

1 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2 SPRINGFIELD, ILLINOIS

3

4 IN RE:

5 DYNEGY MIDWEST GENERATION, INCORPORATED

6 HAVANA POWER STATION NPDES

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15 INFORMATIONAL PUBLIC HEARING

16 NOVEMBER 8, 2011

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17 INFORMATIONAL PUBLIC HEARING held, on the 8th day of
18 November, 2011, between the hours of 6:00 P.M. and
19 7:36 P.M. of that day, at the Occasions banquet
20 facility, 301 West Main Street, Havana, Illinois 62644,
21 before Robin A. Enstrom, a Registered Professional
22 Reporter, Certified Shorthand Reporter, and a Notary
23 Public within and for the State of Illinois.

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A P P E A R A N C E S

FOR ILLINOIS ENVIRONMENTAL PROTECTION AGENCY:

Dean Studer, Hearing Officer

Mark E. Liska, Environmental Protection
Engineer, Permit Section, Bureau of Water

Robert G. Mosher, Manager, Water Quality
Standards Section, Bureau of Water

Deborah J. Williams, Assistant Counsel,
Division of Legal Counsel

Court Reporter:
Robin A. Enstrom, RPR, CSR
Illinois CSR #084-002046
Midwest Litigation Services
15 S. Old State Capitol Plaza
Springfield, Illinois 62701
217.522.2211
800.280.3376

1 (Hearing began at 6:01 P.M.)

2 HEARING OFFICER: I've got one minute
3 after 6:00; so we're going to go ahead and get started
4 this evening.

5 Good evening. My name is Dean Studer, and
6 I'm the Hearing Officer for the Illinois Environmental
7 Protection Agency. On behalf of Interim Director John
8 Kim and Bureau of Water Chief Marcia Willhite, I
9 welcome you to tonight's hearing. My purpose tonight
10 is to ensure that these proceedings run efficiently
11 and according to rules.

12 This is an informational hearing before
13 the Illinois EPA in the matter of a renewal of a
14 National Pollutant Discharge Elimination System --
15 otherwise used by the acronyms NPDES -- permit for
16 Dynegy Midwest Generating, Incorporated, Havana Power
17 Station. The Illinois EPA has made a preliminary
18 determination that the project meets the requirements
19 for obtaining a permit and has prepared a draft
20 reissued permit for review.

21 The authority for the Illinois EPA to
22 reissue this permit is contained in Section 39 of the
23 Illinois Environmental Protection Act, 415 ILCS 5/39.
24 In pertinent part, this section reads, "It shall be

1 the duty of the agency to issue such a permit upon
2 proof by the applicant that the facility, equipment,
3 vehicle, vessel, or aircraft will not cause a
4 violation of this act or of regulations hereunder."

5 The decision by the agency in this matter
6 will be based upon the technical merits of the
7 application as it relates to compliance with this
8 statute and regulations promulgated under it. The
9 agency decision will not be based on how many people
10 desire for the mod -- or for the reissued permit to be
11 issued or on how many people desire for the permit not
12 to be issued but rather on compliance with the law and
13 regulations.

14 Issues at the hearing this evening will be
15 limited to those associated with the reissuance of
16 this permit. Mark Liska, permit engineer at the
17 agency, will provide additional information on this
18 permit reissuance in his opening remarks which will be
19 made following my opening statement. Other issues
20 relevant to tonight's hearing include compliance with
21 the requirements of the federal Clean Water Act and
22 the rules set forth in 35 Illinois Administrative
23 Code, Subtitle C, the antidegradation analysis,
24 potential impacts to receiving waters from the

1 proposed discharge, and water quality in the receiving
2 waters.

3 Please note that issues dealing with the
4 stability and integrity of the ash impoundments are
5 not issues that are relevant to the NPDES permit.
6 Authority to regulate these types of structures was
7 not given to Illinois EPA but rather to the Illinois
8 Department of Natural Resources. All structures that
9 meet the definition of a dam as defined in the
10 Illinois Administrative Code are regulated by the
11 Department of Natural Resources, Office of Dam Safety.

12 The east ash pond at Havana is classified
13 as a high hazard dam due to the location of dwellings
14 located northeast of the impoundment. According to
15 the Illinois DNR, the dam was inspected in 2010 and
16 was found to be in compliance with existing
17 regulations. The most recent inspection took place in
18 October of 2011 and has not been submitted to the
19 Office of Dam Safety as of yet. If you have questions
20 on dam safety issues, please contact Paul Mauer with
21 the DNR, Office of Dam Safety, at 217-782-4427.

22 The Illinois EPA is holding this hearing
23 for the purpose of accepting comments from the public
24 on the draft permit. This public hearing is being

1 held under the provisions of the Illinois EPA's
2 Procedures for Permit and Closure Plan Hearings which
3 can be found in 35 Illinois Administrative Code, Part
4 166, Subpart A, and in accordance with the
5 requirements of Illinois Pollution Control Board NPDES
6 regulations found at 35 Illinois Administrative Code,
7 Section 309.115 through 309.119. Copies of these
8 regulations are available at the Illinois Pollution
9 Control Board website at www.ipcb.state.il.us or, if
10 you do not have easy access to the web, you may
11 contact me and I will get a copy for you.

12 An informational public hearing means
13 exactly that. This is strictly an informational
14 hearing. It is an opportunity for you to provide
15 information to the Illinois EPA concerning the permit.
16 This is not a contested case hearing.

17 I'd like to explain how tonight's hearing
18 is going to proceed. First, I will have the Illinois
19 EPA panel introduce themselves and provide a sentence
20 or two regarding their involvement in this permit
21 process. Then Permit Engineer Mark Liska from the
22 Division of Water Pollution Control here at the
23 Illinois EPA will speak regarding the draft permit.
24 This will be followed by further instructions as to

1 how statements and comments will be taken during this
2 hearing and as -- excuse me -- and as appropriate
3 conduct during this hearing. Following these
4 additional instructions, I will allow the public to
5 speak.

6 If you have not signed a registration card
7 at this point, please see Jay Timm, and he will
8 provide you with one. You may indicate on the card
9 that you would like to make oral comments tonight.
10 Everyone completing a card legibly or providing their
11 business card to Mr. Timm tonight will be notified
12 when the Illinois EPA reaches a final decision in this
13 matter. A responsiveness summary will be made
14 available at that time.

15 In the responsiveness summary, the
16 Illinois EPA will respond to all relevant and
17 significant questions and issues that were raised at
18 this hearing or submitted to me prior to the close of
19 the comment period. The comment period in this matter
20 will close on December 8, 2011. I will accept written
21 comments as long as they are postmarked by December
22 8th.

23 Illinois EPA is committed to resolving
24 outstanding issues and reaching a final decision in

1 this matter in an expeditious manner. However, the
2 actual decision date in this matter will depend upon a
3 number of factors, including the number of comments
4 received, the substantive content of those comments --
5 of those comments and staff considerations, as well as
6 other factors.

7 During tonight's hearing and during the
8 comment period, relevant comments, documents, and data
9 will also be placed into the record as exhibits.
10 Please send all written documents or data to my
11 attention, and that's at Dean Studer, Hearing Officer,
12 regarding Havana Power Station NPDES, and that's at
13 Illinois EPA, 1021 North Grand Avenue East, P.O. Box
14 19276, Springfield, Illinois 62794-9276. This address
15 is also listed on the public notice for this hearing.
16 Please indicate the NPDES permit or reference the
17 Havana Power Station NPDES on your comments to help
18 ensure that they become part of this hearing record.
19 The NPDES permit for this facility is IL0001571.

20 In addition, e-mail comments will be
21 accepted if sent to epa.publichearingcom -- and that's
22 [@e-p-a.p-u-b-l-i-c-h-e-a-r-i-n-g-c-o-m](mailto:e-p-a.p-u-b-l-i-c-h-e-a-r-i-n-g-c-o-m)-
23 [@illinois.gov](mailto:i-l-l-i-n-o-i-s.g-o-v). All e-mail
24 comments should contain the words "Havana Power

1 Station NPDES" in the subject line of the e-mail to
2 help ensure that they are included in the record in
3 this matter. Please make sure that these words were
4 spelled correctly as e-mails are electronically sorted
5 and distributed and may not make it into the record if
6 the words in the subject line are misspelled. When
7 your e-mail arrives, the system should send you an
8 automated reply if the e-mail was received before the
9 comment period ends and the e-mail has been properly
10 sorted and distributed.

11 Please note that the server can become
12 quite busy in the minutes before the record closes.
13 So you may want to take this into account when
14 submitting your comments as electronic comments
15 received at or after the stroke of midnight as the
16 date changes from December 8 to December 9 will not be
17 considered timely filed.

18 I have marked the following exhibits:

19 Public hearing notice is Exhibit 1.

20 The draft NPDES permit/public notice/fact
21 sheet of May 11, 2011, is Exhibit 2.

22 Exhibit 3 is the hearing request received
23 from Prairie Rivers Network and the Illinois Chapter
24 of the Sierra Club, dated June 10, 2011, and that was

1 accompanied by a petition with 19 signatures on it.

2 The explanation of the corrected public
3 notice, dated September 21, 2011, is Exhibit 4.

4 And exhibit 5 is an actual aerial
5 photograph of the facility.

6 The corrected public notice/fact
7 sheet/draft is Exhibit 6.

8 I will now ask the Illinois EPA panel to
9 introduce themselves.

10 Mark Liska, permit engineer, will provide
11 a brief statement regarding the permit application and
12 the draft reissued permit once these staff members
13 have introduced themselves.

14 Bob.

15 MR. MOSHER: I'm Bob Mosher. I'm in the
16 water quality standards section, and I did the
17 antidegradation review for this permit.

18 MR. LISKA: I'm Mark Liska. I am the
19 permit engineer for this permit. I'm the permit
20 writer.

21 MS. WILLIAMS: Good evening. I'm Debbie
22 Williams, and I am assistant counsel for the Bureau of
23 Water.

24 HEARING OFFICER: And, Mark, do you have

1 opening remarks that you would like to make?

2 MR. LISKA: Yes.

3 Good evening, ladies and gentlemen.

4 Again, I'm Mark Liska. I'm the Illinois EPA permit
5 engineer for the Dynegy Midwest Generation, Havana
6 Power Plant, NPDES permit number IL0001571.

7 The discharges from this permit are --
8 consist of all of their cooling water, their ash pond
9 water, miscellaneous process waters, and stormwater,
10 and all discharge to the Illinois River.

11 Under Illinois and USEPA mandates, new air
12 pollution controls were added to the plant recently.
13 This will provide cleaner air and removes a
14 significant amount of toxic substances and mercury
15 from the air. The method for dealing with this
16 mercury that has been added -- that has been removed
17 from the air is to bind the mercury into an activated
18 carbon sorbent before discharging it to the east ash
19 pond. The mercury is expected to stay bonded in the
20 sorbent in the settled ash in the pond and not
21 discharge to the Illinois River.

22 The carbon sorbent is added in such a way
23 that the majority of the fly ash will not have the
24 mercury-sorbed carbon in it. Because of this, the

1 majority of the fly ash can be marketed for beneficial
2 reuse. The permittee has an extensive network
3 available and -- and to promote beneficial reuse of
4 the fly ash in order to limit the amount that is
5 needed to be put in the ash pond.

6 The east ash pond is the principal pond
7 for all bottom ash, fly ash, spray dryer and mercury
8 sorbent residue, and other small miscellaneous
9 discharges. This -- the east ash pond is a lined pond
10 that was built in the early 1990s. There are a number
11 of groundwater monitoring wells in and around the east
12 ash pond, and there have been -- so -- and there have
13 been no exceedances in any toxic substances or any
14 other parameters in the 20-plus years of its
15 existence.

16 The current draft NPDES permit requires
17 monitoring or limits to temperature, total suspended
18 solids, oil and grease, mercury, chlorine, and a host
19 of other metals and other parameters and requires an
20 indurated stormwater pollution prevention plan for the
21 entire site.

22 Thank you.

23 HEARING OFFICER: Thank you, Mark.

24 I'll go ahead and go through a few issues

1 regarding how I will accept comments this evening.

2 While the issues raised tonight may indeed
3 be heartfelt concerns to many of us in attendance,
4 applaud is not -- applause is not appropriate during
5 the course of this hearing. On a similar note,
6 hissing and jeering are also not appropriate and will
7 not be tolerated during this hearing.

8 Secondly, statements made tonight are to
9 relate to the issues involved with the reissuance of
10 this permit. Specifically statements and comments
11 that are of a personal nature or reflect on the
12 character or motive of a person or group of people are
13 not appropriate in this hearing. If statements or
14 comments begin to drift into this area, I may
15 interrupt the person speaking and ask that they
16 proceed to their next relevant issue.

17 As Hearing Officer, I intend to treat
18 everyone here tonight in a courteous, respectful, and
19 professional manner. I ask that the public do the
20 same. If the conduct of persons attending this
21 hearing should become unruly, I am authorized to
22 adjourn this hearing should the actions warrant. In
23 such a case, the Illinois EPA would still accept
24 written comments through the close of the comment

1 period which is December 8th.

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

10 Again, written comments are given the same
11 consideration as oral comments received during this
12 hearing and may be submitted to the Illinois EPA at
13 any time within the public comment period which ends
14 at midnight on December 8, 2011.

15 Although we will continue to accept
16 comments through that date, tonight is the only time
17 that we will accept oral comments. Any person who
18 wishes to make an oral comment may do so as long as
19 the statements are relevant to the issues at hand and
20 time allows.

21 If you have lengthy comments, please
22 consider giving only a summary of those comments
23 during this hearing and then submitting the comments
24 in their entirety to me in writing before the close of

1 the comment period, and I will ensure that they are
2 included in the hearing record as an exhibit.

3 Please keep your comments relevant to the
4 issues at hand. If your comments fall outside the
5 scope of this hearing, I may ask you to proceed to
6 your next issue.

7 For the purpose of allowing everyone to
8 have a chance to comment and to ensure that we conduct
9 this hearing in a timely fashion, I will impose a time
10 limit of nine minutes per speaker. This should allow
11 everyone that has a desire to speak to have the
12 opportunity to do so. And everyone -- after everyone
13 has had an opportunity to speak and provided that time
14 permits, I may allow those who initially did not
15 desire to speak to do so. If time still permits, I
16 may then allow those who initially ran out of time to
17 speak again.

18 In the event that we cannot accommodate
19 everyone who wishes to make comments this evening, you
20 are asked to submit your comments to us in writing.
21 Again, written comments are given the same weight as
22 comments made orally at this hearing.

23 I stress that we want to avoid unnecessary
24 repetition. Once a point is made, it makes no

1 difference if that point is made once or whether it is
2 made 99 times. It will be considered and will be
3 reflected only once in the responsiveness summary.

4 The final decision of the Illinois EPA
5 will not be based on how many people support or oppose
6 this project but rather upon the application and its
7 supporting documents indicating that the facility will
8 comply with applicable laws and regulations.

9 We have a court reporter here who is
10 taking a record of these proceedings for the purpose
11 of us putting together our administrative record.
12 Therefore, for her benefit, please keep the general
13 background noise in the room to a minimum so that she
14 can hear everything that is said.

15 Illinois EPA will post the transcript for
16 this hearing on our web page in the same general place
17 where the hearing notice, draft permit, and other
18 documents in this matter have been posted. It is my
19 desire to have this posted in about two to two-and-
20 a-half weeks following the close of this hearing.
21 However, the actual posting date will depend on a
22 number of factors, including when I get the transcript
23 from the court reporter.

24 When it is your turn to speak, I will call

1 your name to come forward. For the record, you should
2 state your name and, if applicable, any governmental
3 body, any organization, or any association that you
4 represent. If you are not representing a governmental
5 body, organization, or an association, you may simply
6 indicate that you are a concerned citizen or a member
7 of the public.

8 For the benefit of the court reporter, I
9 ask that you spell your last name. If there are
10 alternate spellings for your first name, you may also
11 spell your first name. Once you spell your name, I
12 will start timing you and you'll have nine minutes to
13 complete your comments.

14 I ask that while you are speaking that you
15 direct your attention to the hearing panel and to the
16 court reporter to ensure that an accurate record of
17 your comments can be made. Prolonged dialogue with
18 members of the hearing panel or with others here in
19 attendance will not be permitted. Comments directed
20 to the audience are also not allowed.

21 Again, I remind everyone that the focus of
22 this hearing is the environmental issues associated
23 with the NPDES permit.

24 People who have requested to speak will be

1 called upon in the order that they have registered.

2 Are there any questions regarding the
3 procedures that I will use this evening for conducting
4 this hearing? Okay. Let the record indicate that
5 there were no hands raised.

6 First person that registered to speak was
7 Brian Perbix.

8 MR. PERBIX: I will pass for the moment.

9 HEARING OFFICER: Pass for now. Okay.
10 For the record, Perbix, P-e-r-b-i-x.

11 COURT REPORTER: Thank you.

12 HEARING OFFICER: Traci Barkley.

13 Ms. BARKLEY: My name is Traci, T-r-a-c-i,
14 Barkley, B-a-r-k-l-e-y.

15 Thank you -- thank you for having the
16 hearing tonight and for allowing an opportunity for
17 the public to come and voice concern.

18 I am a water resources scientist for the
19 Prairie Rivers Network. We're a nonprofit
20 environmental organization that works throughout the
21 State of Illinois to protect clean water on behalf of
22 communities such as this. Much of our work focuses on
23 policies such as the Clean Water Act and Safe Drinking
24 Water Act -- laws that are intended to protect our

1 waters, our environment, and ultimately our health.

2 The modifications to the Havana Power
3 Plant NPDES permit allow for the discharge of
4 additional pollutant-laden wastewaters from Dynegey's
5 Havana Power Station to the Illinois River in Mason
6 County, Illinois. Surprisingly the additional
7 pollution proposed for the Illinois River is a result
8 of cleaning up air pollution from the Havana Power
9 Plant.

10 The investments in air pollution controls
11 at the Dynegey Havana Power Station are the result of a
12 lawsuit against Dynegey dating back to 1999. Federal
13 and state governmental parties were joined in the case
14 by a coalition of citizen groups, including the
15 American Bottom Conservancy, Health and Environmental
16 Justice of St. Louis, Illinois Stewardship Alliance,
17 and our organization, the Prairie Rivers Network.
18 Investments at five power stations -- including the
19 Havana Power Station, the Baldwin Power Station,
20 Hennepin Generating Station, Vermilion Generating
21 Station, and the Wood River Generating Station -- were
22 required to reduce air pollution by over 54,000 tons
23 per year. This has been a tremendous step forward.

24 We do applaud the additional air pollution

1 controls employed by Dynegy at the Havana Power
2 Station. However, it is appalling that the pollutants
3 being removed from air emissions are simply being
4 moved to water. These pollutants include things such
5 as mercury, arsenic, cadmium, chromium, lead, among
6 others.

7 In addition to the threats from the
8 build-up of mercury concentrations in fish flesh and
9 further up the food chain, the power plant waste in
10 the form of fly ash, bottom ash, and activated mercury
11 sorbent contains concentrated levels of arsenic,
12 chromium, and cadmium that can damage the nervous
13 systems and other organs, especially in children.

14 The Illinois River is an important system
15 for the many river-side communities that rely on clean
16 water for their small businesses and tourist
17 attractions, for the commercial fishermen that draw
18 their income and livelihoods from healthy fish, for
19 the residents that rely on clean water and a healthy
20 ecosystem for recreation and aesthetic enjoyment.

21 The Illinois River Valley is also a rich
22 ecosystem for many types of wildlife. In fact,
23 historically the Illinois River Valley has been one of
24 the most important migration areas for waterfowl in

1 North America. During spring and fall migrations,
2 waterfowl are attracted to the abundance of food
3 available in shallow bottomland lakes, sloughs,
4 marshes, ponds, and forests. Though the Illinois
5 River Valley has been greatly altered by drainage of
6 the wetlands and sedimentation of the river,
7 significant reinvestments into this system are
8 producing an unprecedented revival.

9 The Middle Illinois River system boasts
10 134 heritage sites and eight natural area sites,
11 totaling the sixth highest percentage of natural area
12 acreage among the Illinois Department of Natural
13 Resources resource rich areas. There are nine state
14 holdings, including one state park, five conservation
15 areas, one forest, and two fish and wildlife areas.
16 Emiquon, Chautauqua, and Meredosia National Wildlife
17 Refuges are federal lands located here.

18 Prominent natural features include sand
19 prairies, hill prairies, springs, seeps, savannas,
20 ponds, lakes, woods, and habitat for herons, eagles,
21 the state-threatened Illinois chorus frog and Illinois
22 mud turtle. In fact, a recent multimillion dollar
23 project at Emiquon Preserve has created a mosaic of
24 habitats that now support over 212 species of birds

1 documented there, including woodland, wetland, and
2 prairie species. These are all organisms and systems
3 that rely on clean water.

4 The Nature Conservancy signed a
5 cooperative fisheries management agreement in 2007
6 with Department of Natural Resources, and, as a
7 result, nearly two million fish were stocked in
8 Emiquon's waters with many species not available from
9 hatcheries. Those are all fish that have a connection
10 with the segments of water that are proposed for
11 impact here tonight.

12 Emiquon now has 5800 acres of wetlands
13 with additional adjacent restoration taking place.
14 And if you take Chautauqua National Wildlife Refuge,
15 Emiquon National Wildlife Refuge, and the Emiquon
16 Preserve, we are talking about roughly 14,000 acres of
17 Illinois River Valley which will be restored into
18 habitat that will promote the betterment of a whole
19 variety of species.

20 Several of our members live and recreate
21 in the Illinois River watershed. It would be
22 adversely impacted by a discharge of pollutants that
23 degrade water quality.

24 We oppose the issuance of this permit and

1 are specifically concerned with the over 15 million
2 gallons per day of north ash pond discharge from
3 outfall 002, the .25 million gallons per day of
4 treated groundwater from outfall D02, the intermittent
5 discharge of south ash pond discharge from outfall
6 002, and the over 21 million gallons per day of east
7 ash bond discharge from 005.

8 I have some specific comments and
9 questions that I'd like to go through, and you can let
10 me know when my time is up.

11 My first question is what communities draw
12 water from downstream segments from the Illinois River
13 for public water supply?

14 MR. MOSHER: Traci, I don't believe that
15 there are any, but we'll certainly check that and
16 correct that, if necessary, in our responsiveness
17 summary.

18 MS. BARKLEY: And is the agency aware of
19 industries that draw water from downstream segments of
20 the Illinois River?

21 MR. MOSHER: That is -- yeah, I would say
22 definitely industries are drawing water, not for
23 drinking water purposes but for their industrial
24 purposes.

1 MS. BARKLEY: And has the agency evaluated
2 how additional pollutant loading might impact their
3 need for clean water for their industrial processes?

4 MR. MOSHER: Yes, we have in the regard
5 that the additional pollutant loading from the new
6 activities, the activities evaluated under
7 antidegradation, is so minute that we don't see how it
8 will impact any use, and that was our conclusion --
9 that it will not impact any use of the river,
10 including industrial water uses.

11 MS. BARKLEY: So knowing that the volumes
12 of water proposed for discharge include some basic,
13 some acidic, some liquid, some dry, some salty, some
14 high in metals, the discharge will be mixed together
15 in east ash pond, allowed to decant, and then
16 discharged in the Illinois River, can you walk you us
17 through how the agency evaluates all those waste
18 streams that are either going directly into east ash
19 pond or going into the north and south ash ponds and
20 then are discharged into the east ash pond? How does
21 the agency evaluate all those waste streams, how they
22 mix, and what their ultimate impact will be?

23 MR. MOSHER: You look at each individual
24 waste stream -- and, Mark, you have a hand in this so

1 add anything you want to what I say. You evaluate
2 each one for its constituents, and it's kind of a sum
3 total of what these new waste streams contain, and
4 it's all taken into account as -- you know, the size
5 of the ash pond and what's going to go on in the ash
6 pond. We make some comments about neutralization of
7 acid and alkaline waste streams, et cetera, that --
8 the end result or our final conclusion is that it's a
9 fairly minor addition to the existing ash pond.

10 MR. LISKA: I don't think I have anything
11 else. It's a mass balance of the parameters that go
12 in. We take into account the treatments that they
13 have, and we concluded that there is negligible
14 impact.

15 MS. BARKLEY: So from multiple sources we
16 know that water softener backwash, deep well acid
17 cleaning wastewater, lime slurry, scrubber system
18 wastewaters, and coal combustion waste made up of fly
19 ash and bottom ash typically include toxic metals,
20 including arsenic, barium, beryllium, boron, cadmium,
21 chlorides, chromium, copper, dissolved iron, lead,
22 manganese, mercury, nickel, radium-226, strontium-90,
23 selenium, sulfates, total dissolved solids, and zinc,
24 as well as salts including sulfates and chlorides.

1 Have reasonable potential analyses been
2 conducted for any of these pollutants?

3 MR. LISKA: Yes.

4 MR. MOSHER: Well, yes, we have. And I
5 think you're using the word "toxic" in your statement
6 a little loosely. It's our conclusion that there
7 won't be toxic concentrations as measured against the
8 state's water quality standards in the effluent coming
9 out of the ash pond.

10 So when you say "toxic," yes, all those
11 things can be toxic, as every substance on earth can
12 be toxic in the right dose, but it's the dose or the
13 exposure that is part of our evaluation. And we have
14 concluded that water quality standards won't be
15 exceeded. Therefore, the discharge won't be toxic.

16 MS. BARKLEY: So a formal reasonable
17 potential analysis has been conducted for each of
18 these pollutants to ensure that water quality
19 standards will be met?

20 MR. MOSHER: When you have new waste
21 streams that haven't occurred yet, haven't been
22 discharged yet, the formal reasonable potential
23 analysis that you would find in the USEPA technical
24 support document isn't possible because that's an

1 analysis that's done on an existing effluent.

2 But you can say in a way that our
3 evaluation is reasonable potential because we look at
4 all the constituents, we look at the volume of the ash
5 pond, what's already going to the ash pond from
6 existing sources, and, yes, we have done a reasonable
7 potential analysis in that regard, and our conclusion
8 was that water quality standards would be met.

9 HEARING OFFICER: We've gone the time
10 limit. If you've got just a few issues on this
11 particular topic, I'll --

12 MR. LISKA: I want to add one thing.

13 HEARING OFFICER: Yeah, I'll let you go
14 ahead and finish on those.

15 MR. LISKA: I just wanted to add that
16 Special Condition 21 of the permit requires
17 monitoring/testing for the vast majority of the metals
18 that you listed.

19 MS. BARKLEY: Can I ask one follow-up
20 question to this?

21 HEARING OFFICER: Yes.

22 MS. BARKLEY: One, I'd like to make the
23 comment that that's twice per year, and really, to get
24 enough information that means anything, it will take

1 this one, we would look at pretty much any of -- any
2 of the other coal power plants that are in Illinois,
3 and there are -- there are enough coal power plants in
4 Illinois either by -- either owned by Dynegy or by
5 other people that we would -- we would definitely have
6 enough data.

7 HEARING OFFICER: We have gone the time
8 limit. If time allows, we'll come back to you, Traci,
9 if that's --

10 MS. BARKLEY: Okay. All right. Thank
11 you.

12 HEARING OFFICER: Joyce Blumenshine.

13 MS. BLUMENSHINE: Thank you. My name is
14 Joyce, J-o-y-c-e, Blumenshine, B-l-u-m-e-n-s-h-i-n-e.
15 I am a volunteer with the Illinois Chapter Sierra
16 Club, and Sierra Club wants to protect the environment
17 for our families and our future. We thank all the
18 members of IEPA here tonight for this important
19 hearing, for coming to meet the public in their
20 hometown, and to listen to the concerns.

21 Our local Sierra Club group, Heart of
22 Illinois Sierra Club, with its approximately 900
23 members, includes Mason County and the citizens of the
24 area of Havana. We have particular concerns about the

1 proposed permit tonight. I have a general comment and
2 then a few questions, please.

3 HEARING OFFICER: Okay.

4 MS. BLUMENSHINE: It's been well known
5 that disposal in ash ponds with wet slurry is
6 considered inherently unsafe, and it really should be
7 phased out as soon as possible. In recent times, we
8 have seen dramatic incidences showing the hazards and
9 risks of wet coal ash. Most recently, the spill into
10 Lake Michigan, and then, in 2008, the huge disaster of
11 the TVA Authority in Kingston.

12 While I realize, Mr. Studer, and certainly
13 respect that the construction of this ash pond is not
14 the issue, I respectfully submit that, if there was
15 any kind of disaster, leak, fissure, or break of the
16 ash pond, it would be this community that would suffer
17 the toxins that are contained in there that could be
18 released, and it's Dynegy's own study that the flow
19 from impact will go possibly five miles and would
20 include hundreds of residences here in the town of
21 Havana. So this is a huge and very serious issue for
22 this community, and as one of my exhibits, I will turn
23 in the Dynegy study with their comment to that effect.

24 Regarding your proposed permit, I did have

1 some questions regarding outfall 005 where I believe I
2 heard that the comment was that the mercury is
3 expected to stay bonded to the sorbent; yet in your
4 own permit, on page 6, regarding pond 005 or the east
5 ash pond discharge, it says "Mercury Sorbent Residue
6 Discharge," and under "Approximate Flow," it says
7 "Intermittent."

8 So I would appreciate just some kind of
9 further explanation. Is or is not the mercury that is
10 supposed to be bonded to the sorbent ever possibly
11 going to be discharged into the Illinois River?

12 MR. LISKA: It's not expected to discharge
13 to the Illinois River. If there is any residue that
14 for some reason discharges to the Illinois River, it
15 will -- the mercury will stay bonded to it so that the
16 mercury will -- the mercury itself will not come out
17 and go into the ecosystem where it could be taken in
18 by anyone or anything.

19 MS. BLUMENSHINE: May I ask, then, is this
20 sorbent going to sink to the bottom of the river? Is
21 it carried with the flow to the dead zone? What
22 happens to this if it goes into the river?

23 MR. LISKA: It is expected to sink.

24 MS. BLUMENSHINE: And if it sinks, then

1 that toxic mercury is building up over time, as the
2 legacy from this power plant and your permitting, in
3 the Illinois River for future generations to deal
4 with. Is that not the case?

5 MR. LISKA: Again, it will -- it will stay
6 bonded to the sorbent so that the mercury itself will
7 not cause any -- any problems. It will not -- the
8 mercury will stay bonded in there so that it cannot be
9 released and taken into, again, anyone or anything in
10 the river.

11 MR. MOSHER: Let's back up just a minute.
12 Number one, all indications are that the mercury and
13 the activated carbon it's sorbed to will remain in the
14 ash pond. If it doesn't for some reason -- and this
15 is a new type of technology. Dynegy is going to
16 monitor for mercury in the final effluent. If it's
17 noted that the concentration of mercury begins to
18 rise, we'll note that, and we'll step in. We'll say,
19 wait, you -- you know, this wasn't supposed to happen.
20 Now, let's fix it before water quality standards
21 aren't met.

22 So I think before we start talking about
23 what happens to the mercury discharged, we need to
24 talk about, number one, we don't think it's going to

1 be discharged. Number two, there's only a certain
2 amount of mercury that's allowable to be discharged.
3 It's a very, very low standard for mercury.

4 MS. BLUMENSHINE: Thank you, Mr. Mosher.
5 I appreciate your explanation, and I'm sure, as all
6 the EPA members know -- and certainly I'm not a
7 scientist, but we're aware that an amount of mercury
8 probably the size of a dot of a pinhead can pollute a
9 lake and cause the fish to be unsafe for human
10 consumption. We are very concerned about the highly
11 toxicity levels of this, and I'd just like to ask --
12 and I probably won't, you know, know the test method,
13 but what test methods prove that this sorbent is so
14 good for bonding the mercury over such a long time?

15 MR. LISKA: Do you want to talk about the
16 test method, the EPA 1631?

17 MR. MOSHER: Well, I think she's asking
18 about the studies that were done to demonstrate that
19 the mercury and the sorbent settle, and those
20 publications are given in the antidegradation
21 assessment review.

22 MS. BLUMENSHINE: Okay.

23 MR. MOSHER: Which I believe is in the
24 public notice/fact sheet.

1 MR. LISKA: Yes.

2 HEARING OFFICER: Yes, it is.

3 MS. BLUMENSHINE: I will go back and check
4 those. Thank you. I just -- I was trying to --
5 because I didn't know if there was some other, you
6 know, test method such as --

7 MR. LISKA: There are several studies in
8 the antidegradation listed.

9 MS. BLUMENSHINE: Thank you. I do
10 appreciate.

11 And then just a -- as a kind of final
12 question on the mercury then. Mr. Mosher kindly
13 pointed out that Dynegy will test, and I wanted to ask
14 about Special Condition Number 8. Maybe I'm not
15 understanding this right, but it says mercury will be
16 monitored on a quarterly basis until 12 samples have
17 been collected. Is that just regarding something that
18 I'm not seeing here, or is that for all of the
19 mercury? Is there some limit, then, to the testing
20 that Dynegy will be expected to do on the mercury?

21 MR. LISKA: We -- the permit does have
22 that they would have 12 samples, and we had that in
23 because we would -- we would feel that that would be
24 enough samples to get a high enough degree of accuracy

1 whether there were any problems with the mercury
2 sorbent.

3 MS. BLUMENSHINE: So on behalf of Heart of
4 Illinois Sierra with its 900 members and the Illinois
5 state chapter with its approximately 29,000 members,
6 we respectfully ask that this special condition be
7 revised to not say that the company can cease
8 measuring for mercury after these 12 samples but that
9 this be a continuing special condition.

10 I respectfully submit that with changes in
11 our rain patterns, changes in water levels in the
12 Illinois River from Chicago, there are many, many
13 variables happening in this area, and I do not see how
14 that 12 samples could be considered accurate when
15 you're talking about mercury.

16 So we -- we do ask IEPA to look at this
17 again and not allow the company, upon written
18 notification to the agency, to cease sampling for
19 mercury.

20 A couple other concerns, and I'm almost
21 finished. Thank you for your patience.

22 On the federal EPA ECHO, Enforcement
23 Compliance and History Online, data pages, which I'll
24 turn in and submit as an exhibit, it does say that

1 there are instances of noncompliance for this plant's
2 current permit. It refers to discharge point 02 and
3 discharge point 005.

4 And I just would like to ask how -- is
5 that taken into any consideration in the awarding of a
6 new permit by IEPA?

7 MS. WILLIAMS: We'll probably have to
8 respond in the comments to that, Joyce.

9 MS. BLUMENSHINE: Okay. Thank you. I
10 just respectfully submit that, if there have been
11 exceedances in the past, then, in spite of all the
12 assurances and the hard work by IEPA, we local
13 citizens are concerned about the build up of these
14 toxic heavy metals, and as minute quantities have been
15 stated, over time these build up. Whether they are in
16 the ash pond or in the river, these toxins could prove
17 hazardous and problems for future generations.

18 I'd also like to point out from this ECHO
19 report that in the community of Havana that about a
20 quarter of the population -- it says 21.58 percent --
21 is 17 years and younger and about the same amount,
22 21.53 percent, is 65 years and older. And that these
23 populations are more subject to problems to health or
24 their just well-being from even minute amounts of

1 metals, and while we do greatly appreciate the
2 improvements in clean air brought on by your hard work
3 with IEPA and the improvements required, we now are
4 very concerned that these same toxins will be put into
5 an ash pond, sitting above drainage for the community
6 of Havana, which, if there is any disaster, all those
7 toxins could be released upon the community, and
8 similarly we do not want to see any additional mercury
9 or other heavy metals going into the Illinois River.

10 We respectfully ask on behalf of Sierra
11 Club that Dynegy be required to institute procedures
12 with the approval of this permit, if it is approved,
13 that they must go to a dry ash pond and that, if they
14 are not required to move immediately to a dry ash
15 pond, that this permit not be approved.

16 Thank you.

17 HEARING OFFICER: Thank you. Did you
18 have --

19 MS. BLUMENSHINE: Yes, I have exhibits.
20 I'm sorry.

21 HEARING OFFICER: -- want to submit?

22 MS. BLUMENSHINE: Exhibit 1 I left over
23 here.

24 HEARING OFFICER: Okay. The next person

1 will be Philip Marcy.

2 MS. BLUMENSHINE: Sorry. This is Exhibit
3 1, the Dynegy hazard plan. This is Exhibit 2, the
4 ECHO report. Thank you, sir.

5 HEARING OFFICER: Okay. Very good. Thank
6 you.

7 Okay. If you'd proceed, Mr. Marcy.

8 MR. MARCY: Yes. It's Philip Marcy with
9 one L, and Marcy, Sr.

10 COURT REPORTER: Spell your last name.

11 MR. MARCY: Yes. Marcy, M-a-r-c-y, is the
12 last name, Senior. I do have a junior. And I'm a
13 resident of Havana and a concerned citizen.

14 The first is a comment and a question.
15 And it's about the distribution of the coal ash
16 from the power plant through a residential area by
17 tanker -- and we're talking maybe three or four a day,
18 two or three days a week -- and taken up to the intake
19 of the pond and cannons shoot it in there and the
20 hazard of that.

21 And has anybody looked into, instead of
22 dumping that in a wet pond, it can be used in a dry
23 form in concrete and used on the highways, which is
24 safe, or roadways, and it would be a good byproduct

1 for using in the concrete instead of shooting in these
2 wet ponds which are hazardous. Has any --

3 MR. LISKA: Regarding your first question
4 regarding trucking it through the City of Havana, that
5 is not part of any consideration in the NPDES permit
6 and is not part of our jurisdiction.

7 As far as using it in concrete and other
8 beneficial reuse, I noted in my -- in my opening
9 statement that the permitting does have a beneficial
10 reuse program. I'm sure they -- it is to their
11 benefit that they try to minimize the amount that they
12 have to put in the ash pond. That they have
13 specifically done their treatment system in a way that
14 they are trying to market the most fly ash that they
15 can, the vast majority of their fly ash that doesn't
16 also have the mercury-sorbed carbon in it, and they
17 are trying to beneficially reuse as much as they can.

18 MR. MARCY: Looking at the volume that
19 goes by our house every week, we're talking two to
20 three times a week, three or four, five trucks a day,
21 and so that amount's going through a residential area,
22 which we have nurseries in our residential area right
23 off the pond, and that should be strongly looked into
24 of going to -- and removing it in the dry form and

1 using it in things like concrete and road surfaces and
2 so on is safe. There's -- there's definitely a market
3 there, and I don't know why Dynegy is not looking into
4 doing that for the removal of the coal ash.

5 And another -- a comment I had from a
6 commercial fisherman that lives in the shadows of the
7 pond is that he duck hunts, and he has noticed a
8 yellow residue on the bellies of the ducks, the geese,
9 the waterfowl, and he's concerned about that. And if
10 you're talking about mercury and so on, is this
11 waterfowl even edible or safe?

12 And I had a question -- it was addressed a
13 little earlier -- is the integrity of the walls to
14 that pond. I don't know if they're lined. I've heard
15 both -- that they're not and that they are. But I --
16 I really am concerned about any kind of earth
17 movement, earthquake, whatever that would cause that
18 wall to breach. It would devastate -- and we live
19 right next door to the coal ash pond. It would
20 devastate this whole -- a lot of this town.

21 And they need to eliminate the use of the
22 ponds -- the wet ponds and go to a different method,
23 and I understand -- I asked one of the guys at the
24 power plant. I said, "What's the life on the pond?"

1 And I think he said about ten years. And I said,
2 "What do they do when the life runs out on the pond?"
3 And he said, "We just cap it off and build another
4 one." Which they own all the way down Pear Street,
5 and I assume that's where they're talking about
6 putting another one at when this one runs out. That's
7 not the answer. They need to look to dispose of that
8 in the dry form and not in the wet pond.

9 I have nothing against Dynegy. I used to
10 work for City Water, Light, and Power in Springfield.
11 It's a public utility in Springfield, you know, and so
12 I appreciate that, and I personally have nothing
13 against Dynegy. I do have something against their
14 distribution and the use of the wet ponds.

15 So that's kind of what I had in a
16 nutshell. That's my main concern. There's a couple
17 of them there.

18 Thank you.

19 MS. WILLIAMS: Thank you.

20 MR. LISKA: Thank you for your comment.

21 HEARING OFFICER: Thank you, Mr. Marcy.

22 Amiee -- is it Rilea?

23 MS. RILEA: Oh, that would be me. Okay.

24 HEARING OFFICER: I'm sorry.

1 MS. RILEA: It's Rilea.

2 HEARING OFFICER: It's pronounced Rilea?

3 MS. RILEA: Rilea.

4 HEARING OFFICER: Okay.

5 MS. RILEA: It's Amiee, A-m-i-e-e, Rilea,
6 R-i-l-e-a.

7 Really, I live right next door to Phil; so
8 I am part of the neighborhood. Really, most of my
9 concern with it, which I know it doesn't have to do
10 with you guys' permit, is the safety of the walls of
11 it, which I know that that's not the case tonight.

12 But as Phil mentioned, what lines that?
13 What keeps that from going into the soil that would
14 never allow it to get into the soil?

15 MR. LISKA: It is -- it was constructed
16 with a clay liner that -- that is impermeable -- well,
17 nearly impermeable to a very, very --

18 MS. RILEA: But, see, that --

19 MR. LISKA: -- degree. It also has a
20 number of monitoring wells all around it, and in 20
21 years of data, we have no -- we've had no problems
22 with this lined pond.

23 MS. RILEA: But my problem is the -- the
24 word you guys use. You guy use the words "nearly."

1 That doesn't mean it's going to keep -- that it's
2 going to keep it there.

3 MR. LISKA: When I say --

4 MS. RILEA: The word "nearly" just means
5 that it has a possibility of keeping it there. That
6 doesn't mean it's going to keep it lined, and once it
7 does, it's right into our water system, and the
8 Illinois River sits, you know, hundreds of feet away
9 from this coal ash pond from either one of them. We
10 have residents -- Phil lives 200 foot from that ash
11 pond.

12 MR. LISKA: Right.

13 MS. RILEA: You know, I have -- and there
14 are, in our neighborhood, at least 25 to 30 children
15 that play in this neighborhood that this semi drives
16 through every day three or four times a day.

17 Also, we have the railroad tracks. Say an
18 accident happens. Is that not of you guys' -- is that
19 not in your petition or your -- your job, to worry
20 about what happens to that semi, have it spill
21 something all over the neighborhood as it drives
22 through? An accident occurs. What happens then?

23 MR. LISKA: Okay. Regarding the -- when I
24 said "nearly impermeable," I only meant it in the way

1 that technically nothing is impermeable. It could be
2 20 feet of concrete. It still has some very tiny --
3 like, one time -- one to the negative tenth power or
4 one times ten to the negative tenth permeability. The
5 permeability ratings on such things as this are
6 extremely low. We're talking tenths or hundredths of
7 a centimeter per year. Extremely, extremely low.

8 MS. RILEA: Okay. So what about the semi
9 situation?

10 MR. LISKA: The semi situation is not part
11 of the NPDES permit. That would be part of --

12 MS. RILEA: But wouldn't -- doesn't the --

13 MR. LISKA: -- hazardous -- that would be
14 hazardous waste hauling. There are permits that they
15 have to have --

16 MS. RILEA: But the transfer --

17 MR. LISKA: -- in order --

18 COURT REPORTER: Wait a minute. Wait a
19 minute.

20 MS. RILEA: I know. I'm sorry.

21 MR. LISKA: They do have to have permits
22 to transfer those things. It's just not part of this
23 permit.

24 MS. RILEA: Okay. But the permit doesn't

1 have anything to do with how it gets there?

2 HEARING OFFICER: Not the -- that's
3 correct. Not the --

4 MR. LISKA: Not this permit. There are
5 other permits that they have to have for hazardous
6 waste hauling. You might want to check with the --
7 again, the IEPA, Bureau of Land, and IDNR.

8 MS. RILEA: Okay. So -- okay. Then I
9 have another question. With the -- I don't want to
10 say it's, like, fumes that would come off of it, but
11 it would be something along the lines of putting
12 something into the air off of the pond itself, whether
13 it's vapors of some sort.

14 MR. LISKA: That would be handled under
15 the Illinois EPA air --

16 MS. RILEA: So that's not you guys.

17 MR. LISKA: This is a water permit that
18 they -- they do have significant air permits as well
19 for all sorts of discharges. But that would be part
20 of their air permits.

21 MS. RILEA: So it wouldn't have anything
22 to do with you guys.

23 MR. LISKA: That wouldn't have anything to
24 do with this particular permit.

1 HEARING OFFICER: It would be part of the
2 division of air pollution control. They do have
3 emission permits.

4 MS. RILEA: Even though it's coming off
5 the water --

6 MR. LISKA: Correct.

7 MS. RILEA: -- it would have to be --

8 HEARING OFFICER: It's still -- there are
9 still air standards that have to be met that are
10 controlled by the air permit.

11 MR. LISKA: Correct.

12 MS. RILEA: Okay. That's all I have to
13 say --

14 HEARING OFFICER: Thank you.

15 MS. RILEA: -- that I can think of.

16 HEARING OFFICER: Chris Rilea.

17 MR. RILEA: Good evening. Chris Rilea.
18 C-h-r-i-s R-i-l-e-a.

19 All right. My questions I don't think are
20 so in depth, but pretty much what I had are you said
21 that they do have monitoring wells. Okay.

22 MR. LISKA: Groundwater monitoring wells
23 around the -- in and around the pond, yes.

24 MR. RILEA: Okay. How deep are these

1 wells?

2 MR. LISKA: I do not know exactly. I
3 would have to get back to you in the responsiveness
4 summary.

5 MR. RILEA: Okay. And I wasn't for sure
6 that I heard -- heard right back there, but you said
7 that it has clay walls --

8 MR. LISKA: Yes.

9 MR. RILEA: -- on the sides? All right.
10 So you're looking at clay particles of -- and, like,
11 I've done a little bit of, like, soil research and
12 stuff. Okay. Clay particles -- no matter how deep
13 these wells are, clay particles actually spread the
14 water out more like this. And then, if we've got
15 wells over here underneath the pond that are actually,
16 like, being monitored, the water's actually going to
17 spread it out into our -- what we love in Havana is
18 our sandy soil. So then it's actually going to sink
19 down into our aquifer, our drinking water. So not
20 only do we have the river to worry about but also our
21 drinking water if -- if the clay walls are actually
22 spreading it out past your monitoring wells.

23 So I was wondering, like, just where they
24 were and how deep they were, things like that.

1 MR. LISKA: I don't have any specifics on
2 that, and we -- we don't have our experts in
3 groundwater here today. But with your comment here,
4 we will definitely answer all of that in the
5 responsiveness summary.

6 MR. RILEA: Okay. And I'm not for sure
7 how -- how the pond actually works but my -- my
8 leaching part was good, like, that's finished.

9 So overflow for this pond. I am not sure
10 how -- how they manage the overflow, but, like, say,
11 how -- how do we manage that?

12 MR. LISKA: Overflow from it is discharged
13 through their outfall -- well, the east ash -- any of
14 the ash ponds -- they have specific outfalls that go
15 to the Illinois River.

16 MR. RILEA: Okay. All right. And as --
17 as my neighbor Phil says -- said about the waterfowl
18 situation, okay --

19 MR. LISKA: Uh-huh.

20 MR. RILEA: -- the thing is completely
21 open to anybody that can climb a fence or any kind of
22 bird or something like that. If something does get in
23 there such as our waterfowl, which is -- thanks to
24 Emiquon our water -- our bird situations have just

1 raised tremendously. So could -- could we have
2 something that would help out making sure that our
3 birds are not landing in this or not drinking out of
4 this water -- these birds that are also hunted down
5 river to where we actually eat.

6 MR. LISKA: I don't -- I don't have any
7 expertise on that either --

8 MR. MOSHER: Well --

9 MR. LISKA: -- but we can --

10 MR. MOSHER: -- you wouldn't think
11 waterfowl would like the ash pond because it doesn't
12 hold any food plants or anything like that that I'm
13 aware of. I -- I don't know of any contact injury
14 they would get from just landing on it. So, in my
15 experience, waterfowl risks from ash ponds hasn't been
16 a topic of concern that I've been aware of through the
17 years, mostly, I think, because there's not that much
18 attraction for the waterfowl to land there.

19 But if we can find any additional
20 information on that, we'll put it in the
21 responsiveness summary for you.

22 MR. RILEA: Okay. Okay. And could you
23 give me the date on the first permit that they -- that
24 Dynegy applied for?

1 MR. LISKA: I'm sorry?

2 MR. RILEA: Could you give me a date for
3 the first permit that Dynege applied for?

4 MR. LISKA: Their -- their current permit?

5 HEARING OFFICER: No.

6 MS. WILLIAMS: Do you mean the first time
7 ever that they had a permit?

8 MR. RILEA: Well, this -- for this pond in
9 particular.

10 MR. LISKA: Again, this pond was built in
11 the early 1990s.

12 MR. RILEA: Okay.

13 HEARING OFFICER: But when it was
14 permitted, the first permit was issued.

15 MR. LISKA: I don't have that off -- I
16 don't know that offhand.

17 MR. RILEA: Okay. All right. And that's
18 all I have. Thank you.

19 HEARING OFFICER: Thank you, Mr. Rilea.

20 Okay. We've gone through the cards. Is
21 there anyone here that has not spoken this evening
22 that would like to speak? Okay.

23 May I see a show of hands of those that
24 have already spoken that have additional comments or

1 issues that they would like to raise tonight. One,
2 two, three. Okay. We've got three additional people.
3 So I'll grant another -- another nine minutes to each
4 of those three.

5 Traci, if you would come forward.

6 MS. BARKLEY: Okay. Traci Barkley,
7 Prairie Rivers Network.

8 So there have been some concerns from
9 residents of the neighborhood about trucks
10 transporting the dry ash material from the power plant
11 to the east ash pond, and I spent a day in the
12 neighborhood last spring and witnessed six trucks one
13 day going through the neighborhood with ash on the
14 outside of the truck. And I don't know how much dust
15 was spilled. I mean, I didn't quantify it, but I can
16 appreciate, if it's happening twice a week, several
17 times a day, week after week after week, that that can
18 add up.

19 And so I know that you've said that it's
20 out of your jurisdiction, but if you look at Special
21 Condition 19, which I don't have with me, but that's
22 the stormwater pollution prevention plan. It talks
23 about reducing -- let's see. It says, "The plan shall
24 describe and ensure the implementation of practices

1 road use for transport of pollution?

2 HEARING OFFICER: These are issues that
3 are outside of the scope of the water permit. It's
4 going to take coordination with others within the
5 agency to answer the question. So we'll have to
6 provide a written response to you in the
7 responsiveness summary.

8 MS. BARKLEY: Okay. I would appreciate
9 that. I do think it's within your jurisdiction under
10 the stormwater pollution prevention requirements.

11 Then I'd like to ask, for the numbers that
12 you provided, Mr. Liska, about the risk associated
13 when Ms. Rilea was asking questions. Has a risk
14 assessment been -- are you familiar with the risk
15 assessment that's been completed for an ash pond like
16 this, that is 90 acres in size and has a clay liner,
17 to evaluate what the risk of failure or the risk of
18 pollution might be?

19 HEARING OFFICER: Okay. If we're talking
20 about the failure, you're talking about --

21 MS. BARKLEY: I'm talking about failure --
22 for the liner. The integrity of the liner to protect
23 groundwater. I'm sorry.

24 MR. LISKA: I am not -- I did not look

1 over the risk assessment that was done in the early
2 '90s regarding that.

3 MS. BARKLEY: And who conducted the risk
4 assessment?

5 MR. LISKA: I -- I have -- I don't know.

6 MS. BARKLEY: Okay. Was it specific to
7 this site? Or was it a larger risk assessment for
8 this type of ash pond?

9 MR. LISKA: I don't know the answer to
10 that one either.

11 MS. BARKLEY: Okay. If you can provide
12 that in the responsive summary.

13 MR. LISKA: We'll provide an in-depth
14 answer to that ash pond -- when it was built and
15 what -- what factors were in it.

16 MS. BARKLEY: Okay. And then, also, in
17 the responsive summary, if you could provide the
18 thickness of the clay liner, whether it was one foot,
19 four feet.

20 MR. LISKA: Okay.

21 MS. BARKLEY: And if it was compacted to
22 today's engineering standards.

23 MR. LISKA: Uh-huh.

24 MS. BARKLEY: Then considering that the

1 Illinois River is currently listed as impaired for
2 fish consumption uses due to high levels of mercury on
3 the 2006 303(d) list, and considering that the
4 Illinois River is heavily used for fishing, hunting,
5 wildlife purposes for both recreation and commercial
6 interests, we feel it's imperative that reductions in
7 heavy metal pollution be seriously addressed.

8 I understand that the applicant and the
9 agency have summarized in the antidegradation
10 assessment that they don't expect for mercury sorb
11 to -- the ash material and sorbent to be released
12 in -- from the ash pond based on two reports, but we
13 take issue with this line of reasoning and the
14 information used to support this statement. And I'll
15 submit more in written -- in writing, but I just want
16 to draw attention to the two reports that were
17 referenced: One, the EPRI, Electric Power Research
18 Institute, report entitled, quote, "Activated Carbon
19 Injection: Effect on Fly Ash Sluice Water," end of
20 quote, was, according to them, a preliminary review of
21 a small number of samples intended to identify
22 potential issues and guide future research.

23 So this report was based on three samples,
24 and from their abstract, they note that the report was

1 based on laboratory tests and sim -- laboratory
2 experiments and simulations and only preliminary
3 conclusions were drawn.

4 Second, the agency and the applicant
5 support the assumption that the mercury-laden ash and
6 sorbent will stay in the sediment basins, also citing
7 a USEPA document entitled "Characterization of
8 Mercury-Enriched Coal Combustion Residues from
9 Electric Utilities Using Enhanced Sorbents for Mercury
10 Control." The primary object -- and I read this
11 report, and I read the EPRI report. The USEPA report
12 states that the primary objective was to evaluate the
13 potential for leaching to groundwater.

14 The report did conclude that the
15 application of activated carbon injection
16 substantially increased the total mercury content in
17 the resulting coal ash for five of the six facilities
18 evaluated.

19 But it's important to recognize that this
20 was the first of a series of reports that will address
21 the potential for leaching of constituents of
22 potential concerns from these coal combustion
23 residues, and they note that subsequent reports will
24 address, among other things, quote, "assessment of

1 leaching for constituents of potential concern under
2 additional management scenarios, including
3 impoundments and beneficial use," end of quote.

4 The point is that this report did not
5 specifically address threats from mercury-enriched
6 residues when managed and disposed of in impoundments
7 such as what is proposed here at the Havana Power
8 Station.

9 We feel that the agency and the applicant
10 have misapplied the findings of this report and the
11 EPRI report to the proposed situation here at Havana,
12 and that the folks of this community and downstream
13 communities deserve better.

14 Then I also would like to note the same
15 reports were used to support similar findings at the
16 Newton Power Station where mercury was expected to
17 remain in the ash material in the sedimentation pond
18 and not be released to the Newton Lake. And we asked
19 at that hearing if anything other than those reports
20 were relied upon and if any additional data was
21 collected at existing coal ash impoundments, and the
22 agency replied no.

23 And then we looked at the ECHO,
24 Enforcement and Compliance History Online, database

1 for Ameren's Newton mercury discharges from outfall
2 001 and found that they've been increasing steadily
3 since 2009 when the facility began using activated
4 carbon injection.

5 In the first quarter of 2011, mercury
6 effluent measured 17.8 nanograms per liter, and in
7 the second quarter of 2011, it was 18 nanograms per
8 liter -- both of these in exceedance of protected
9 water quality standards.

10 I tried to find similar data for Havana
11 ash ponds. There was nothing on the ECHO system. So
12 I'd like to know why there wasn't data on the ECHO
13 system and if you've evaluated the data from the ash
14 ponds and what does it show currently.

15 MR. LISKA: We don't have any data from
16 Havana because previous permits have not required
17 mercury testing.

18 MS. BARKLEY: So is there any way for the
19 agency to evaluate whether mercury discharges will
20 actually increase as a result of the additional waste
21 streams that are going to be in those ash ponds? Is
22 there any baseline data?

23 MR. LISKA: We are adding mercury
24 monitoring to -- to this permit as well as other

1 permits for coal-fired power plants throughout
2 Illinois, and we will monitor that data.

3 MS. BARKLEY: So have any of the
4 additional waste streams described in this permit --
5 have they already been added to either ash pond -- the
6 north or the south ash ponds or the east ash pond?
7 Have any of those additional waste streams that are
8 proposed under this permit already been created and
9 placed in those ponds?

10 MR. LISKA: I am not aware of that at this
11 point.

12 MS. BARKLEY: So does agency feel like
13 there's an opportunity to get baseline data before
14 these additional waste streams will start being
15 processed?

16 MR. LISKA: I don't -- I'm not sure if we
17 have any other baseline data. The permitted sampling
18 will begin when this permit is issued.

19 MS. BARKLEY: Okay. So my -- my concern
20 is that what we found at Newton -- and I know it's
21 another facility, but that the air pollution controls
22 had already been put into place, the waste streams
23 already created. It was being held at a separate --
24 well, in one instance, it was being held at a separate

1 place. My concern here is that the air pollution
2 controls might already be in place and some of this
3 might already be in the ash ponds and you won't get an
4 opportunity to have baseline data from which to
5 measure whether there's been an impact.

6 And I think just relying on two
7 preliminary reports -- and really I -- I question
8 whether they're even, you know, applicable to this
9 situation. I think, considering the importance of the
10 Illinois River and its uses, that much more needs to
11 be done to show that this, in fact, will be protected
12 water quality standards in the Illinois River.

13 MR. LISKA: We'll consider the baseline
14 testing prior to the issuance of this permit.

15 MS. BARKLEY: So then the other things
16 that I would like to see explained in the responsive
17 summary is whether an evaluation of the lime -- well,
18 one, if lime is being used as the sorbent for
19 scrubbing flue gases and if a chemical
20 characterization has been completed for lime slurry
21 that's proposed under this permit; whether a
22 reasonable potential analysis was completed for the
23 acid well water rinses; why there isn't monitoring for
24 chlorides, sulfates, metals, and boron for the north

1 and the east ash pond discharges through 002 and 005.

2 And then --

3 MS. WILLIAMS: Do you want these now or --

4 MS. BARKLEY: I'm just listing these so
5 they can be put in the responsive summary, in the
6 interest of time.

7 Then Illinois antidegradation rules
8 prohibit the lowering of water quality without a
9 showing that the lowering of water quality is
10 necessary to accommodate important economic or social
11 developments. The analysis should demonstrate that
12 all technically and economically responsible
13 alternatives to avoid or minimize the extent of the
14 proposed increase in pollutant loading have been
15 incorporated into the proposed expansion.

16 So -- and I'll submit more on this in
17 writing, but from what I can tell from the
18 antidegradation that was completed and publicly
19 noticed, Dynegy really did not do much of an
20 antidegradation analysis in terms of other
21 alternatives to reduce pollutant loading, and they
22 failed to demonstrate that a dry ash landfill is not
23 economically feasible, stating instead that they will
24 consider the option once remaining capacity at the

1 east ash pond is exhausted.

2 But then, in the report that was
3 submitted to USEPA concerning the east ash pond, the
4 operational -- current operational procedures at the
5 Havana Power Plant, as reported by Dynegy, show that
6 they're actually transporting ash dry from the power
7 plant to the east ash pond where it is then wetted and
8 discharged into that pond. Same with the boiler ash.

9 So I wonder just how much expense there
10 could be if they're already handling the ash in a dry
11 manner and then just need to put it in a dry lined
12 landfill that USEPA is showing is more protective of
13 groundwater and would not require discharges to
14 surface waters like the Illinois River. Part of the
15 expense is already taken care of in that they're
16 already creating the ash and handling it in a dry way,
17 then making it wet and putting it in an impoundment,
18 which has been shown to be more threatening to clean
19 water.

20 So I -- I would submit that Dynegy should
21 be required to do an antidegradation assessment
22 evaluating how much it would cost and whether it's
23 economically reasonable and technically feasible under
24 our Illinois antideg regs to build a lined dry

1 landfill cell for the ash that they're creating right
2 now instead of continuing to use an impoundment that
3 is held back by a high hazard dam.

4 Off gases, as Amiee was mentioning earlier
5 tonight, is an attractant to wildlife because we've
6 seen it and ultimately might leach through the clay
7 liner.

8 I think those are all either existing
9 impacts or potential impacts that could be ameliorated
10 by a lined landfill for dry waste. And I think under
11 antidegradation regulations Dynegy should have to
12 show -- should have to do the evaluation of that as an
13 alternative to what they're proposing under this
14 permit.

15 HEARING OFFICER: We've gone past the time
16 limit again, but do you have just a couple more issues
17 or --

18 MS. BARKLEY: I just have one more
19 question and then a quick statement.

20 One, I think it would be good if, in the
21 responsive summary, Dynegy could summarize how much
22 they are marketing, how much they are reusing their
23 ash material. If -- if they -- how much they're
24 diverting from disposal to existing markets, and if

1 they expect that to continue with the change in the
2 quality and the concentrations in the ash material
3 once these air pollution controls are put in place.

4 And then I'll just close. Of the
5 settlement case that I mentioned earlier with Illinois
6 Power and Dynegy, the assistant attorney general at
7 that time stated, quote, "The citizens of Illinois
8 could not have asked for a better result concerning
9 our agreement with Illinois Power," which is a Dynegy
10 subsidiary.

11 Nearly 12 years later I now think we can.
12 The intention of that lawsuit, of which our
13 organization was a part, and ultimately the settlement
14 was that that pollution would be removed and not
15 moved. We can have clean air, clean water, and are
16 hereby demanding it. Prairie Rivers Network and our
17 members oppose this permit and respectfully ask for
18 you to deny its issuance.

19 Thank you.

20 HEARING OFFICER: Thank you.

21 Joyce Blumenshine. Do you have additional
22 comments that you would like to make?

23 MS. BLUMENSHINE: I did. May I go after
24 Mr. Marcy? Is that okay? Thank you.

1 MR. MARCY: Philip Marcy. I just wanted
2 to piggyback on what Chris Rilea had mentioned about
3 the waterfowl.

4 As we all know, Havana is a big duck
5 hunting area, and it also looks good on the table.
6 And there is a significant amount of geese and that
7 that do roost on that pond. In the morning, we'll see
8 30 or 40 fly over our house. I don't -- they go
9 somewhere else. And then, in the evening, they fly
10 back and they stay there. They stay there all night.

11 And my concern is people are hunting these
12 all over the area and eating the waterfowl, and I
13 worry about the hazard to them, especially like the
14 commercial fisherman mentioned. He's concerned about
15 that. So I just wanted to throw that comment out --
16 that there is a significant amount of ducks and geese
17 that lay on that; so --

18 MS. WILLIAMS: Thank you.

19 HEARING OFFICER: Thank you, Mr. Marcy.

20 MS. BLUMENSHINE: Thank you very much,
21 Hearing Officer Studer. Joyce Blumenshine.

22 Just a couple quick final comments. As
23 Mr. Marcy just said -- and I have also seen the Canada
24 geese with discoloration on their stomach feathers.

1 If those go up and are hunted, I really wonder, since
2 this dry ash is ejected out over the pond, what is
3 being collected on those animals. And, really, I
4 think a study should be done of that to assess are
5 they transmitting, you know, pollution someplace else.

6 And a follow-up question regarding what
7 might be ending up in the bottom of the Illinois River
8 when we were discussing the mercury would be
9 encapsulated or kept from polluting out. We have a
10 lot of bottom type feeder fish, and I just wonder if
11 studies have been done on that as far as IEPA's
12 awareness of what -- what possible ingestion routes
13 there are with this type of new technology and going
14 into the Illinois River.

15 MR. LISKA: We'll check on that.

16 MS. BLUMENSHINE: Okay. So right now, as
17 far as -- there's nothing you could tell us this
18 evening regarding fish ingestion, sediment that might
19 be taken up by muscles or other --

20 MR. MOSHER: Well, I think the important
21 thing to tell you is that we have a very stringent
22 water quality standard for mercury. Dynegey is not
23 allowed to violate that standard. We've got a new
24 technology being employed that -- whose purpose is to

1 remove mercury from the air, stop it from falling back
2 into water, and polluting the water. So by removing
3 it from the air, they're doing what we want them to
4 do. We don't want them to then take it out of the air
5 and put it in the water, and we have a water quality
6 standard that will prevent that.

7 So I -- I know you're concerned about
8 mercury getting onto the river. It's -- it's not
9 allowed to happen. If it -- if it -- somehow this
10 technology doesn't work like those papers that were
11 cited say it's supposed to work, then we go back to
12 the drawing board and make it -- make it work.

13 MS. BLUMENSHINE: Thank you, Mr. Mosher.
14 And I certainly respect, and we're very appreciative
15 that the mercury is coming out of the air. Again, I
16 mentioned that, even if minute quantities end up in
17 the river, this -- you know, there could be dredging
18 or other things that happen in the future that could
19 be potential risks to the health and well-being of the
20 public.

21 And, again, it seems like the best answer
22 would be to go to this -- to a dry ash pond as soon as
23 possible, and I just respectfully submit that the
24 company's statement that, you know, they want to --

1 they can't abandon the current pond because this
2 investment is not reasonable, that, if this company
3 appreciates the community and goodwill, that they
4 would do this of their own accord as soon as possible
5 or that we ask IEPA require Dynegy to go to a dry ash
6 disposal.

7 Thank you.

8 HEARING OFFICER: Thank you,
9 Ms. Blumenshine.

10 Is there anyone else that has any
11 additional comments this evening?

12 MS. MALONEY: I have a couple question.

13 HEARING OFFICER: Yes. If you have a
14 question, please come forward and state your name for
15 the record.

16 MS. MALONEY: My name is Monica Maloney.

17 The last name is M-a-l-o-n-e-y.

18 I'm not a scientist. I don't have a bunch
19 of papers. I just have a couple questions.

20 First and foremost, I'm a mom. Can you
21 guys tell me that five years from now I'm not going to
22 find out that my children are sick with something
23 because of the place I've chose to live because of
24 these companies putting the things that they do in the

1 water?

2 MR. LISKA: We have -- we have limits in
3 the permit that require that they not put that much --
4 that -- excuse me. The permit is limited such that
5 they will not violate any water quality standards.

6 MS. MALONEY: Okay. My other question is
7 as -- and this may be wrong. I don't know. This is
8 the first time I've ever been to anything like this.
9 It may not be appropriate question.

10 But I'm sure that at least one of you are
11 a parent. You, yourself, would you move your -- would
12 you live with your children this close to a plant like
13 this?

14 HEARING OFFICER: Bob, you're a parent.

15 MR. MOSHER: I've always considered Havana
16 a nice town and a nice place to live, and I personally
17 don't know of any reason that I would be worried about
18 that.

19 But I must tell you that I know about
20 water quality in the river, effluent quality in the
21 ash pond, and I don't know about all the other things
22 that might exist in the air, in the land. I can't
23 answer that part of your question.

24 MS. MALONEY: Okay.

1 MR. MOSHER: But there's nothing going out
2 into the river that I'm aware of, you know, looking at
3 ash ponds all over the state, that is toxic or going
4 to harm the fish or accumulate in the fish. So from
5 that aspect, I can say I don't know of a reason why I
6 wouldn't want to live here.

7 MS. MALONEY: Okay. I live extremely
8 close to it, as a few of the other people do. My
9 question is, is what about the ground? You know, the
10 stuff blowing off of there. And, yes, I understand
11 that that is the air and everything. What about those
12 things and the trucks and everything else?

13 HEARING OFFICER: Those, again, are air
14 issues, and we don't have appropriate people here to
15 answer that question. So it will have to be in
16 writing in our responsiveness summary.

17 MS. MALONEY: Okay. Thank you. That's
18 all I have.

19 HEARING OFFICER: Thank you.

20 Is there anyone else this evening?

21 Yes, Traci.

22 MS. BARKLEY: I just wanted to ask one
23 follow-up because you mentioned the mercury monitoring
24 that's being done in EPA's Method 1631-E. And I just

1 wondered if you could explain whether -- how that test
2 works. Is it a water column test? Does it include
3 sediments? Is it a filtered water sample that then is
4 tested?

5 MR. MOSHER: USEPA 1631 is the low level
6 mercury lab method. It measures total mercury in
7 water. That's an unfiltered sample.

8 MS. BARKLEY: Okay. So that will be
9 applied to discharges coming from the pond before they
10 are put in the Illinois River?

11 MR. LISKA: Correct.

12 MS. BARKLEY: And when are those samples
13 required to be taken?

14 MR. LISKA: It's in the permit.

15 MS. WILLIAMS: You mean how often or --

16 MR. LISKA: How often or --

17 MS. BARKLEY: Well, I just wonder if the
18 monitoring plan that's put in place is likely to catch
19 a storm event, for example, when you might have more
20 suspended solids coming out, which is what we're
21 concerned about, and mercury being sorbed to. How
22 likely is it that the samples collected by Dynegy and
23 submitted to a lab for analysis with Method 1631-E are
24 going to detect the amounts of mercury that are -- are

1 going to, to some extent, be released into Illinois
2 River over a year's time?

3 MR. LISKA: I'm sorry. Could you repeat
4 that?

5 MS. BARKLEY: Mercury is collected four
6 times a year.

7 MR. LISKA: Correct.

8 MS. BARKLEY: Is that right? As required
9 by the permit.

10 MR. LISKA: Uh-huh.

11 MS. BARKLEY: At three of the outfalls.
12 It's up to the facility -- it's up to Dynegy when they
13 collect those four samples; correct?

14 MR. LISKA: Within -- right, within the
15 quarter. Within certain months of the quarter, yes.

16 MS. BARKLEY: So isn't it possible that
17 Dynegy will collect those four samples at times when
18 there is a discharge but not when the sediment is
19 stirred after, say, a rain event when there is likely
20 to be more loading? I'm just wondering if there's a
21 fudge factor that the agency considers knowing that
22 there will be additional releases of sediments and
23 mercury and everything else absorbed to it that's not
24 being caught by the four samples that are being

1 collected by the applicant.

2 MR. MOSHER: I mean, the ash pond doesn't
3 have a watershed. Correct, Mark? In other words,
4 there's not stormwater runoff that's going into the
5 ash pond that's going to stir things up.

6 MS. BARKLEY: But there is storm activity
7 and rain that's --

8 MR. LISKA: Right. There's rain directly
9 into the ash pond, but there's no other stormwater
10 discharges that go to the ash pond other than what is
11 directly, you know, aimed down from the sky.

12 MS. BARKLEY: But there's also the 15.38
13 million gallons per day coming from 002 into 005;
14 right? I mean, that -- that is also being added,
15 mixed, and contributes to the discharge from 005.

16 MR. LISKA: I believe so. Correct.

17 MS. BARKLEY: So I guess my question is,
18 you know, has the agency looked at the additional
19 pollutant loading that might be discharged to the
20 Illinois River that won't be detected or is likely not
21 to be detected by Dynegy?

22 MR. LISKA: We'll look into that. We'll
23 look into that, whether it being stirred up or the
24 extra dilution affects -- will have any effect on the

1 testing.

2 MS. BARKLEY: Okay. But the 1631-E does
3 not require filtering. It's a --

4 MR. MOSHER: The samples must not be
5 filtered. It's total mercury that must be measured.
6 So that implies and demands an unfiltered sample.

7 MS. BARKLEY: So that would be both
8 mercury that's in the water column and in -- and
9 sorbed to the sediments that could be detected with
10 that test.

11 MR. MOSHER: Sediments that are mixed up
12 with the water, yes.

13 HEARING OFFICER: Suspended.

14 MS. BARKLEY: Okay. Thank you.

15 HEARING OFFICER: Thank you, Traci.

16 Is there anyone that has any additional
17 comments?

18 Okay. Joyce, yes.

19 MS. BLUMENSHINE: I apologize. I have one
20 last question that I forgot to ask you before.

21 Thank you, Hearing Officer Studer. Joyce
22 Blumenshine.

23 I wasn't understanding why the plant has
24 any fecal coliform discharge. Do they have -- do they

1 not have, like, city sewer? Or why is that in the
2 permit?

3 MR. LISKA: Why they do have it?

4 MS. BLUMENSHINE: Yeah. I wondered what
5 is the situation that this plant should have fecal
6 coliform listed as -- it's on outfall 004.

7 MR. LISKA: Outfall 004 is a sewage
8 treatment plant for the plant that would have --
9 because it -- it's municipal sewage, basically, and
10 that would require fecal coliform.

11 MS. BLUMENSHINE: I see. So they are
12 treating their own plant sewage basically?

13 MR. LISKA: I believe so.

14 MS. BLUMENSHINE: Probably. Okay. I
15 just -- I just thought in this day and age that -- you
16 know, I was just surprised to see that was the
17 situation. And just for my edification, is that a low
18 amount? A typical amount for --

19 MR. LISKA: How much is it? 10,000
20 gallons per day. That -- that's a -- that's a pretty
21 low amount compared to other municipal sources that we
22 see.

23 MS. BLUMENSHINE: For one plant. And I,
24 again, for concerns with Illinois River, I just would

1 like to raise that issue.

2 Thank you very much.

3 HEARING OFFICER: Okay. Are there any
4 other questions or comments this evening?

5 Okay. If not, I remind everyone that
6 we'll be accepting written comments on this -- in this
7 matter until the 8th of December.

8 And I thank you all for your attendance
9 here this evening and participating in the NPDES
10 process.

11 This hearing is adjourned.

12 (Hearing adjourned at 7:36 P.M.)

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