. You may disagree with or object to some of
4 the statements and comments made, but this is a
5 public hearing and everyone has a right to express
6 their comments on this draft permit and the issues
7 related to it. Arguing or prolonged dialogue with
8 others will not be permitted this evening.

9 I remind everyone that we have a
10 court reporter here making a verbatim record of
11 tonight's hearing. For her sake and in the interest
12 of having an accurate transcript of this hearing, I
13 ask that noise levels in the room be kept to a
14 minimum. Consequently, applause, booing, hissing,
15 jeering and other sounds will not be permitted.

16 If the conduct of persons
17 attending this hearing shall become unruly, I am
18 authorized to adjourn this hearing should the actions
19 warrant. In such a case, the Illinois EPA would
20 accept written comments through the time indicated on
21 the notice for this hearing.

22 Written comments may be submitted
23 to Illinois EPA at any time within the public comment
24 period which ends on March 19, 2014. Comments
25 submitted by carrier or US mail need to be stamped

1 and postmarked no later than March 19, 2014. Written
2 comments submitted as a hard copy of timely filed
3 e-mail comments should be accepted in hard copy,
4 provided they are received within seven days after
5 the comment period closing and are contained exactly
6 in the comments followed by -- excuse me. Let me say
7 this again. Provided they are received within seven
8 days after the comment period closing and contained
9 exactly in the comments filed by e-mail.

10 If you have lengthy oral comments
11 to make at this hearing, it will be helpful to submit
12 them to me in writing and I will ensure that they are
13 included in the hearing record as an exhibit. This
14 hearing is the only time that Illinois EPA will
15 accept oral comments. Also, if you are reading your
16 comments into the record this evening, I would ask
17 that you leave that with the court reporter and that
18 is to assist in making sure that your comments are
19 actually accurately transcribed in the transcript,
20 which will be made available on the internet when we
21 get the transcript back.

22 Please keep your comments
23 relevant to the issues involved with this permit. If
24 your comments fall outside the scope of this hearing,
25 I may ask you to proceed to your next relevant issue.

1 I will initially allow everyone three minutes to make
2 comments. We will go -- after everyone has had an
3 opportunity, we will see how the time goes, however,
4 I remind everyone in the room we have a second
5 hearing this evening, so we're going to attempt to
6 get to everyone that has registered to speak this
7 evening. I cannot guarantee that we will be able to
8 do that, but we're going to give it a shot at doing
9 that.

10 I want to avoid repetition. If
11 anyone before you has already presented a statement
12 or comment that is contained in your comments, please
13 skip over those issues when you speak. If someone
14 has already said what you intended to say, you may
15 pass when I call your name to come forward. Once a
16 point is made, it makes no difference if the point is
17 made 99 times. It will be considered on its merit
18 and addressed only once in the responsiveness
19 summary.

20 The issues that are relevant in
21 the Illinois EPA final decision are those directly
22 related to the contents of the permit and the
23 regulations governing the issuance of the permit.
24 Simply stating opposition or support for this project
25 will not impact the Illinois EPA decision in this

1 matter. The Illinois EPA has the power given to it
2 under the Illinois Environmental Protection Act, and
3 since this is a federal permit action, to a limited
4 extent to the regulations as applicable to the state
5 under USEPA regulations. Illinois EPA decision
6 making is limited to those items associated with
7 environmental issues and other items as determined by
8 state and federal law and under the purview of the
9 Bureau of Water at Illinois EPA. In this case
10 relevant issues must relate to the water discharge
11 and NPDES's permit in some way. Please keep this in
12 mind when speaking this evening, as well as when
13 filing written comments on this NPDES permit.

14 When it is your turn to speak, I
15 will call your name. Please come forward. I will
16 then call a second name and that is the person that
17 will speak after the one that is currently speaking
18 is finished. When the person speaking has completed
19 their comments, the next person should come forward
20 and I will call the name of the next person that will
21 be on deck. When speaking, please speak clearly.
22 State your name and, if applicable, any governmental
23 body, organization or association that you represent.
24 If you are not representing a governmental body,
25 organization or association, you may simply indicate

1 you are a concerned citizen or a member of the
2 public. For the benefit of the court reporter I ask
3 that you spell your last name. If there are
4 alternate spellings for your first name, you may also
5 spell that, if you desire. Comments are to be
6 directed to members of the hearing panel. This will
7 help to ensure that an accurate transcription of your
8 comments is made. Prolonged dialogue with the
9 hearing panel or with others in attendance will not
10 be allowed this evening.

11 Are there any comments on the
12 procedures that I will be using tonight for this
13 hearing? Okay. Let the record indicate that no one
14 raised their hand.

15 MS. DIERS: Prior to the start of
16 hearing Illinois EPA received two letters. Due to
17 time I'm not going to read the letters, but I do want
18 to let everyone know that we received a letter from
19 State Representative Brandon Phelps, as well as State
20 Senator Gary Forby. These will be made part of the
21 record and we'll give the same weight to them as
22 anyone who speaks here tonight.

23 HEARING OFFICER STUDER: And that does
24 raise the point that there is no one at this hearing
25 that is absolutely compelled to speak. You have the

1 option of submitting your comments strictly in
2 writing. Written comments are given the same weight
3 as oral comments during this hearing. I know that we
4 are going to be a little short on time this evening,
5 so we're going to do what we can to try and keep
6 things moving. And, again, I remind everyone that
7 the time limit that we will allow per speaker is
8 going to be three minutes.

9 Okay. The first person that's
10 going to be speaking is representing the applicant
11 and that's John Keller. Following Mr. Keller we'll
12 have Stephen Karns speak.

13 MR. KELLER: John Keller, K-E-L-L-E-R.

14 HEARING OFFICER STUDER: John, please
15 use the mic and you may have to turn it on.

16 MR. KELLER: John Keller. Can you
17 hear me?

18 HEARING OFFICER STUDER: Yeah. You
19 can hold it or we can raise it, if you would like.

20 MR. KELLER: John Keller, K-E-L-L-E-R,
21 Peabody Energy, operations manager at Cottage Grove
22 Mine. Good evening and thank you for hosting this
23 hearing. I appreciate the opportunity to explain our
24 permit request.

25 In detail our operations --

1 HEARING OFFICER STUDER: Can everyone
2 in the back hear Mr. Keller?

3 AUDIENCE MEMBER: No.

4 HEARING OFFICER STUDER: Okay. You're
5 going to have --

6 MR. KELLER: Now I'm assuming that
7 doesn't go against my three minutes. Start over.

8 Good evening, and thank you for
9 hosting this hearing. I appreciate the opportunity
10 to explain our permit request and detail our
11 operations for your consideration.

12 Cottage Grove mine began
13 operations in 1999 and has operated continuous in
14 Saline and Gallatin Counties for more than 14 years.
15 The proposed Rocky Branch permit number 428 consists
16 of about 1092 acres of surface land that is to be
17 utilized for drainage control, stockpiling and other
18 mining support needs. Coal processing will continue
19 under the previously approved Arclar permits.

20 Land within the permit will
21 provide a continuation for coal production and
22 preserve employment for Cottage Grove's existing work
23 force. Annual payroll for the 200 men and women who
24 work at Cottage Grove is approximately 25 million
25 dollars. These direct jobs provide a healthy income

1 for the families who reside primarily in Saline and
2 Gallatin Counties. In addition to Cottage Grove's
3 direct employment, industry estimates indicate
4 approximately 600 additional mining-related jobs are
5 supported by the mine's operations. The 800 direct
6 and indirect jobs combined represent a significant
7 part of the Southern Illinois economy.

8 Safety is a core value at Peabody. We
9 value safety as a way of life, both on our sites and
10 as well as in our local communities. Cottage Grove
11 is an excellent example of our commitment. I'm proud
12 to say that the mine has gone 948 days without a lost
13 time accident. Has exceeded 1 million man hours
14 without an incident. And year-to-date, as well as in
15 2013, has an incident rate of zero with an industry
16 average of 3.17 accidents per 200 thousand hours
17 worked.

18 Peabody is also committed to conducting its
19 operations in a reasonable and responsible manner
20 that protects the environment and restores the land.
21 Cottage Grove employs the latest technology and best
22 management practices, utilizing well-trained staff
23 and resources to meet or exceed permit requirements
24 and return the land to equal or better condition than
25 we found it. As a matter of pride, average corn

1 yields at Cottage Grove over the past five years show
2 production on prime fields has exceeded native
3 production by 5 percent.

4 With this focus, Cottage Grove
5 mine enjoys a strong record of compliance and has
6 been recognized for reclamation efforts. For
7 example, Cottage Grove mine was a 2010 recipient of
8 the Outstanding Reclamation Award from the National
9 Association of State Land Reclamations. Winner of
10 the 2010 Illinois Land Reclamation Award in the coal
11 category from the Department of Natural Resources
12 Office of Mines and Minerals. And was honored with
13 U.S. Department of Interior 2012 Excellence in
14 Surface Coal Mining Reclamation Award.

15 It is of critical importance that
16 a permit decision is reached promptly to prevent an
17 interruption in coal production and to provide
18 continuous employment to the local workforce in
19 Southern Illinois. Unemployment in Saline County
20 stands at 9.9 percent and Gallatin County at
21 9.8 percent. Both areas are considered high
22 unemployment locations in Illinois and job
23 preservation is an important factor for the residents
24 of this area.

25 We look forward to continuing our

1 14-year history of being a good employer and a good
2 neighbor in this region. I realize growth can be
3 disruptive and I am committed to making Saline County
4 a great place to live and work. Thank you.

5 HEARING OFFICER STUDER: Thank you.
6 Stephen Karns, if you would come forward. And you'll
7 be followed by Jennifer Dumbris.

8 MR. KARNS: Thank you for the
9 opportunity to speak. I am an impacted citizen of
10 the Rocky Branch community. The last name is spelled
11 K-A-R-N-S.

12 As a youngster growing up in the
13 Rocky Branch/Cottage Grove community I was
14 inquisitive, as most kids are. I wanted to visit
15 every place that I could find water. It was fun to
16 build small dams, wade in the water, catch tadpoles,
17 pollywogs and mud puppies, crawfish and more.

18 As mining in the area progressed
19 I noticed my water creatures disappearing. The water
20 disappeared, too, from some of the streams. Often I
21 noticed the water was a bright red or an orange
22 color.

23 There were no fish or other
24 aquatic life in these waters. The water stained the
25 land in its reds, oranges and whites. The water

1 often flowed across farmland turning it into a
2 sterile landscape where nothing would grow. I know
3 now that the colors came from the iron, sulfur,
4 aluminum and other compounds dissolved in the water.
5 Mercury, lead, asbestos and much more may have also
6 been present in the discharges coming from old mines.
7 The water was acidic.

8 Water wells in the area began to
9 go bad as the ground water was affected. People in
10 the area drank the water from their polluted wells,
11 not knowing what they were ingesting. This was their
12 only source of water.

13 The Saline River ran red as blood
14 with heavy pollution. Dead fish were often seen as
15 they had ventured too far into the polluted waters,
16 losing their lives in the process. Today pollution
17 from the old Peabody Will Scarlet and the new Franks'
18 mines continue to heavily pollute the south fork of
19 the Saline River.

20 Millions of taxpayer dollars were
21 present to halt the polluted run-off from the old
22 mine works. Eventually the Saline River began a slow
23 return to a semblance of normal. Fish and turtles
24 could be seen in the water from the bridge over the
25 Saline River on the Rocky Branch Road. The American

1 Bald Eagle has begun a return to the area. Several
2 pairs are now nesting within a short distance in the
3 immediate area of the proposed Rocky Branch Mine.

4 This rebirth has taken most of my lifetime to occur.

5 The proposed Rocky Branch Mine
6 will have immediate and long-lasting effects on the
7 natural hydrology of the area. Wells already
8 affected by mine pollution will become worse.
9 Unaffected wells may become polluted. The Rocky
10 Branch, a naturally occurring seep, will be mined
11 through never to return. The Karns Creek may dry up
12 as the water table in the immediate area will drop as
13 a result of the surface mining. Many other streams
14 will be filled with polluted water discharges from
15 this new mine. Wells are likely to go dry or the
16 natural flow of the underground streams impeded or
17 lost forever. Marine life will die off from polluted
18 waters. The birds and mammals will lose important
19 food sources. Our local ecology will change for the
20 worse. Our American Bald Eagles will no longer be
21 able to fish in the streams feeding the Saline River.
22 Migrating eagles may no longer visit the area.

23 Several artesian wells are
24 located within or adjacent to the proposed mine
25 permit area. These may not have been properly

1 identified or considered in the permitting process.
2 How will these wells be affected and how will they
3 later be replaced?

4 A large section of the Hoop-Pole
5 Creek will be mined and replaced with a concrete
6 ditch. Water will no longer be able to percolate
7 down through the land as before. The local water
8 table will recede. Mined land does not absorb the
9 rainfall as does undisturbed land, further impacting
10 the local water table. The natural flow of
11 underground streams will be permanently terminated.
12 It will take several hundred years, if ever, for the
13 underground streams to percolate through the mine
14 spoils.

15 During this time the heavy
16 metals, toxins and acid forming pyrite will be at
17 work. These compounds will be easily dissolved in
18 the new water as it permeates the mine spoil. The
19 water will pollute the underground streams and wells,
20 in an area much larger than the permit area and
21 eventually reach the surface in certain low lying
22 areas. Once the water reaches the surface it will
23 combine with rainfall to create more toxic pollution
24 that will travel over the land and into the streams
25 and creeks in the area. More native marine life will

1 be exterminated by the acid runoff and heavy metal
2 pollutants.

3 Rain falling on the mined areas
4 will contribute further to the problem. Pyrite
5 (Ferric Sulfate) will deteriorate when exposed to air
6 releasing its sulfur, iron, manganese, lead, mercury,
7 aluminum and other toxins into the rain water.
8 Heavily polluted water will run off the mine
9 property. This pollution will worsen with time.

10 The mine proposes to contain and
11 treat the water before it enters into nearby bodies
12 of water. Water will regularly be discharged from
13 the mine. This discharged water has the potential to
14 pollute large areas surrounding the mine permit area.

15 HEARING OFFICER STUDER: We're
16 approaching the time limit. How much more do you
17 have, sir?

18 MR. KARNS: I have a half page.

19 Acid neutralizing methods may be employed.
20 These will require regular maintenance and monitoring
21 for many years to come. Not a simple five-year
22 period.

23 I do have the rest of my comments
24 in writing, which I would like to submit, along with
25 a number of questions that I will attempt to ask

1 later. But I do have one single question that I want
2 to ask, I'm not expecting a response at this time,
3 and that is what emergency plan does Peabody have in
4 place to notify the local residents and citizens of
5 the community in the event of a major pollution act
6 similar to what occurred in West Virginia? Thank you
7 for your time.

8 HEARING OFFICER STUDER: Thank you.
9 If you would consider leaving that with the court
10 reporter. Okay. Jennifer will be followed by Rhonda
11 Dillard.

12 MS. DUMBRIS: My name is Jennifer
13 Dumbris, D-U-M-B-R-I-S. I am a suffering Rocky
14 Branch resident.

15 The mission of the Illinois
16 Environmental Protection Agency Bureau of Water is to
17 ensure that Illinois rivers, streams and lakes will
18 support all uses for which they are designated,
19 including protection of aquatic life, recreation and
20 drinking water supplies, ensure that every Illinois
21 public water system will provide water that is
22 consistently safe to drink, protect Illinois
23 groundwater resources for designated drinking water
24 and other beneficial uses. These are not my words.
25 This is your mission statement on the IEPA website.

1 This is the job you agreed to take and uphold. This
2 is the job we, as citizens of Illinois, count on you
3 to uphold with integrity and honesty, but we can't do
4 that.

5 We have to count on ourselves to
6 protect our Constitutional right of well-being. We
7 have to test our waters. We have to watchdog our
8 land and homes. We have to sit in the middle of
9 explosions, breathing silica and watching you go into
10 our water supply, on our agriculture and into our
11 homes, watching the very foundations of our homes
12 crack after explosions and being told the proof of
13 burden lies on us.

14 So we at Rocky Branch as a
15 community, as a citizen of Illinois, have made a
16 decision. We are the ones to decide what happens to
17 us. Not Peabody. Not bought out state legislators.
18 Not bought out local representatives. Not corrupted
19 state organizations. Not CO's. Not the so-called
20 scientific experts. We the people and we the
21 community have the fundamental right to decide our
22 future and because we believe in a community's right
23 to self-determination and self-governance, we will
24 work every avenue possible to protect the civil
25 rights of our community. Thank you.

1 HEARING OFFICER STUDER: Again, I
2 remind you that applause are not appropriate at this
3 hearing. Rhonda Dillard. Rhonda will be followed by
4 Bobby Simpson.

5 MS. DILLARD: My name is Rhonda
6 Dillard, D-I-L-L-A-R-D. I am a resident and a
7 homeowner of the Rocky Branch area and I've lived
8 there all of my adult life, which is 38 years I've
9 lived there. I hope you got down here in time to
10 view our neighborhood before we started this hearing.
11 Did you get down here in time to view my
12 neighborhood? No. You didn't? Well --

13 HEARING OFFICER STUDER: The decision
14 is made by the permitting engineers and certain staff
15 and it's my understanding, Larry, have you been
16 through the area?

17 MR. CRISLIP: We've been out there,
18 yes.

19 MS. DILLARD: I'm glad somebody got to
20 see my neighborhood. I appreciate that.

21 I want to show you some pictures
22 of our last flooding. And I want to go through them
23 one at a time, so bear with me. The very first one
24 is from my front yard. These are taken in May of
25 2011. This is standing in my front yard looking

1 across -- looking north across toward the Davis home,
2 which you see arrowed there, that has been purchased
3 by Peabody and is an area that will be mined. This
4 runs approximately nine-tenths of a mile from my home
5 to that home where Peabody is going to mine.

6 Going to the next picture. This
7 is now standing in the driveway of that Davis home
8 that you saw in the first picture looking back toward
9 the Dench farm. As you will see, Old Highway 13 is
10 right there in front of the Davis home. You will
11 notice that there are green bushes over here to the
12 side and we'll get to that in just a minute.

13 Going on to the third picture,
14 you will now see that you -- you're still standing in
15 the Davis driveway that's been purchased by Peabody,
16 looking back toward my home, the Dillard home facing
17 south. Okay.

18 On the fourth picture, this is
19 looking west toward Harrisburg from my front yard.
20 You can see the expansion of this water. It's not a
21 small amount of water. It's a lot of water.

22 And the fifth picture shows the
23 intersection of Pebble Road, which I live on, and
24 Berry Road, which is seven-tenths of a mile down from
25 my home and it just shows the expansion, going

1 nine-tenths of a mile out and seven-tenths of a mile
2 down. I'm at the end of this. This all backs up
3 behind my home and I'm at the end of this.

4 If you'll go back to picture two
5 and three, and if you will -- wait a minute. Hang on
6 a minute. Excuse me. If you'll go back to picture
7 two and three and put those green bushes together,
8 you can see the expanse of this and exactly right
9 here -- the area to the left, where my home is, is
10 the area that is going to be mined and where Peabody
11 wants to put our brand new road that they want to
12 take out is directly behind what is actually tree
13 tops. Those green bushes are tree tops. That shows
14 the depth of that water. I'm so concerned, if
15 Peabody puts us in a road there, that this is only
16 going to back all of that flood water up and it's
17 going to take my home for sure, which it gets real
18 close now, and a lot of other homes and plus make the
19 people that live back behind me even worse. This is
20 what I am concerned about.

21 Not only that, this is spring
22 water. This -- most of the time this happens when
23 the Ohio River reaches flood stage the water comes
24 through the Ohio River up through the Saline River
25 and then out through all of the little streams.

1 That's where this water comes from. The Ohio River
2 is also where I get my drinking water, through Saline
3 Valley Conservancy District. If you put a coal
4 mining area right there in my flood zone and all of
5 that dust and chemicals and everything else goes back
6 down into the Ohio River, where I get my drinking
7 water, these are the two areas that really concern
8 me. Not only the flooding here, in my neighborhood,
9 but also my drinking water.

10 I just want to make one other
11 little statement and then I'm done. Mr. -- lately in
12 our newspapers there's been a lot of comments about
13 good neighbors. Mr. Keller brought this up in his
14 speech, so I guess I can bring this up in mine, too.
15 You know, he wants to say that Peabody is a good
16 neighbor. Actually you can never say yourself that
17 you are a good neighbor. I can't say I'm a good
18 neighbor to the Karns's. The Karns's have to say
19 that I'm a good neighbor to them. You can't say that
20 yourself. So Peabody can't actually say they are a
21 good neighbor. So, therefore, as our group, as a
22 neighborhood, I would say Peabody is not a good
23 neighbor.

24 Number one, there's homes cracked
25 and even though you go through the house inspections,

1 when they crack your walls and your homes they never
2 want to pay. They always have an excuse. We didn't
3 do it. Shoddy construction. Whatever.

4 Secondly, they don't pay any
5 surtax on any tonnage taken out of that ground and
6 that affects school children in our public schools
7 and in our community college, because they don't get
8 any money. Even property tax goes down to nothing
9 when they are mining our ground. On 80 acres of
10 ground they pay \$56 when they mined it. How much
11 money did our school children get of that? So good
12 neighbors wouldn't do that to each other. And I'm
13 telling you Peabody is not being a good neighbor.
14 They can change that, but they are not being a good
15 neighbor now. Thank you.

16 MS. DIERS: I have one question before
17 you go. Were all of these pictures taken in
18 May 2011?

19 MS. DILLARD: Yes, they were.

20 MS. DIERS: Can we keep a set of
21 these?

22 MS. DILLARD: Yes.

23 HEARING OFFICER STUDER: And I will
24 have those entered into the record.

25 MS. DILLARD: Thank you for listening

1 to me.

2 HEARING OFFICER STUDER: Bobby
3 Simpson. Following Mr. Simpson we have Tabitha
4 Tripp.

5 MR. SIMPSON: Hello. My name is Bobby
6 Simpson, S-I-M-P-S-O-N, and I'm here to represent the
7 over 250 truck drivers and trucking companies that
8 work in this area and haul coal for Peabody.

9 I'm 60 years old. I was born and
10 raised here. My family started the trucking business
11 in 1937. So I've been working for Peabody for over
12 42 years transporting their coal. And they are the
13 most reputable coal company that I have ever worked
14 for. And I was going to get up here and talk about
15 all of the jobs, millions of dollars that they bring
16 into the community and all of our truck drivers and
17 their families that they support and have for years,
18 but I've heard a few things. I live 3 miles south of
19 the Rocky Branch area and they don't live in the same
20 Saline County that I live in. I live in an area that
21 I've got over 10,000 geese there now, probably five
22 or 600 ducks, some of the best fishing in the
23 country. I've got 50 trumpeter swans, which is
24 really unique for this area. I live right in the
25 middle of an abandoned coal mine and it's beautiful.

1 And I'm here to say Peabody will do what they say
2 they will do and they'll do it in a reputable manner
3 like they have for years. Thank you.

4 HEARING OFFICER STUDER: Thank you,
5 Mr. Simpson. Tabitha Tripp.

6 MS. TRIPP: I'm going to pass to
7 Barney Bush.

8 HEARING OFFICER STUDER: I don't allow
9 passing in between, because we run into issues with
10 people taking more time. If you want to speak,
11 you're more than welcome to. I mean you have three
12 minutes, but if you don't want to, we'll go on.

13 MS. TRIPP: I'll pass.

14 HEARING OFFICER STUDER: Traci Barkley
15 and she'll be followed by Don Dumbris.

16 MS. BARKLEY: Good evening. My name
17 is Traci Barkley. I'm a water resources scientist
18 with a group called Prairie Rivers Network. We work
19 around the state of Illinois to protect clean water.
20 Make sure that rules, regulations like the Clean
21 Water Act and Safe Drinking Water Act are fully
22 implemented and enforced. Several of our members are
23 concerned about the long-term impacts of coal mining
24 because they depend on safe and clean, abundant local
25 surface and groundwater resources for personal,

1 agricultural and recreational use and the taxpayers
2 and citizens of the state of Illinois will face
3 enduring impacts of coal mine operations.

4 We're here to raise several very
5 serious deficiencies in Peabody's proposed mining plan
6 and the proposed water pollution discharge permit.
7 We are greatly concerned that state and federal
8 regulations will not be complied with, putting these
9 residents and so many more at risk of losing their
10 quality of life, their farmland, their homes, their
11 clean air and water, their health and their
12 community. Clearly, this is a site that is
13 unsuitable for mining and a permit should be denied.

14 I know time is short, so I just
15 want to make a few statements and then ask some
16 questions that I would like to have answered this
17 evening.

18 Dr. John Tyner is a licensed
19 professional geologist, licensed professional
20 engineer, with a PhD in biosystems engineering,
21 reviewed the mine permit application and associated
22 documents and generally found them to be
23 significantly lacking the technical detail necessary
24 to determine the likelihood of a successful mining
25 and remediation plan.

1 Some of the things that he pulled
2 out I want to repeat tonight, and will submit these
3 in more detail in writing, but one of the things that
4 he noted is that within the proposed mining operation
5 85 percent of the site has a water table that's at
6 the surface or no deeper than 5 feet. Replacing all
7 of these natural structural features with spoil,
8 which will increase the subsurface permeability many
9 orders of magnitude, up to thousands, tens of
10 thousands or many times larger, may have the affect
11 of draining the sites faster and more deeper. And I
12 think Mike Karns noted that earlier.

13 The other -- and I'm
14 abbreviating, but the other significant finding was
15 that the plan describes no analysis for toxic
16 materials that might be present in the rock and, of
17 course, be present with the coal. Once that is
18 broken up it will swell up to at least 25 percent
19 more than it is right now and will never be able to
20 be put back the same way it was. It will have
21 fractures. Will allow water to mingle with those
22 rocks, pick up pollutants and risk contaminating
23 underlying and adjacent groundwater in the
24 communities downstream.

25 I think we've also heard from

1 Rhonda Dillard and we'll hear from other residents
2 about significant flooding and to that effect I would
3 like to submit a map from DNR's Illinois coal mine
4 permit viewer where I've laid out the permit area,
5 the flood zones, which only refer to 1996 flood zone,
6 which if you talk to people that live here the flood
7 of 2011 was actually much worse than what was used to
8 put this map together. But if you look at this
9 you'll see that a significant portion of the mine
10 permit area is in a major flood zone and the folks
11 around here will tell you that the water actually
12 backs up from the Saline River system up to the Rocky
13 Branch system --

14 HEARING OFFICER STUDER: I understand
15 your concern about the mining area, but we're not
16 permitting the mining area as -- per se. So the
17 comments really need to be more focused on the actual
18 water quality issues and things that are under the
19 purview of the NPDES permit.

20 MS. BARKLEY: I'll connect the dots a
21 little more. When water floods up into the streams
22 that are on the mine site area, they are going to be
23 picking up pollutants from the mine site, from the
24 coal piles, from the overburden piles, mixing in,
25 picking up pollutants and when those flood waters

1 recede, they'll be moving off site. You've
2 authorized sedimentation ponds that are supposed to
3 hold a certain storage capacity to settle pollutants
4 out, sediments out. Those aren't going to mean
5 anything when you've designed those ponds to drain in
6 one direction. The water comes off, drains in one
7 direction, supposed to settle in those ponds, that's
8 the only treatment that Peabody is providing. Folks
9 that drink their water, recreate those areas, rely on
10 fish and wildlife in those areas, if you have flood
11 waters that are backing up the other direction
12 stirring up everything that's supposed to be settled
13 and kept in there, it's not doing its job. So I want
14 to submit this map and have you take into
15 consideration that the plan is -- if you don't
16 consider flooding in this area moving in two
17 directions, sitting there, mixing with pollutants,
18 the permit is a sham.

19 So my question, I guess, related
20 to that point is has a baseline flooding
21 characterization been completed by the agency?

22 MR. CRISLIP: Not that I'm aware of,
23 no.

24 MS. BARKLEY: I think if you'll talk
25 to anyone who lives near the area, they'll tell you

1 that Will Scarlet mine is one of the worst examples
2 of reclamation in our state and that also drains
3 towards this area, the same water bodies that are
4 going to be receiving mining waste from this proposed
5 Peabody mine. So my question is has IEPA evaluated
6 the cumulative impact from Will Scarlet mine, other
7 mines in the area, plus what's going to be coming off
8 of this mine and can you say that the uses of the
9 waters can support all of that pollution coming from
10 those cumulative effects?

11 MR. KOCH: I would have to go back and
12 look at the exact sites you've referred to, such as
13 Will Scarlet. I'm not quite sure where that's at,
14 but based on the information I received from Peabody
15 they seemed like they would be well within meeting
16 the water quality standards. I did look at the
17 downstream receiving waters and a lot of these are
18 unnamed tributaries, but they go to larger streams,
19 such as Cockerel Branch, Rocky Branch, Saline River.
20 We did verify that standards would be met downstream.

21 MS. BARKLEY: To that point I hope the
22 folks in the room that know the names of these
23 streams will share that with you, because there are a
24 number of unnamed tributaries on here that have names
25 and some of the streams that have them listed on your

1 map have been listed incorrectly. So I hope you will
2 take some time --

3 HEARING OFFICER STUDER: They may have
4 names, but if they are not on the USGS topo maps then
5 we don't reflect them. That's our standard on
6 whether it's named or unnamed.

7 MS. BARKLEY: But just so folks are
8 talking about the same streams it's important that
9 you have that connection.

10 HEARING OFFICER STUDER: We'll gladly
11 refer to them by the local name, as long as we can
12 make sure what stream it is.

13 MS. BARKLEY: I have two more
14 questions. One, the mine permit application states
15 acid toxic produced materials found just above the
16 coal layer and, in fact, in the materials that were
17 submitted to DNR that are now being asked to be
18 modified, it turns out that some of the coal layers
19 will be treated as overburden and not hauled off to
20 be burned somewhere. So if you have both acid and
21 toxic material that's laying over the coal layer and
22 coal itself that's going to be treated as overburden
23 stored on the site, I would like to know what sort of
24 analysis has been done to determine how much
25 pollution is going to be coming off of it and how

1 should that be handled, how can it be handled so
2 water quality standards are met?

3 HEARING OFFICER STUDER: Close to the
4 time, too, here so --

5 MR. CRISLIP: We will have to take a
6 look at that information from Mines and Minerals and
7 evaluate that and get back to you.

8 MS. BARKLEY: Okay. I have one more
9 comment. We have serious concerns about the
10 violation history that's already -- years of
11 noncompliance by Peabody and unsatisfactory state
12 inspections, registered complaints, violation notices
13 in regard to Big Ridge, Wildcat Hills, Willow Lake,
14 Eagle River, Gateway and Lively Grove mines. There
15 is still also an ongoing suit between Illinois
16 Attorney General and Peabody Coal Company regarding
17 the Saline Valley Conservancy District and I would
18 just like to make sure that your agency is aware of
19 all of the different complaints that remain
20 unresolved or were resolved unsatisfactorily to the
21 folks that are using these waters. And I think that
22 needs to be part of your record. Thank you.

23 HEARING OFFICER STUDER: Will you also
24 list those in your written comments? Thank you.

25 For those of you that didn't hear

1 me, I asked that those be provided in written
2 comments during the comment period. Don Dumbris.
3 Followed by Alan Porter.

4 MR. DUMBRIS: Don Dumbris,
5 D-U-M-B-R-I-S. I am just downstream of 004, the
6 outfall, and I see here that they are allowed to
7 release mercury and all kinds of stuff in there --

8 HEARING OFFICER STUDER: Can you hear
9 him in back?

10 AUDIENCE MEMBER: No.

11 MR. DUMBRIS: Okay. I see that they
12 are allowed to release mercury and everything else.
13 Will you guys feel safe having your kids and
14 grandkids swimming in that pond that I've got?

15 MR. KOCH: Well, again, my job is to
16 ensure that water quality standards are attained.
17 Water quality standards do protect against things
18 such as human exposure to water such as through
19 swimming. Protects against consumption of fish from
20 water, such as your pond. Takes into account the,
21 you know, aquatic life in that pond, whether or not
22 it can sustain, based on water chemistry. So, yes, I
23 think I could safely say that I would be confident
24 swimming, eating, recreating from that water.

25 And I think another -- another

1 comment -- I read your comment letter and I saw that
2 your pond actually was an old prelaw strip mine. So
3 I mean given that aquatic life seems to be
4 flourishing there now, I don't see a reason why the
5 newly proposed mine would have an impact on the
6 existing state of aquatic life.

7 HEARING OFFICER STUDER: Do you have
8 any other questions or comments that you want to be
9 brought up this evening?

10 MR. DUMBRIS: You all feel safe
11 having -- swimming in that pond?

12 HEARING OFFICER STUDER: You're going
13 to have to speak into the mic.

14 MR. DUMBRIS: I said would you all
15 feel safe swimming in that pond with that right
16 upstream? I mean 300 yards upstream.

17 HEARING OFFICER STUDER: You've got an
18 answer from the hearing panel, so we're going to have
19 to move on in the interest of time.

20 MR. DUMBRIS: All right.

21 HEARING OFFICER STUDER: Alan Porter.
22 Mr. Porter will be followed by Donald Karns.

23 MR. PORTER: My last name is Alan
24 Porter. Spelled P-O-R-T-E-R. I want to thank you
25 for the opportunity again -- I stood at two DNR

1 hearings and now I stand before the EPA hearing.

2 I have some comments to make
3 about the water source and some of the things that
4 was in the permit that was put into the paper and
5 I'll be commenting on some of this, of their
6 accuracy. The first thing I would like to do,
7 because I have attended several of these and I find
8 it's hard to get an answer for some questions and I
9 believe concluding that we have this many people
10 here, not only miners, but also residents of Rocky
11 Branch. I'm a resident of that area. I've lived
12 there all my life. I've paid taxes and that gives me
13 a right to speak. Also, I speak on behalf of the
14 people from Rocky Branch.

15 You know, as I stand here and I
16 do this, as I said I spoke several times at others
17 and you ask certain questions and I can't get an
18 answer. And I really wonder about these things, you
19 know. This is not to make anyone mad or anything
20 like that, but as a citizen I believe that there's
21 some things -- questions that need to be asked and
22 also answered. And I would like to ask this panel
23 has there ever been a permit denied a coal company on
24 the basis of any of these hearings? Has there ever
25 been a permit denied?

1 HEARING OFFICER STUDER: I can't
2 answer that for sure. I don't remember one in
3 history, but I'm also going to refer you to the
4 responsiveness summary in the industry permit. The
5 same question was answered at that hearing and a
6 written response was provided regarding the process
7 itself. The issue with an NPDES permit is you can't
8 just deny a permit by sending a letter. It has to be
9 public noticed. And what historically happens is
10 that when a permit applicant finds out that we are
11 going to deny a permit, they either withdraw the
12 application, which is not a denial, because the
13 application has been withdrawn, or we get a letter
14 asking that no further action be taken on the
15 application at this point. So I mean there are other
16 issues. By the time a permit goes to public notice,
17 it has already been through the review to see if it
18 can legally be issued. So just because a permit is
19 not denied, does not necessarily mean that the agency
20 has refused to issue permits. Also, the purpose of a
21 hearing for -- because it's already been through that
22 preliminary determination, isn't to come up and say,
23 okay, this permit has to be denied. I mean the truth
24 of the matter is when we deny a permit, we have a
25 very narrow window that we have to use and then the

1 applicant has the right to look at that and resubmit.
2 We do not have the ability to bar an applicant from
3 reapplying for a permit, if the reason for the denial
4 is addressed. The whole issue and the whole premise
5 under the administrative authority given to us by the
6 General Assembly is that if a permit is denied, that
7 there be reasons listed, explained and that an
8 opportunity provided for the applicant to address
9 those, either through the reapplication process or in
10 some other manner. Also, they would have the
11 ability, of course, if we denied the permit, to
12 appeal that. The same as you as a third party
13 participating in this hearing would also have the
14 right to appeal our final decision in this matter.

15 MR. PORTER: Do we, as residents, have
16 a right to appeal that decision, then?

17 HEARING OFFICER STUDER: Permits
18 granted by us or final decisions granted by us are
19 appealable by third parties, yes. And that appeal
20 doesn't even go to Illinois EPA. That is filed with
21 a whole other state board because the General
22 Assembly did not want the same state agency that was
23 issuing permits to be the one that makes the
24 determination as to whether or not the appeal has
25 merit and what the grounds of that are. So that goes

1 to a whole separate process.

2 MR. PORTER: Well, the reason I ask
3 this question because in our area down here, even
4 though there's not been a permit issued, in other
5 words, they broke the law and went ahead logging,
6 that was finally put a stop to --

7 HEARING OFFICER STUDER: That's
8 correct. That's under the premises of DNR. Under
9 Illinois Constitution our agency cannot enforce DNR
10 regulations.

11 MR. PORTER: But also they go ahead
12 and they are doing things also with the power
13 company, also. But let me proceed on.

14 When I read something about the
15 EPA I would like for you and the news media and all
16 here to explain to us what you see as the meaning of
17 the word environmental and who is this to protect?
18 This is something I have great difficulty. When I
19 read the laws I see what is being done, I wonder, you
20 know, who are you protecting and why? In other
21 words, are you protecting us as a citizen? Are you
22 protecting the coal company? These are questions
23 that people ask me and that's one of the reasons I
24 stand here. I don't stand here for my own self. I
25 stand here for that whole community, because Peabody

1 is about to destroy not just some open country, they
2 are about to destroy a whole community. And I told
3 them I'm going to stand against that because it's not
4 right.

5 But we need somebody to explain
6 to us who at the Environmental Protection Agency is
7 going to protect and why.

8 MS. DIERS: We're bound by the
9 Environmental Protection Act. So we are looking at
10 air pollution, water pollution, land pollution and a
11 lot of things that our act covers that we have to
12 look at. We're not protecting a company over this,
13 that and the other. We are bound by regulations.
14 Our regulations, state law and federal law. So when
15 we do a permit or make decisions, our decisions have
16 to be based on those laws. And we are sitting here
17 today thinking that we have met all of that and it
18 hasn't been met. That's for you guys to let us know
19 so we can look into it and, as our hearing officer
20 said, if you don't agree with the decisions, which
21 I'm not saying how this is going to play out, we have
22 to take all of our information in and you have a
23 right, as a citizen, to appeal the decision. So
24 there's checks and balances through this whole thing.
25 But we are here to protect the environment as a

1 whole. And that means people as well when you're
2 looking at water, land and air pollution.

3 MR. PORTER: There's been several
4 citizens across from Equality where they were
5 stripping in Gallatin County and the air pollution
6 was bad. And I'm going to be 500 feet from Peabody
7 where they are going to strip into my backyard. And
8 I don't appreciate all of that dust. And they almost
9 ruined our home the last time. And also I noticed
10 that there's no hearing on air pollution and I would
11 like to question that. But let me proceed on.

12 HEARING OFFICER STUDER: There will be
13 an opportunity for a public hearing, should an
14 application be received for -- for an air permit. We
15 go through the process on those and hearings are
16 granted when they are requested and generally that
17 involves a public notice process. So, again, as
18 Stefanie was discussing, there are processes that we
19 have to follow and we have to follow the regulations
20 as they are issued and the -- you know, obviously if
21 there's no permit application, there's not going to
22 be a hearing on a permit application.

23 MR. PORTER: So could we, as
24 residents, could we ask for a hearing on air
25 pollution?

1 HEARING OFFICER STUDER: You would
2 need to have a very specific purpose. You can send a
3 letter to the director. Whether or not the director
4 will grant a hearing, you know, is up to the senior
5 management in the agency. I will say this, there is
6 no premise for granting a hearing without some
7 decision before the agency. And if there's no
8 decision before the agency, there is not.

9 Now, if you're talking about a
10 violation or pollution itself, then you do have the
11 right as a citizen to make complaints. Not just our
12 agency, but there are also others that complaints can
13 be made to. There are also other avenues for
14 official complaints to be made. So I mean those are
15 also options. It isn't like you're sitting there
16 with no options.

17 MR. PORTER: Okay. I appreciate that.
18 Also, before I get done, I've noticed on this
19 application that the tributaries and the streams
20 that's going to be affected on this is -- it refers
21 to as Cockerel Branch. Well, I live on the water
22 break between Cockerel Branch and a water tributary
23 called Hoop-Pole. And none of this on this permit
24 even goes to Cockerel Branch. The main -- the break
25 on the water is right behind my house. Right

1 southwest of my house. So there's a gross error here
2 because none of this water off of this permit goes
3 into Cockerel Branch. And this concerns me, you
4 know. And I would like to know, you know, is anybody
5 familiar with this area and what goes on? Because we
6 as citizens needs to know this. Because, you know,
7 it gets kind of hard. Sometimes we, as a citizen,
8 feel like that because we're ignorant of it we're
9 easily made a fool of and that doesn't set well with
10 a community or a neighborhood. So I want to remind
11 you that none of this water that you have reference
12 to -- none of it goes into Cockerel Branch. We farm
13 along Cockerel Branch. All of this water in this
14 goes into a branch called Hoop-Pole, which all of it
15 eventually winds up in Saline River. So I just
16 wanted to bring that to your attention.

17 And then if I'm permitted I would
18 like to address another thing. You know, there's
19 comments made and I believe any time we make a
20 comment before a hearing like this we need to know
21 what we're talking about. This is the reason I come
22 with this information. And, you know, there's been
23 things put in the paper about the great yields on
24 some of this land. I farmed all of my life and I
25 don't believe those yields. They ought to have to

1 prove -- if you're going to stand up here and say
2 something, you ought to have to prove those yields.
3 And I'm telling all of you, that is not so. That
4 cannot be so.

5 HEARING OFFICER STUDER: Sir, you need
6 to address your comments to the hearing panel here.
7 Also, you're getting into yields, which is part of
8 the reclamation process, which is governed by the
9 Department of Natural Resources, not Illinois EPA.

10 MR. PORTER: Well, the reason I done
11 this --

12 HEARING OFFICER STUDER: We've also
13 gone way past the time limit.

14 MR. PORTER: The reason I done this
15 because Mr. Keller brought it up and he got off
16 subject. So I just want to remind him that he needs
17 to check his records before a public thing like this,
18 because the average public out here, they don't
19 understand that. They read that like it's something
20 great. Well, it's not. It's way off base. So I
21 just want that on the record. Thank you for your
22 time.

23 HEARING OFFICER STUDER: Thank you.
24 Donald Karns. Is he next? He'll be followed by Rita
25 Karns.

1 MR. KARNS: My name is Donald Karns,
2 K-A-R-N-S. And I'm here to talk about Rocky Branch
3 and Hoop-Pole. I was born on the banks of Hoop-Pole.
4 Rocky Branch empties into it. I agree there are
5 8,000 some foot of Rocky Branch and it runs into
6 Hoop-Pole. I brought a plat of the bridge to show
7 you people, and leave it with you, pictures of it.
8 So you -- and it empties into Saline River, Hoop-Pole
9 does. Carries the water down. Now, these flood very
10 often. I've got pictures here to show you. They've
11 took all of the trees, the vegetation off of their
12 permit area north of 13. A month ago this all
13 flooded. It flushed out their pits and we got the --
14 from the mines we get the settlements and everything
15 else. And there's pictures here to show this
16 happened several times a year. And I want to say --
17 I want to leave these pictures with you with the
18 names, if I can.

19 HEARING OFFICER STUDER: Sure. We'll
20 gladly take these.

21 MR. KARNS: This came off the Rocky
22 Branch Road. This is the name of the ditch. And
23 this is one of them -- this -- this is going south
24 and this is going back north towards Rocky Branch
25 ditch.

1 MS. DIERS: Do you know the dates of
2 the pictures taken?

3 MR. KARNS: This was taken this
4 morning. This morning. These I'm not sure. They
5 are different times. Because just a month ago
6 that -- we got a big rain and their settlement ponds
7 came across the road to Rocky Branch, they cover our
8 farmland and leave it with coal settlements and white
9 out on the ground. Now, this is the kind of
10 neighbors that we've got. And Mr. -- Mr. Keller
11 several weeks ago, he made a comment he knew more
12 about bear hunting than he did farming. Now he's an
13 expert. Mr. Simpson back here talks about the geese.
14 If it wasn't for our cornfields, there would be no
15 geese there. If we don't feed them, he would have no
16 geese.

17 And I want you to know and I want
18 the coal miners to know some of these days they are
19 going to be just like us. They want to hunt and
20 fish, but they better be good to us because they'll
21 never do it on Peabody. They guard their land out
22 there day and night. And I just get hurt and upset
23 because I'm 77 year old. I was born and raised 1936
24 and went eight years to school on Rocky Branch and I
25 hate to see it destroyed. Another thousand acres.

1 And there's pictures of what they are doing to us
2 today.

3 MS. DIERS: Sir, before you sit down I
4 have one question. I know we've talked about is it
5 Cockerel Branch?

6 MR. PORTER: Cockerel Branch is in
7 Gallatin County. No, it ain't. I'm sorry.

8 MS. DIERS: That's okay. You referred
9 to another water. Can you spell it for me?

10 MR. PORTER: Hoop-Pole. The Indians
11 gave it the name. They cut hoops for their nets.
12 That's on the bridge on Rocky Branch Road.

13 MS. DIERS: Okay. I just want to make
14 sure I have the spelling.

15 MR. PORTER: It was built in 1990.
16 That bridge was built -- the date is on there and
17 everything where the county built that bridge.

18 MS. DIERS: So that's H-O-O-P dash
19 P-O-L-E Creek.

20 MR. PORTER: They made hoops for their
21 nets. It's named after the Indians there.

22 MS. DIERS: Thank you, sir.

23 HEARING OFFICER STUDER: Thank you.
24 Rita Karns. And Rita will be followed by Sabrina,
25 looks like Hardenbergh.

1 MS. KARNS: My name is Rita Karns. I
2 live at 1171 Rocky Branch Road. I am an impacted
3 citizen from the mines. And my statement is this.

4 Finally after years and years we
5 have witnessed the return of the American Bald Eagle
6 to Rocky Branch. We often see several birds at one
7 time soaring up and down the Hoop-Pole waterway
8 looking for fish or food or a place to nest. More
9 pollution in our already fragile waterways will soon
10 drive them away again. That will be a great loss to
11 us.

12 Rocky Branch is a frequent
13 floodplain, as you've already heard. Hundreds of
14 acres were inundated in the high waters of 2011 with
15 garish waters that were there for weeks leaving
16 behind who knows what kind of contaminants. Many
17 local residents were forced to travel over land to
18 the Rocky Branch road, which was itself flooded on
19 the south end to over the top of the road signs. We
20 had flooding again in 2013 causing great discomfort
21 to the people who came out over land in the cold.
22 Our family has had several sources of water through
23 the years. On our farm there are five water wells,
24 all polluted by the actions of the local mines. A
25 few years ago we signed up with the Saline Valley

1 Conservancy after our fifth and last good well became
2 adulterated. Sometimes after drinking tap water I am
3 plagued with stomach pains. Recently I've begun to
4 notice there's a discoloration in the water from my
5 seldom used laundry tub. This is it. Do you see
6 this? Everybody? This came from my tap in my house.
7 This is the same water used for drinking by thousands
8 of people across Southern Illinois. Though our water
9 may look clear, after it sits a while the
10 contaminants will begin to show.

11 Years ago Peabody No. 2 mine in
12 Gallatin County polluted the underground river used
13 as the water source for Saline Valley. Peabody paid
14 them the sum of \$5 million to aid them in finding an
15 alternative water source, yet we still use this same
16 water, highly treated, well filtered, but
17 nevertheless it's tainted. You can see it.

18 Clean water should not be
19 something we have to beg for. It should be a God
20 given right with no one having the authority to take
21 it away. I respectfully admonish you to follow your
22 own rules of law in which case you cannot in good
23 conscience allow this permit to be issued. Thank you
24 for your consideration.

25 HEARING OFFICER STUDER: Thank you,

1 Ms. Karns. Sabrina, is it Hardenbergh? She'll be
2 followed by Joyce Blumenshine.

3 MS. HARDENBERGH: My name is Sabrina
4 Hardenbergh. S-A-B-R-I-N-A, H-A-R-D-E-N-B-E-R-G-H.
5 I am -- granting a permit to Peabody Arclar mining to
6 move forward with the Rocky Branch Mine would be
7 highly premature in that the IEPA is still in the
8 process of receiving public comments under new
9 proposed rule for coal ash waste and the federal EPA
10 is also still in a similar process of updating their
11 Clean Water Act NPDES regulations.

12 HEARING OFFICER STUDER: Can everyone
13 hear in the back?

14 MS. HARDENBERGH: Both these state and
15 federal revisions were prompted by a 2008 disaster
16 when the Tennessee TVA power plant dam failed
17 flooding the surrounding residential areas with more
18 than one billion gallons of toxic coal ash. This is
19 not a one-time risk of the coal industry, as West
20 Virginia's and North Carolina's Dan River toxic waste
21 dumping incidents just demonstrated recently. West
22 Virginians and North Carolinians must now purchase
23 high-priced water trucked in from other regions.
24 Already in Southern Illinois the IEPA has found part
25 of Sugar Creek over the Herrin coal seam to be dead

1 and water quality problems are noted in the Randolph
2 County coal mining region.

3 Tributaries of the Cockerel
4 Branch, Rocky Branch, Saline River, ponds and
5 wetlands will be similarly impacted by Peabody's
6 Rocky Branch Mine.

7 Coal mining wastewater discharges
8 contain pollutants such as sulfate, chloride, total
9 dissolved solids, pH, total suspended solids,
10 aluminum, iron, manganese and other metals, while
11 coal ash in power plant operations contains toxic
12 heavy metals, including arsenic, lead and selenium.
13 Such pollution could very easily migrate into Saline
14 County and Southern Illinois streams, rivers, lakes
15 and groundwater, given our frequent floods. Consider
16 that Saline County has been subject to recurrent
17 flooding, a memorable one in 2008. Indeed, Cottage
18 Grove residents note that access to their homes will
19 be blocked by the proposed Peabody mine when it
20 floods, indicating that flooding is frequent hazard
21 that will also spread coal industry waste water into
22 the waterways. Overland runoff from current and
23 former mining operations elevates concentrations of
24 heavy metals and such runoff waters may have low pH
25 levels which lends to suspension of dissolved metals

1 in the water. Thus far, at all Illinois coal ash
2 sites tested by the IEPA, groundwater has been
3 contaminated with pollutants including antimony,
4 arsenic, boron, chloride, iron, lead, manganese,
5 mercury, nitrate, pH, selenium, sulfate, thallium,
6 zinc and total dissolved solids. These toxins cause
7 cancer and neurologic damage to humans, plus they
8 harm the wildlife, including fish, important to
9 Southern Illinois outdoor recreation, not to forget
10 the integrity of the Shawnee National Forest.

11 The citizens of Cottage Grove and
12 Southern Illinois ask that our waters not continue to
13 go inadequately regulated, wherein the coal industry
14 is taking advantage of us by laying our land and
15 waterways to waste before such regulation making
16 grinds through the belabored Illinois political
17 process.

18 Secondly, while this IEPA hearing
19 focuses on water quality, I ask will there be a
20 hearing on clean air quality? I won't wait for your
21 answer, because you've already stated that to another
22 gentleman tonight.

23 Cottage Grove residents find that
24 current coal mining regulation in their immediate
25 region does not prevent respiratory problems, and

1 they are extremely concerned about more mining that
2 will continue to create black lung and a variety of
3 health problems from breathing silica dust. Our
4 health service have had to set up black lung clinics
5 in the region, which should not be the solution;
6 prevention should be the solution. OSHA notes,
7 "Inhalation of very small respirable crystalline
8 silica particles puts workers at risk for silicosis,
9 lung cancer, chronic obstructive pulmonary disease
10 and kidney disease. OSHA recently released a
11 proposed rule to protect workers exposed to
12 respirable crystalline silica." And I give you a
13 couple of websites.

14 Thank you for considering what
15 the better solutions will be for the health and
16 environmental risks indicated in my comments. Please
17 answer the air quality question, too. I have worked
18 in health and healthcare quality improvement, plus
19 personal injury, workers' compensation, property
20 liability and employment law and too many problematic
21 issues come to mind with potential operation of the
22 Rocky Branch Mine. Thank you.

23 HEARING OFFICER STUDER: Thank you.
24 Joyce Blumenshine and she'll be followed by looks
25 like George, is it Teegarden, after Ms. Blumenshine?

1 MS. BLUMENSHINE: Thank you. I really
2 appreciate the chance to have a democratic process
3 tonight. My name is Joyce Blumenshine,
4 B-L-U-M-E-N-S-H-I-N-E. Excuse me. I am a volunteer
5 with the Illinois chapter Sierra Club. Sierra Club's
6 motto is to protect the environment, our families and
7 our future. We appreciate the work of IEPA to try to
8 ensure that pollution will be minimized. I
9 respectfully submit at this proposed mine, since all
10 of the outfalls are expected to contact the coal and
11 there are eight NPDES points, we respectfully point
12 out that there are grave concerns that this mine will
13 not only not meet regulations during its operation,
14 but afterwards there are serious risks to the
15 community for the long-term. And in reference to
16 that I would like to refer to a letter, which I'll
17 hand in shortly as my first exhibit. This is the
18 January 31, 2014, letter from Illinois Department of
19 Natural Resources to Mr. West at Peabody. This is a
20 list of modifications and I raised a few points for
21 IEPA's consideration because they directly relate to
22 the NPDES pollution elimination system. It talks
23 about on page two that a number of values have the
24 wrong corrections for slope and erosion and there are
25 other comments in here, which I've circled, about

1 locations of the stock piles for soil and that they
2 are at risk of adding sediment overloads. The
3 question, if IEPA will look closely, please, at this
4 mine's potential for adding great amounts of sediment
5 to the already polluted levels in these area streams.

6 Secondly, I would like to refer
7 to this same IDNR letter where it says, The applicant
8 states their upstream sources of iron, manganese,
9 sulfate, solid and dissolved solids of these upstream
10 sources have not been clearly identified. That has
11 been referred to tonight. We, again, respectfully
12 point out the additional loading cannot meet the
13 NPDES goals of controlling this pollution, because
14 this area is already heavily and seriously impacted
15 by pollution and we stand with the people of Rocky
16 Branch in solidarity that justice must be served,
17 that this permit should be denied because it is a
18 direct threat to people's life and quality of water.

19 On page seven, number 38 of this
20 same letter from IDNR, it talks about several pond
21 designs, and I'll leave this for your reference, but
22 I just want to read to point out that serious
23 concerns in this current NPDES application there's
24 a -- there is an instance in here where it appears
25 that one of the culverts is going to allow the head

1 waters to over top roads. Another section at
2 question 40 on page eight talks about rainfall depth
3 utilized for the two-year six-hour storm event is
4 incorrect. And it talks about the diversion of
5 concern.

6 May I please ask IEPA will you be
7 checking rainfall calculations supplied by the mine?

8 MR. CRISLIP: Yes, we would be happy
9 to do that.

10 MS. BLUMENSHINE: Thank you, Mr.
11 Crislip. Especially as we move into times of strange
12 climate, more rains, more drought and more severe
13 water events in specific instances. Thank you.

14 Again, another reference to
15 concerns for this specific NPDES is on page ten,
16 number 49. Talks about complaints or concerns with
17 permanent stream restoration. Calculations. There
18 are eight listings here where I quote it says, The
19 vegetative channel lightning cannot support the flow
20 velocity. That means if the flow velocity cannot be
21 supported in these different areas across the NPDES
22 site, these eight places will not support containment
23 of the water as referred before, this mine is going
24 to make the area drain faster. You've heard about
25 local flooding concerns, road flooding, water

1 problems. This is a very serious situation. This
2 area should not be inflicted to become one big major
3 flooded area driving out the local citizens, driving
4 out their farms, costing people more time and money
5 and health issues with a very, very destroyed and
6 hurt environment.

7 Another point I would like to
8 raise respectfully, please, in contrast to the
9 glowing report from Peabody I would like to submit as
10 my second exhibit the January 9, 2013, letter from
11 the Sierra Club's attorney to the Alton field
12 division talking about this logging incident. Now,
13 you would think an international company with the
14 billions of dollars of profit of Peabody could at
15 least abide by our state laws. But, no, they will
16 let an arm of their company kind of squeak in under
17 the fence and try to log before they had any of their
18 permits. That's a big problem because it clearly
19 says for mine permits you need to have all of your
20 permits, like NPDES and the OMM permit because before
21 performing the clearing necessary to prepare the
22 permit for coal operations, proper protection of the
23 environment from uncontrolled runoff is one of the
24 principal reasons that they have to have permits.
25 But they didn't want to do that and it took citizens

1 action from people who are standing up to this huge
2 corporate entity that has run for decades and decades
3 with all kinds of pollution leaving a very, very
4 problematic result.

5 HEARING OFFICER STUDER: We've gone
6 the time limit, so wrap up.

7 MS. BLUMENSHINE: Thank you.

8 HEARING OFFICER STUDER: Thank you,
9 Ms. Blumenshine. Mr. Teegarden will be followed by
10 Roberta Matthews.

11 MR. TEEGARDEN: My name is George
12 Teegarden. T, as in Tom, E-E-G-A-R-D-E-N. I've
13 worked in the coal fields here in Gallatin County and
14 Saline County for 50 plus years and it's all been
15 surface mine. And I look at the panel here
16 representing the EPA state of Illinois, we also have
17 Department of Mines and Minerals, other different
18 agencies governing the mining industry and when
19 Peabody applied for a permit this was all drawn up
20 by engineers with Peabody Coal Company in compliance
21 with all of the state of Illinois rules and
22 regulations concerning mining. Being in mining that
23 long, I've been in reclamation for years, and I know
24 Peabody does a good job. And I've heard a lot of
25 talk about this dirty water. I go to St. Louis

1 frequently and I go up Interstate 64. There's no
2 where a surface mine is in that area, within, 50,
3 60 miles or even farther. And I come to them little
4 streams and creeks and rivers, I see them polluted
5 with dirty water, which Sierra Club and some of these
6 claim that all comes from the coal company. There's
7 no coal company up there. Where is that dirty water
8 coming from? It's coming from the fields that have
9 been cultivated for corn or wheat or other products.
10 Chemicals are put on these fields. There's nothing
11 to keep them there in that field. If it's cultivated
12 and it comes a hard rain, it's going right down the
13 stream. Going on about the farmers, because the
14 farmers don't have to build the ponds to catch all of
15 the runoff and all of this water that comes off of
16 the coal company property is in silting ponds and
17 silting pond to silting pond and then it is monitored
18 and they have a track record of a good record water
19 coming off the property. But all of a sudden now --
20 I've been working for this coal company right here in
21 this area now 16 years as of this last January 2 and
22 most of the procedures in the permit has drawn some
23 conflict. Until this one we run into an area of
24 Rocky Branch. Those little creeks and things aren't
25 going to stay the same forever. Things changes. You

1 can look around in any industry. It changes. And I
2 know people are concerned for their homes. I would
3 be concerned for mine. I live within about 400 feet
4 a long road called Liberty Road here in Harrisburg,
5 Illinois, and I was blasting supervisor for Sahara
6 Coal Company. They mined that coal. My house didn't
7 shake down. It was an old house. I kept it
8 remodeled. Kept working on it. Doing what I could.
9 And every time you blast, you have got seismographs
10 set up for air blast, ground vibration and these have
11 to be monitored. They have to be kept. The laws of
12 the state has made it very clear for what you can
13 blast for. Mine keeps that within their limits.
14 Also dust. This is my last statement. They do the
15 best they can. No one says anything when you go down
16 Route 13 when they are combining corn and beans,
17 better slow down because the dust is coming across
18 the road. Nobody tells farmers to put a sprinkling
19 system on your combine. Too much dust. But we have
20 to work together here. This is our livelihood for
21 over six, 700 people. This is where we make our
22 living, raise our families. This morning 200 people
23 got up at 4, 5 o'clock, drove 20, 30, 40, 50, hundred
24 to 150, two or three hours to work, some of them.
25 Why? There's no other employment around. This is it

1 in this area. And I beg of you, give us this permit
2 so we can keep our employment. Thank you.

3 HEARING OFFICER STUDER: Thank you.
4 The next person that looks like -- is it Roberta
5 Matthews? Roberta. She will be followed by looks
6 like Lindy Bowman.

7 MS. MATTHEWS: Roberta Matthews,
8 M-A-T-T-H-E-W-S. I really don't have a lot to say,
9 but I will say I've had the privilege of working at
10 the Cottage Grove mine for approximately two years.
11 The people I have been associated with have been very
12 educated. They are always pleasant. They act in a
13 very professional manner and their word has always
14 been good for my company. I will say that their
15 safety guidelines are enforced. They are tough.
16 Every time I turn around, seems like a new rule is
17 applied and you do apply with it. But a question did
18 come to mind this evening, as I've heard some of the
19 landowners and things speaking. I don't think
20 Peabody just came in and swiped this ground from
21 everybody. Wasn't there some money that exchanged
22 hands for the leases underground and everybody knew,
23 you know, the way I look at it, that it was the coal
24 mine that was going to be beneath them in coming.
25 And, you know, I know the oil industry, they've

1 leased a lot of ground in my area. I live in Wayne
2 County. And they are getting good money for that.
3 I've got 80 acres, but nobody has come for mine,
4 so -- anyway, that's all I have to say.

5 HEARING OFFICER STUDER: Thank you.
6 And for the record we had one that passed. Chris
7 Karns. He will be followed by Cindy Skrukruud.

8 MR. KARNS: My name is Chris Karns,
9 K-A-R-N-S. I was born and raised in Rocky Branch.
10 Most of you probably know me as a friend, a neighbor,
11 a coworker, what have you. I took up hay, drove a
12 tractor, hunted, fished, spent time at your home or
13 farm in Rocky Branch. A lot of you influenced me in
14 ways you may not even know. In my younger years I
15 was surrounded by friends of my father's who were
16 state troopers and World War II vets. Honesty,
17 integrity, moral and ethics were impounded into me.
18 Impounded into me. I learned a lot from all of my
19 friends and neighbors.

20 In 1986 I started work in the
21 surface mine. I worked hard all of my life. Hard.
22 Worked Thanksgiving, Christmas, seven days a week, 12
23 hours a day, whatever it took. Over time I worked my
24 way up to a boss and later into management. I worked
25 for five different surface mining companies. I

1 worked at one underground and aided in and overseen
2 the construction of two others. I started work for
3 Peabody in 2002 as a pit supervisor and was put in
4 charge of the reclamation at Eagle Valley in
5 approximately 2005. Spending almost two years on
6 that project. And when that project was almost
7 complete, I was offered the position of second shift
8 production manager at Peabody. I took it. Part of
9 my duties included planning pit operations and
10 helping increase the life of the mine. We're looking
11 for other areas to mine. We were looking at several
12 areas. Some of them a ways away. We weren't seeming
13 to make much progress on any of them. And I -- I did
14 it. I'm the one that showed them the reserves in
15 Rocky Branch.

16 AUDIENCE MEMBER: Shame on you.

17 HEARING OFFICER STUDER: Okay. Let's
18 address your comments to the hearing panel.

19 MR. KARNS: I did it because I thought
20 it was a win/win situation. Save hundreds of jobs.
21 Help the people who helped raise me, I worked for, I
22 grew up with, I loved, I respected. Give them an
23 opportunity to make money, retire, to increase --
24 double their farming acreage. Leave more for their
25 children. That what's I believe. That's what I

1 still believe. Let me see where I'm at.

2 I've seen the struggle of some of
3 the people in the area, trying to keep the farm
4 going, trying to be able to retire and I honestly
5 wanted to help. I have the utmost respect for all of
6 the people in Rocky Branch and would never do or
7 allow anything to harm them in any way. Since the
8 time I recommended the proposal I left Peabody and
9 worked for another large mining company. I just
10 recently returned about seven months ago and although
11 I'm no longer in a management position I would still
12 never allow anything that would harm the people of
13 Rocky Branch, nor do I believe that to be the intent
14 of any of the people at Peabody. The current general
15 manager, John Keller, has already had several
16 meetings with the workers and the staff of Cottage
17 Grove and has shown very strong commitment to
18 respecting and resolving concerns of the people of
19 Rocky Branch. He has and I will believe continue to
20 go above and beyond what is required of him to make
21 the mine a good neighbor to Rocky Branch. He's
22 brought in outside help to aid in the blasting
23 concerns of the people and to reduce the vibration
24 and the yellow smoke that has concerned lots of
25 people. He has pledged to reduce noise. Moving

1 equipment that needs large repairs, such as air
2 arcing or lots of impacting, whatever makes noise,
3 moved those away from homes and move all operations
4 away from the cemetery while funerals are in
5 progress. These are not things that he has to do nor
6 is required to do, but he is committed to do because
7 he wants to do the right thing and the surrounding
8 community should be grateful to have someone like him
9 in that position because he does not have to do that.

10 All of the decisions of the
11 mining board and the EPA and Army Corps of Engineers
12 are based upon facts and the fact is that Peabody has
13 been and will continue to be in compliance of all of
14 the rules and regulations set forth. But keep in
15 mind that even though Peabody owns the mine, it is
16 operated by people just like you and me. Old farm
17 boys who didn't have room to stay on the farm, had to
18 go to work somewhere else.

19 HEARING OFFICER STUDER: Mr. Karns,
20 please keep your eye contact on the hearing panel,
21 please.

22 MR. KARNs: Old farm boys just like
23 you and me. Hunters, fishermen, friends, neighbors
24 trying to make an honest living and do things right.
25 Surface mining is a lot like farming with the

1 exception that farmers and landowners don't have to
2 comply with all of the strict rules and regulations.
3 They don't have to have a permit to cut trees or
4 permission from the EPA or Corps of Engineers to
5 clean or move a ditch, some of which is taking place
6 in the very area we're talking about. The Sierra
7 Club is never around when other landowners decide to
8 log their land or when they move a ditch or
9 whatever --

10 HEARING OFFICER STUDER: We are now
11 starting to get into comments that have dealt --
12 moved away from the permit. Let's not talk about
13 other commenters. Let's stick with your comments.

14 MR. KARNS: The water is closely
15 monitored and tested and no contaminated water is
16 ever allowed to leave the permitted area. I've never
17 seen it allowed to leave the permitted area. They
18 are very diligent in that. It's all to your
19 requirements. And no one has the right to destroy
20 your home, your property and no one is going to do
21 that. The people of Peabody, it's management and its
22 workers are competent, caring and committed to being
23 good neighbors. There are no factual reasons for any
24 of the mining operations to cease, so rather than
25 sling mud at Peabody, why not focus your energy and

1 efforts towards ways of helping Cottage Grove be a
2 good neighbor and let everyone benefit. Thank you.

3 HEARING OFFICER STUDER: Thank you,
4 Mr. Karns. Okay. I remind everyone that applause is
5 not appropriate. Cindy Skrukrud to be followed by
6 Mary Rivera.

7 MS. SKRUKRUD: Cindy Skrukrud. Last
8 name spelled S-K-R-U-K-R-U-D. I am the clean water
9 advocate for the Illinois chapter of the Sierra Club.
10 I'm here tonight to support the justice for Rocky
11 Branch citizens in their effort to protect their land
12 and water resources from Peabody mining's desire to
13 strip mine coal in their community. And I just have
14 a number of questions I would like to ask.

15 First, on page six of the public
16 notice fact sheet under identification and
17 characterization of affected water body, it's listed
18 there that Peabody has conducted some monitoring and
19 done some chemical measurements, but I see they did
20 not measure the alkalinity, the acidity of the water
21 in the stream nor measure the sulfate levels,
22 chlorine levels hardness or mercury levels in the --
23 in the receiving waters. How do -- did you determine
24 the permit's limits for sulfate without the chloride
25 and hardness measurements of the receiving waters?

1 MR. KOCH: I'll have to take a further
2 look at what was included in the actual assessment.
3 I'm looking here. I don't see chloride mentioned in
4 the anti-degradation assessment. But in regards to
5 the actual sulfate and chloride limits for this mine,
6 we use data from the Cottage Grove mine nearby.
7 Using sediment basin data that were similar in
8 quality that would occur in Rocky Branch.

9 MS. SKRUKRUD: Okay. Thank you. Now
10 going to page seven of the public notice the fact
11 sheet. There is a section entitled purpose and
12 social economic benefits of the proposed activity.
13 My understanding of Illinois' anti-degradation rule
14 is that before IEPA can issue a permit to Peabody
15 mining they have to determine that the activity they
16 are going to undertake is a benefit to the community
17 at large. So my question here is why doesn't the
18 IEPA list the detriments of the proposed mining to
19 the community in this section, also? You've listed
20 what looks to me to be -- well, which I know is
21 information that you received from Peabody, but we
22 all know that noise, dust, water pollution, blasting,
23 road closures, are all adverse impacts to the Rocky
24 Branch community that are going to occur. Shouldn't
25 IEPA have to consider both the pros and cons to the

1 community at large in this section?

2 MR. KOCH: Well, Cindy, again, the
3 anti-degradation assessment is based off of our
4 anti-degradation standard. As part of that
5 requirement we have to list the purpose and the
6 benefit of the project. There is no requirement
7 under the anti-degradation standards other than to
8 actually look at the water quality and assuring that
9 water quality standard will be attained and that the
10 aquatic wildlife will not be impacted in any way. I
11 think we'll have to take a further look into what you
12 asked there and get back to you in the responsive
13 summary.

14 MS. SKRUKRUD: Yeah, I would
15 appreciate it to review the section that says that
16 you need to determine that the activity is a benefit
17 to the community at large.

18 My next question is what
19 additional requirements, if any, does IEPA place on
20 mines that flood? For example, how do you expect
21 sedimentations to work during flooding?

22 MR. CRISLIP: One of the previous
23 commenters did go into potential backwater flooding
24 of the settlement ponds. I believe it was Traci that
25 discussed that. I just want to point out that if

1 that does occur and backwaters from the stream goes
2 into those basins, when that water comes back out of
3 those structures the company is liable for the
4 quality of that water in accordance with the issued
5 NPDES permit for the site.

6 MS. SKRUKRUD: Okay. What is the
7 daily volume of mine pumpage anticipated from this
8 mine given the high water table in this area?

9 MR. CRISLIP: I don't have that off
10 the top of my head. I would have to go back to the
11 application and the estimate before that and provide
12 that in the responsive summary.

13 MS. SKRUKRUD: Okay. Does IEPA place
14 additional requirements on discharges like outflow
15 004, when you know it's going to go into a pond like
16 the Dumbris pond, which is downstream of that
17 outfall? In that case shouldn't limits for total
18 suspended solids, iron, manganese and mercury be in
19 place at all discharge conditions, not just at low
20 flow conditions? The permit only has limits during
21 low flow conditions, conditions one and four.

22 MR. CRISLIP: The discharge limits of
23 the permit are based on the regulations and they are
24 presented in the permit in accordance with those
25 regulations.

1 MS. SKRUKRUD: Okay. I will review
2 those regulations. Does IEPA require anything more
3 in a permit regarding chloride limits when the
4 downstream waters are not meeting the chloride water
5 quality standards? This is the case for the middle
6 fork of the Saline River. So downstream waters are
7 not meeting chloride standards.

8 MR. KOCH: The middle fork Saline
9 River is not -- to my knowledge is not a downstream
10 water from this pit. The Saline River receives the
11 water coming off of the mine through a tributary
12 through Rocky Branch and Cockerel Branch and that
13 goes to Saline River, Middle Fork Saline River. That
14 would be tributary to the west side of the -- of the
15 mine that currently is not being permitted.

16 MS. SKRUKRUD: Okay. I will review
17 that and bring that up in the 401 hearing, because
18 that's where I pulled that information. Thank you.
19 Sorry. Then my last couple of questions are about
20 the alternative treatment technology section on page
21 eight and nine of the public notice fact sheet. Does
22 IEPA fact check the analysis of the alternative
23 treatment technologies listed here or are these
24 answers just provided by Peabody mining?

25 MR. KOCH: Yeah. The answers for this

1 anti-degradation assessment were provided by Peabody.
2 We have reviewed these in the past. These same
3 alternatives are what we typically get from all coal
4 mines. We know there are other treatment techniques
5 out there, but in reality sedimentation basins are
6 the preferred method for treating coal mine
7 discharges. They -- not only do they allow for the
8 effluent limits to be met, but they actually allow
9 for water quality standards to be attained as well.
10 And, in most cases, there just isn't really -- either
11 there's not enough room at the mine or water flow
12 going from the basins is not consistent enough to use
13 alternative technology. So I believe that's why
14 sedimentation basins are the preferred technology.

15 MS. SKRUKRUD: So we raise -- hearing
16 after hearing we raise -- we bring up treatment
17 methods for things like chlorides and sulfates, which
18 we know in this case of this mine that there's going
19 to be increases in levels of those pollutants going
20 into the streams from this mine. So my last question
21 is what information on the use of treatment methods
22 for sulfates and chlorides do we need to provide to
23 IEPA for you to consider them seriously? I mean what
24 else do I need to tell you about these alternative
25 treatment methods that I keep finding that are used

1 in other mining operations?

2 MR. KOCH: I believe everything that
3 we've been provided with in the past is included in
4 the anti-degradation assessments and there's a list
5 of reasons why they were considered, why they were
6 rejected, and I guess you would have to be more
7 specific as to which exact treatment you're referring
8 to. But I mean we have yet to see one that is as
9 efficient and effective as sedimentation basins. And
10 I guess the big picture here is that with this, I see
11 no reason to believe that water quality standards
12 would not be met at the NPDES discharges using
13 sedimentation basins.

14 MS. SKRUKRUD: I understand that. But
15 my frustration is under anti-degradation we're
16 supposed to be doing all we can to minimize new
17 sources of pollution to receiving waters and
18 sedimentation basins do nothing to alleviate the
19 increases in dissolved solid that are anticipated
20 from this mine.

21 MR. KOCH: Yeah. And there is no
22 treatment technique out there that totally removes
23 sulfate and does not result in a concentrated waste
24 stream that has to be either discharged to a
25 receiving water in that area or trucked off site. I

1 mean we've looked at every anti-degradation
2 assessment I've put together, looking at these
3 alternatives and have been assessed and they've been
4 ruled as not being an effective treatment at that
5 site.

6 MS. SKRUKRUD: Okay. Thank you.

7 HEARING OFFICER STUDER: Okay. We
8 have three people left to speak. The first person is
9 Mary Rivera and she'll be followed by Barney Bush and
10 Barney Bush will be followed by Sam Stearns. So
11 Ms. Rivera. Mary Rivera is not here. Barney Bush.
12 Mr. Bush will be followed by Sam Stearns.

13 MR. BUSH: My name is Barney Bush,
14 B-A-R-N-E-Y. Last name B-U-S-H. No relation. I
15 would like to say that I've listened very intently to
16 the speakers here tonight and I am the chairman of
17 the Vinyard Indian Settlement and we have been
18 working hard to restore the old Vinyard Indian
19 Settlement of the Karbers Ridge area and that extends
20 out into various parts of Southern Illinois,
21 including Rocky Branch, in which we have old village
22 sites that exist out there and some that are being
23 dug up now. And I can't tell you how offensive it is
24 to have this kind of colonialism in your graveyards
25 and in your old homesites. It's insulting. It's

1 degrading. And to think about people digging up your
2 ancestors and robbing the graves, selling their
3 skulls. This part of the world is rified with pot
4 hunters, grave robbers and that sort of thing.

5 And in addition to that I heard
6 some very positive speech tonight. I am a person and
7 I should say our council does advocate for the health
8 of the land and for the health of the water and the
9 health of the air and for the health of our children
10 who are to come up. I heard this man back here speak
11 and I think the man is a good man in the sense what
12 he believes because he's right, farm runoff has done
13 an egregious harm to the waterways and to wells
14 across the country. Even though the farms are
15 providing, probably GMO, foods on their plots, at
16 least the top of the land is staying intact and they
17 are not digging down into the core of the earth, even
18 though I believe that more healthy ways could be used
19 to grow crops.

20 In the same way I also know that
21 49 percent of the coal that comes out of the ground
22 here in this part of the world is not used here. In
23 fact, the other is not used here much. The
24 49 percent that goes to China is used in
25 Chinese/American steel mills in which the slag from

1 that steel mill is used to make weapons that are sold
2 to countries with whom the U.S. is at war. So
3 indirectly 49 percent of this coal goes in to making
4 weapons that kill Americans. You should know that.
5 That's insulting enough. And there are other things
6 that could be done. And I'm going to take a little
7 bit of liberty here.

8 Jeff Biggers is here tonight, but
9 his article -- I'm going to bypass all of the
10 ingredients that are going from the coal mines, the
11 chemicals into the water in favor of something
12 even -- that should be taking effect here now. He
13 mentions a regeneration fund in which towns -- I
14 think I've got enough time. It's just a short page
15 and a half.

16 HEARING OFFICER STUDER: We've gone
17 two and a half minutes.

18 MR. BUSH: Two and a half minutes.
19 You took a minute telling me that.

20 Town councils, business groups,
21 churches, schools and community organizations need a
22 new discussion in Southern Illinois. The time has
23 come for our nation to pay its debt to coal mining
24 communities. Hear this. After shouldering the
25 health cost and powering our nation's industrial rise

1 to fortune over the past century don't struggling
2 coal mining communities in Saline County and
3 elsewhere deserve their fair share of high paying,
4 clean energy jobs and a transition fund for
5 retraining and investment to jump start reforestation
6 in its abandoned mine projects, clean manufacturing
7 and energy efficiency campaigns? If Iowa, the home
8 state of John L. Lewis, can score a 1.9 billion
9 dollar contract to build wind turbines, why can't
10 Southern Illinois? I'm going to skip a little bit
11 here.

12 Last month the Energy Savings and
13 Action Center was launched as a website to help
14 Appalachian residents save money and energy by
15 promoting energy efficient loan programs through
16 local electric utilities which will put electricians,
17 plumbers, construction crews and others to work. You
18 can keep the trucks running, but we don't have all of
19 the diesel fuel in our air affecting our lungs.
20 Eastern Kentuckians gathered on December 9 for a high
21 level government sponsored summit on economic
22 diversification. Skip over.

23 And he says here something that's
24 very important that we ought to hear from a quote by
25 Buckminster Fuller. You never change things by

1 fighting existent reality. Fuller reminds us from
2 his office at Southern Illinois University. To
3 change something, build a new model that makes the
4 existing model obsolete. Skipping down. If we can
5 move off billions in federal subsidies for natural
6 disasters and subsequent repairs, can't we do the
7 same for regenerative efforts in coal mining
8 communities? If we can give out of state coal
9 companies millions of dollars of taxpayer subsidies
10 for equipment, why can't we do the same for energy
11 efficiency companies and wind turbine manufacturers?

12 Skipping down. If coal countries
13 like Germany can produce nearly 60 percent of its
14 electricity as measured on October 3 from largely
15 decentralized sources of wind and solar in once coal
16 laden Scotland where black lung disease from coal
17 dust was first diagnosed in 1830's, which my father
18 died from back in 1990 having been in the mines, can
19 set out an ambitious road map to become 100 percent
20 free of fossil fuels by 2020, why can't Southern
21 Illinois lead clean energy manufacturing efforts in a
22 similar manner? Let's get beyond the old cold wars
23 and start a new discussion this year or as he says --
24 my coal miner friend in eastern Kentucky would say,
25 let's turn on the lights for Southern Illinois'

1 bright future with new energy. And I agree with that
2 a hundred percent. And it's going to be hard for
3 people down in here who are engrained into that coal
4 mining mentality and it's going to be very hard as
5 some of us are aware there exists two Americas here.
6 There are two. One that believes it is born of
7 conscious and the other that knows the truth that
8 doesn't care. Only that it gets its way. Thank you
9 for your time.

10 HEARING OFFICER STUDER: Thank you,
11 Mr. Bush. The last person we have registered to
12 speak is Sam Stearns.

13 MR. STEARNS: My name is Sam Stearns,
14 S-T-E-A-R-N-S. I appreciate the opportunity to speak
15 and ask at least one question.

16 I'm the third generation of my
17 family who has worked in the coal mines. Both of my
18 grandfathers came from Southern Illinois from Europe
19 to mine coal. My father retired from the Sahara Coal
20 Company. Many of my male relatives worked in the
21 mines and I, myself, worked underground for Zeigler
22 Coal. I grew up in Two Patch, a suburb of the old
23 coal mining community of Ledford just outside of
24 Harrisburg. Two Patch was named for the old No. 2
25 coal mine which had operated there long before I was

1 born. I grew up playing on old mine spoils and
2 swimming in the strip pits in that area. My parents
3 loved me. Had they known what we know now about the
4 poison soil which is brought to the surface by strip
5 mining, had they known about the chemicals leaching
6 into those strip pits, they would never have let me
7 play in those places. But they did out of honest
8 ignorance and they simply did not know any better.

9 There are already too many acres
10 of strip mined area in Saline and surrounding
11 counties. Thousands of acres in this area are
12 already spoiled and poisoned for innumerable years to
13 come. Forever in terms of human existence. Once the
14 topography and the hydrology of the land is changed,
15 it is changed forever. The notion of strip mine
16 reclamation is a fraud. It is simply putting makeup
17 on a corpse.

18 Now, I realize that periodically
19 extractive industries like Peabody and government
20 bureaucracies like the USDA and the IDNR will hold
21 ceremonies where they slap each other on the backs
22 and give each other plaques and awards and
23 congratulate each other on how well they have
24 reclaimed some small piece of land in those thousands
25 of acres of strip mined land. But, I repeat,

1 reclamation is a fraud. It is putting makeup on a
2 corpse.

3 Putting a few inches of topsoil
4 back on top of many feet of poisoned substrate can
5 produce some shallow-rooted crops for a few years as
6 long as that layer of topsoil is treated with
7 probiotics and fed fertilizers. But the soil
8 structure and hydrology are changed forever and that
9 land will never be able to support deep-rooted native
10 trees and plants again.

11 Citizens like me who have watched
12 these coal wastelands for decades have little
13 confidence in the state agencies which are charged
14 with protecting us and our streams from the
15 discharges of these polluting sacrifice zones. We
16 know that agencies such as IEPA operate at the whim
17 of politicians who are in the pocket of industry and
18 are many times staffed with corporate shills who put
19 the interests of industry over the health of our
20 citizens. My parents let me play in poisoned soil
21 and swim in poisoned water out of benign, honest
22 ignorance of the situation. Be we no longer have the
23 luxury of pleading ignorance. Now we know better.
24 That is why I ask you to deny this proposed permit
25 for a Rocky Branch Mine. We now know that there is

1 no way that the pollutants from the water and the
2 soil of the strip mine can safely be discharged into
3 Rocky Branch and other streams without harming the
4 citizens of this state and beyond.

5 Now, earlier it was mentioned
6 that you couldn't -- that the panel could not
7 remember any strip mine permits that have been denied
8 so I have another question, which is does the IEPA
9 have the authority to refer a case to the Illinois
10 Attorney General when permit violations are found
11 and, if so, how many times has the EPA done so in the
12 past?

13 HEARING OFFICER STUDER: We don't know
14 the number offhand. The answer to your question is
15 yes, we have that authority. There's a process
16 that's outlined in the Environment Protection Act
17 which requires us to send a written notice to a
18 facility that's violating the permit. It's called a
19 Notice of Violation. When the facility receives that
20 notice, then they have the opportunity to contact us
21 for a meeting and there's a time limit on which they
22 have to respond. After that, there's a next step,
23 which is a notice of intent to pursue legal action,
24 which would be the next step in the process. If that
25 is not resolved through the Notice of Violation, then

1 another written notice is sent out and the facility
2 again has the opportunity to meet with the agency
3 and, again, there are time limits that are imposed by
4 the Environmental Protection Act. If it is not
5 resolved, then the case can be referred to
6 prosecutorial authorities or to the Attorney
7 General's Office, to USEPA, to the -- I'll let the
8 attorney say it.

9 MS. DIERS: It can actually go to the
10 state's attorney as well. When we do refer those
11 cases it's then the discretion of the state's
12 attorney, Illinois Attorney General's Office, USEPA,
13 they are going to pursue. So they -- once we get to
14 that step, then it's in their court, you should say,
15 and they would decide how to proceed with those
16 cases. We do a lot of referrals through the years,
17 but I can't give you a number on that right now.

18 MR. STEARNS: So is it less than
19 three, less than six, less than ten?

20 MS. DIERS: It would be definitely
21 more than six, more than ten, but it would be based
22 on given years. You have to think there's land
23 violations, air violations, water violations. So it
24 can be a lot of different bureaus involved. I can't
25 give you a number offhand.

1 MR. STEARNS: You think more than ten.
2 Have you ever referred to the Illinois Attorney
3 General's Office?

4 MS. DIERS: If you look at land, air
5 and water altogether. If you're looking at --

6 MR. STEARNS: I'm sorry, ma'am. Strip
7 mine permits.

8 MS. DIERS: That I couldn't tell you.
9 I know there's several, but, again, I can't give you
10 an approximate number.

11 MR. STEARNS: This panel will come up
12 with an answer to that question as part of the --

13 HEARING OFFICER STUDER: Responsive
14 summary.

15 MR. STEARNS: -- that you're going to
16 produce?

17 HEARING OFFICER STUDER: Yeah. We'll
18 have an opportunity to review records at that time
19 and provide a response in writing.

20 MR. STEARNS: Thank you for the
21 opportunity to comment.

22 HEARING OFFICER STUDER: Thank you.
23 We appreciate your comments.

24 Okay. That's the end of those
25 that have registered to speak.

1 AUDIENCE MEMBER: I registered, I
2 thought.

3 HEARING OFFICER STUDER: Your name?

4 MS. KELLEN: Judy Kellen.

5 HEARING OFFICER STUDER: Is there
6 anyone else who has registered to speak or at least
7 thought they registered to speak and has not been
8 afforded that opportunity?

9 MS. KELLEN: I've got a card with a
10 little dot on it.

11 HEARING OFFICER STUDER: That's for
12 the second hearing.

13 MS. KELLEN: I've got two dots. I'm
14 not a scientist or a water expert or anything like
15 that. I'm a housewife. So we'll just go with that.
16 I've heard all of this big stuff and now you're going
17 to hear some little stuff. And I don't understand
18 why meetings like this even exist because anyone with
19 eyes, ears and just a little commonsense should be
20 able to ascertain the devastation which strip mining
21 does to the land and humans.

22 HEARING OFFICER STUDER: Okay. Can
23 you state your name for the record and spell your
24 last name?

25 MS. KELLEN: Judy Kellen, K-E-L-L-E-N.

1 And I'm a trustee for Cottage Township. If I wasn't
2 that, I would probably be home knitting socks.

3 Everyone has heard over and over
4 about the risks to health. Everyone has heard over
5 and over about the damage to our environment.
6 Everyone has heard over and over about destroying
7 lives. How this permit will personally affect my
8 husband and myself is our only water source is our
9 ponds and our cisterns. Over the years we've worked
10 to make ourselves pretty much self-sustaining and to
11 live within our income. We planted an orchard and
12 edible crops that return every year. Fixed alternate
13 heat, electric and water sources and are able to
14 irrigate because part of our ground was previously
15 stripped, too. Since the mine blasting has started
16 our ponds have been damaged, our chimney is cracked,
17 cracks in our walls, cracks in the foundation, doors
18 that do not shut, we do not know what has happened to
19 our cisterns, we can no longer use our wood burner,
20 but as soon as the blasting takes the last of our
21 water supply they will have driven us out of our
22 home. Maybe even sooner if that poisonous dust
23 doesn't run us out first. We've had a cistern since
24 1976 because of health reasons and have not paid a
25 water bill in 37 years. Now I bet none of you all

1 have done that. If we are forced out of our home,
2 the expense will then exceed our income. How could
3 you or would you plan for this type of devastation in
4 your retirement? It's not even in your mind to think
5 of such a thing. How much of a price are we going to
6 have to pay before it kills us? But where do you go?
7 There's no longer a wild wild west to escape to
8 because there's now land and water problems
9 everywhere. It's very difficult for Americans to
10 believe there's a never ending supply of land and
11 water, but we're seeing it happen all over the
12 country. So let's all live for today and to hell
13 with tomorrow seems to be the attitude of a very
14 selfish and greedy generation. Thank God my
15 generation and the generations before us have all
16 been able to enjoy what our forefathers built and
17 established. What we are witnessing now is our
18 children and grandchildren are going to have a very
19 difficult time just sustaining a type of life with
20 destroyed land and dirty water. Thank you very much.

21 HEARING OFFICER STUDER: Thank you. I
22 remind everyone that the written record is open, as
23 indicated on the notice for this hearing, and we will
24 begin with the 401 water quality certification after
25 about a 15-minute break. I thank you for your

1 patience this evening and I thank you for your
2 comments that have been made. This hearing is
3 adjourned.

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF WILLIAMSON)

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4 I, Valeri Bleyer do hereby certify:
5 That the said proceedings was taken before
me at the said time and place and was taken down in
6 shorthand writing by me;

7 That I am a Certified Shorthand Reporter
for the State of Illinois; that the said proceedings
8 was thereafter under my direction transcribed into
computer-aided transcription; that the foregoing
9 transcript constitutes a full, true and correct
report of the proceedings which then and there took
place;

10 IN WITNESS WHEREOF, I have hereunto
subscribed my hand and affixed my official seal this
11 23rd day of February, 2014.

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VALERI BLEYER, CSR# 084-002678

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