

1 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2 Proposed Issuance of NPDES Permit No. IL0079391 to  
3 Prairie Coal Company, LLC, Lost Prairie Mine  
4 in Perry County

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10 Report of the Proceedings of the Public Hearing held  
11 on March 21, 2012, at 5:00 p.m., at Pinckneyville  
12 Junior High School, State Route 154, Pinckneyville,  
13 Illinois, before Sharon Valerius, Notary Public and  
14 Certified Shorthand Reporter #084-003349 for the  
15 State of Illinois.

16 Before Hearing Officer  
17 DEAN STUDER  
18 Illinois EPA  
19 1021 North Grand Avenue East  
20 P.O. Box 19276  
21 Springfield, IL 62794-9276

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18 EPA PANEL:  
19 Mr. Scott Twait  
20 Ms. Stefanie Diers  
21 Mr. Lynn Dunaway  
22 Mr. Larry Crislip

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1                   MR. STUDER: We're going to go ahead  
2 and begin. Good evening. My name is Dean Studer,  
3 and I am the hearing officer for the Illinois  
4 Environmental Protection Agency. On behalf of  
5 Interim Director John Kim and Bureau of Water Chief  
6 Marcia Willhite, I welcome you to tonight's hearing.  
7 The Illinois EPA believes that the public hearings  
8 that we hold are a crucial part of the permit review  
9 process for the proposed Prairie Coal Company's Lost  
10 Prairie Mine. My purpose tonight is to ensure that  
11 these proceedings run properly, according to rules,  
12 and in a fair and efficient manner. To that end, I  
13 will start by reading an opening statement into the  
14 record.

15                   This is an informational hearing before  
16 the Illinois EPA in the matter of a National  
17 Pollutant Discharge Elimination System (NPDES) permit  
18 application for a coal mining facility of Prairie  
19 Coal Company, LLC, with proposed discharges of  
20 treated wastewater into an unnamed tributary of Wolf  
21 Creek.

22                   Following this hearing, we will take a  
23 short break, and then we will conduct the hearing for  
24 the 401 certification for this facility. That  
25 hearing will begin at approximately 7 o'clock. Since

1 we do not have Illinois EPA staff members here at the  
2 table from the 401 certification program, I ask that  
3 issues involved with the 401 certification be raised  
4 at the second hearing this evening. We would like to  
5 start the 401 hearing, like I said, around 7:00 p.m.

6                   Issues relevant to the NPDES hearing  
7 include compliance with the requirements of the  
8 federal Clean Water Act and the rules set forth in 35  
9 Illinois Administrative Code, Subtitles C and D.  
10 Illinois EPA is not the state agency authorized to  
11 permit the mining operations at this coal mine, so we  
12 will not accept issues specifically concerning  
13 operations at the proposed mine. However, we are  
14 empowered to review and make a final decision  
15 regarding the issuance, denial, or revision of the  
16 NPDES permit, and that is Permit No. IL0079391.  
17 Please ensure that your comments are related to the  
18 NPDES permit.

19                   I wish also at this point to provide a  
20 note of clarification. The anti-degradation analysis  
21 for the NPDES permit indicates a watershed of  
22 approximately 0.91 square miles at the point of  
23 discharge. In the anti-degradation assessment for  
24 the 401 proceeding, the watershed is listed as 1.06  
25 square miles for this same location. Obviously, both

1 of these cannot be correct. I point out that these  
2 numbers are derived from the USGS Illinois  
3 Streamstats Basin Characteristics Program. These  
4 variations are due to slight differences in input  
5 values used by the computer in determining the  
6 watershed area, but more importantly, both values are  
7 far below the five square miles needed for a nonzero  
8 7Q1.1 flow in this area of Illinois.

9                   The authority for the Illinois EPA to  
10 issue this permit is contained in Section 39 of the  
11 Illinois Environmental Protection Act, 415 ILCS  
12 5/39. In pertinent part, this section indicates: It  
13 shall be the duty of the Agency to issue such a  
14 permit once the Applicant demonstrates to the Agency  
15 that they will not cause a violation of the Act or  
16 regulations promulgated hereunder.

17                   The decision by the Agency in this  
18 matter will be based upon the technical merits of the  
19 application as it relates to compliance with this  
20 statute and regulations promulgated under it. The  
21 Agency decision is not based on how many people  
22 desire for the permit to be issued or on how many  
23 people desire for the permit not to be issued, but  
24 rather on compliance with applicable law and  
25 regulations.

1                   The Illinois EPA has made a preliminary  
2 determination that the project meets the requirements  
3 for obtaining a permit and has prepared a draft  
4 permit for review. Illinois EPA is holding this  
5 hearing for the purpose of accepting comments from  
6 the public on the draft permit. Those comments  
7 recommending a denial of this permit should be  
8 prepared to state what specific regulation or  
9 regulations would be violated if a permit were to be  
10 issued. Since we have a limited time in which to  
11 conduct the hearing, I'm asking that Illinois EPA  
12 staff members to provide concise response to issues  
13 whenever it is necessary and to respond to an issue  
14 during this hearing only when necessary.

15                   This public hearing is being held under  
16 the provisions of the Illinois EPA's procedures for  
17 permit and closure plan hearings, which can be found  
18 in 35 Illinois Administrative Code, Part 166, Subpart  
19 A, and in accordance with 35 Illinois Administrative  
20 Code 309, Subpart A. Copies of these regulations are  
21 available at the Illinois Pollution Control Board  
22 Website at [www.ipcb.state.il.us](http://www.ipcb.state.il.us), or if you do not  
23 have easy access to the Web, you may contact me, and  
24 I can get a copy for you.

25                   I'd like to explain how tonight's

1 hearing is going to proceed. First we will have the  
2 Illinois EPA panel introduce themselves and provide a  
3 sentence or two regarding their involvement in the  
4 permit process. Then I believe Scott Twait, and  
5 Lynn, are you going to do an opening statement this  
6 evening?

7 MR. DUNAWAY: No.

8 MR. STUDER: No? Then I believe Scott  
9 Twait, are you going to do an opening statement this  
10 evening?

11 MR. TWAIT: (Shaking head.)

12 MR. STUDER: No? That'll be followed  
13 then by the Applicant, who will be given an  
14 opportunity to speak. And I believe speaking this  
15 evening on behalf of the Applicant is Mr. Jim  
16 Kliche. He'll be making a brief statement. After  
17 the brief remarks from Mr. Kliche, I will allow the  
18 public to provide comments.

19 We would like to adjourn this hearing  
20 by about 6:45 at the latest, so that we can have a  
21 short break before commencing with the 401 hearing  
22 that starts at 7:00. Time limit for all people to  
23 come forward to speak will be nine minutes. You may  
24 want to prioritize your comments so that you can make  
25 the comments at this hearing that you desire to

1 make.

2                   If you have not completed a  
3 registration card at this point, please see Barb  
4 Lieberoff or Michelle Tebrugge in the registration  
5 area, and either of them can provide you with a  
6 card. You may indicate on the card that you would  
7 like to provide comments at this NPDES hearing.  
8 Additionally, if you plan to comment during the 401  
9 certification hearing, which will start at  
10 approximately 7 o'clock, you should also have  
11 indicated to us that you desire to speak at both  
12 proceedings.

13                   Everyone completing a card either at  
14 this 401, or excuse me, at this NPDES hearing or at  
15 the later 401 hearing, or filing written comments in  
16 either of these two proceedings with me before the  
17 close of the hearing record, will be notified when  
18 Illinois EPA reaches a final decision in each of  
19 these two matters. Two separate responsiveness  
20 summaries will be prepared. These will be available  
21 at the time that we make a final decision in the  
22 corresponding matter.

23                   In the responsiveness summary, the  
24 Illinois EPA will attempt to respond to all relevant  
25 and significant issues that were raised at this

1 hearing or submitted to me prior to the close of the  
2 comment period. The comment period in this matter  
3 will close on April 20, 2012. I will accept written  
4 comments as long as they are postmarked by April 20.  
5 Please be sure to mark NPDES on the comments  
6 submitted for this NPDES hearing and 401 on the  
7 comments for the 401 proceeding. I know this can be  
8 confusing for some of us, but Illinois EPA  
9 appreciates your effort in identifying the  
10 appropriate proceeding in which to enter your  
11 comments.

12                   Comments can also be filed  
13 electronically by e-mail at epa.publichearingcom --  
14 that's E-P-A dot P-U-B-L-I-C-H-E-A-R-I-N-G-C-O-M @  
15 illinois.gov, and they must specify Lost Prairie Mine  
16 NPDES or the NPDES number, which is IL0079391, in the  
17 subject line. Please make sure that these words are  
18 spelled correctly, as e-mails are electronically  
19 sorted and distributed and may not make it into the  
20 record if the words in the subject line are  
21 misspelled.

22                   When your e-mail arrives, the system  
23 should send you an automated reply if the e-mail was  
24 received before the comment period ends and the  
25 e-mail has been properly sorted and distributed. I

1 note that the server can become quite busy in the  
2 minutes before the record closes, so you may want to  
3 take this into account when submitting your comments,  
4 as electronic comments received on or after the  
5 stroke of midnight as the date changes from April 20  
6 to April 21, 2012, will not be considered timely  
7 filed.

8                   The comment instructions and  
9 information are also included in the public notice  
10 for this hearing. If you require any further  
11 information after the hearing on the filing of  
12 comments, you may contact me at 217-558-8280, or you  
13 may contact our community relations coordinator, Barb  
14 Lieberoff, at 217-524-3038, and either of us will be  
15 glad to assist you in filing your comments.

16                   During this hearing and during the  
17 comment period, all relevant comments, documents, or  
18 data will be placed in the hearing record as  
19 exhibits. Please send all written documents or data  
20 to my attention, and that's Dean Studer, Hearing  
21 Officer, Mail Code #5, regarding Lost Prairie Mine  
22 NPDES, Illinois EPA, 1021 North Grand Avenue East,  
23 P.O. Box 19276, Springfield, Illinois 62794. This  
24 address is also listed on the public notice for the  
25 hearing tonight. Again, please indicate the NPDES

1 No. IL0079391 or reference Lost Prairie Mine NPDES on  
2 your comments, to help ensure that they become part  
3 of this hearing record.

4 I note that everyone registering or  
5 submitting written comments to the Illinois EPA in  
6 either the NPDES or 401 Water Quality Certification  
7 proceeding will be put on the mailing list for both  
8 proceedings. These will be notified of the final  
9 decision of Illinois EPA in each of these two  
10 matters. Decisions in these two matters will not  
11 necessarily be made at the same time, as each of  
12 these has their own rules, requirements, and are  
13 handled in different parts of the Illinois EPA.

14 I have marked the following exhibits.  
15 The public hearing notice is Exhibit 1. The draft  
16 NPDES permit is Exhibit 2. A letter dated October  
17 24, 2011, in which a hearing was requested in this  
18 matter is Exhibit 3. I would now ask that Illinois  
19 EPA staff introduce themselves.

20 MR. CRISLIP: My name is Larry  
21 Crislip. I am manager of the Permit Section for the  
22 Mine Program for the Illinois EPA.

23 MR. DUNAWAY: My name is Lynn Dunaway.  
24 I work in Groundwater Section in the Bureau of Water  
25 for Illinois EPA.

1                   MR. TWAIT: My name is Scott Twait. I  
2 work for Water Quality Standards Section at Illinois  
3 EPA.

4                   MS. DIERS: Stefanie Diers, legal  
5 counsel for Illinois EPA.

6                   MR. STUDER: Thank you. I'm going to  
7 go ahead and give some brief further instructions on  
8 how we're going to accept comments this evening.  
9 This will be followed by Mr. Kliche giving a brief  
10 opening statement, and then we will proceed with  
11 comments and questions from the general public.

12                   While the issues raised tonight may  
13 indeed be heartfelt concerns to many of us in  
14 attendance, applause is not appropriate during the  
15 course of this hearing. On a similar note, booing,  
16 hissing, and jeering are also not appropriate and  
17 will not be allowed this evening.

18                   Secondly, I'm not going to allow  
19 statements to be made tonight that do not relate to  
20 the issues involved with the NPDES permit.  
21 Specifically, statements and comments that are of a  
22 personal nature or reflect on the character or motive  
23 of a person or group of people are not appropriate in  
24 this hearing. If statements or comments begin to  
25 drift into this area, I may interrupt the person

1 speaking.

2                   As hearing officer, I intend to treat  
3 everyone here tonight in a professional manner and  
4 with respect. I ask that the same respect be shown  
5 to those raising relevant issues. If the conduct of  
6 persons attending this hearing should become unruly,  
7 I am authorized to adjourn this hearing should the  
8 actions warrant. In such a case, the Illinois EPA  
9 would accept written comments through the close of  
10 the comment period, which as I indicated earlier, is  
11 through April 20, 2012.

12                   Since we have a limited time in which  
13 to conduct this hearing, Illinois EPA staff members  
14 will be responding to issues primarily for  
15 clarification purposes. We are here tonight to  
16 listen to environmental issues. Comments regarding  
17 personalities are not appropriate and will not be  
18 allowed during this hearing. You may disagree with  
19 or object to some of the statements and comments made  
20 tonight, but this is a public hearing, and everyone  
21 has a right to express their comments on the draft  
22 permit.

23                   You are not required to provide your  
24 comments orally. Written comments are given the same  
25 consideration and weight and may be submitted to the

1 Illinois EPA at any time within the public comment  
2 period, and again, that's through April 20, 2012.  
3 Although we will continue to accept comments through  
4 that date, tonight is the only time that we will  
5 accept oral comments. Any person who wishes to make  
6 an oral comment may do so as long as the statements  
7 are relevant to the issues at hand and time allows.

8           If you have lengthy comments, it will  
9 be helpful to submit them to me in writing before the  
10 close of the comment period, and I will ensure that  
11 they are included in the hearing record as an  
12 exhibit. Please keep your comments relevant to the  
13 issues at hand. If your comments fall outside the  
14 scope of this hearing, I may ask you to proceed to  
15 another issue.

16           For the purpose of allowing everyone to  
17 have a chance to comment and to ensure that we  
18 conduct this hearing in a timely fashion, I will  
19 impose a time limit of nine minutes per speaker. I  
20 will attempt to indicate when you have 30 seconds  
21 left, so that you can finish within the time limit.  
22 This should allow everyone that desires to speak to  
23 have the opportunity to do so.

24           In addition, I'd like to stress that we  
25 want to avoid unnecessary repetition. If anyone

1 before you has already presented a statement or  
2 comment that is contained in your comments, please  
3 skip over those issues when you speak. If someone  
4 has already said what you intended to say, you may  
5 pass when I call your name to come forward. Once a  
6 point is made, it makes no difference if the point is  
7 made once or whether it is made 99 times, it will be  
8 considered and will be reflected only once in the  
9 responsiveness summary.

10 All written comments, whether they are  
11 said out loud or not at this hearing, will become  
12 part of the official record and will be considered.  
13 After everyone has an opportunity to speak, and  
14 provided that time permits, I may allow those that  
15 initially ran out of time the opportunity to speak.  
16 If time still permits, I may also allow those that  
17 had not indicated that they wanted to speak also the  
18 opportunity to speak at that time. In the event that  
19 we cannot accommodate everyone who wishes to make  
20 comments this evening, you are asked to submit your  
21 comments in writing. Again, written comments are  
22 given the same weight as comments made orally during  
23 this hearing.

24 To assist those that wish to make  
25 written comments, we have comment forms available in

1 the registration area. Please feel free to take a  
2 comment form with you when you leave the hearing this  
3 evening if you plan to file written comments. Again,  
4 I note that there are two different forms, one for  
5 comments on the NPDES permit and another for the 401  
6 certification for this facility. The NPDES comment  
7 forms are on white paper, and the 401, I believe, are  
8 on green paper. Please make sure that your comments  
9 are on the appropriate form for the appropriate  
10 proceeding.

11 Illinois EPA desires to keep the two  
12 proceedings as separate as possible and will be  
13 compiling separate and different administrative  
14 records for each of these two proceedings. I also  
15 point out that it's not necessary that written  
16 comments are submitted on the comment form, as  
17 Illinois EPA will accept all written comments as long  
18 as the proceeding in which they are to be filed is  
19 specified and they are received during the comment  
20 period.

21 I remind you that we have a court  
22 reporter here who is taking a record of these  
23 proceedings for the purpose of us putting together  
24 our administrative record. Therefore, for her  
25 benefit, please keep the general background noise in

1 the room to a minimum so that she can hear everything  
2 that is said. Illinois EPA will post the transcript  
3 for this hearing on our Web page in the same general  
4 place where the hearing notice, fact sheet, and draft  
5 permit have been posted. It is my desire to have  
6 this posted in about one and a half weeks following  
7 the close of the hearing, but the actual time is  
8 going to depend on when I get the transcript from the  
9 court reporter.

10                   When it is your turn to speak, please  
11 come forward. State your name and, if applicable,  
12 any governmental body, organization, or association  
13 that you represent. If you are not representing a  
14 governmental body or organization or an association,  
15 you may simply indicate that you are a concerned  
16 citizen or a member of the public. For the benefit  
17 of the court reporter, I ask that you spell your last  
18 name. If there are alternate spellings for your  
19 first name, you may also spell your first name. Once  
20 you spell your name, I will start timing you, and you  
21 will have nine minutes to complete your comments.

22                   I ask that while you are speaking, that  
23 you direct your attention to the hearing panel and to  
24 the court reporter, to ensure that an accurate record  
25 of your comments can be made. Prolonged dialogue

1 with members of the hearing panel or with others in  
2 attendance will not be permitted. Comments directed  
3 to the audience are also not allowed. Again, I  
4 remind everyone that the focus of this hearing is  
5 environmental issues associated with the NPDES  
6 permit.

7                   People who have requested to speak will  
8 be called upon in the order that they have  
9 registered. Are there any questions regarding the  
10 procedures that will be used tonight for conducting  
11 this hearing? Let the record indicate that no one  
12 raised their hand. Mr. Kliche, did you still plan to  
13 make an opening?

14                   MR. KLICHE: I do.

15                   MR. STUDER: Okay. Can you come  
16 forward to the podium, please. Once you've made your  
17 opening statement, then we'll go ahead and start with  
18 the comments from the public.

19                   MR. KLICHE: Thank you.

20                   MR. STUDER: Thank you. Okay. I'm  
21 going to ask that you make the comments to the  
22 hearing panel rather than to the audience.

23                   MR. KLICHE: Okay. I'm sorry.

24                   MR. STUDER: That's okay.

25                   MR. KLICHE: Good afternoon, and thank

1 you for your participation in this meeting to discuss  
2 Prairie Coal Company's proposed Lost Prairie Mine in  
3 Perry County. My name is James Kliche of Arch Coal,  
4 which is the parent company of the Applicant for the  
5 permits under discussion this evening. I am a  
6 Licensed Professional Mining Engineer. The future  
7 Lost Prairie Mine would be located between  
8 Pinckneyville and Coulterville, near the town of  
9 Winkle.

10 Arch Coal has a long history in this  
11 part of Illinois, starting in around the early  
12 1970's, but was absent for about five years in the  
13 early 2000's. Arch Coal is back in Illinois and  
14 presently owns a 49 percent equity interest in Knight  
15 Hawk Coal and owns and operates the Viper Mine in  
16 Central Illinois, and would like to develop the Lost  
17 Prairie Mine for which it owns the surface in the  
18 permit area and a majority of the coal reserves.

19 MR. STUDER: Can those sitting in the  
20 audience hear what's being said? Mr. Kliche, could  
21 you hold the mike in one hand maybe?

22 MR. KLICHE: I'll try to talk into it  
23 more directly.

24 MR. STUDER: Yeah.

25 MR. KLICHE: Okay. Let's see. We see

1 market opportunities continue to develop for this  
2 coal as more power plants install scrubbers. Total  
3 coal production from the Illinois basin area is  
4 presently near 115 million tons a year. Arch Coal is  
5 a proven leader in the coal industry. We are the  
6 second largest coal producer in the United States.  
7 We have a dominant production position in all three  
8 major low-sulfur basins in the United States.

9                   We have a significant exposure to  
10 domestic and foreign metallurgical markets. Our  
11 diversified reserve portfolio is about 5.7 billion  
12 tons of coal, of which over 700 million tons are in  
13 Illinois. Okay. Our production represents about 16  
14 percent of the U.S. coal supply. We provide  
15 clean-burning, low-sulfur coal to 183 domestic power  
16 plants in 39 states to fuel 8 percent of the nation's  
17 electricity generation.

18                   We ship coal to domestic and  
19 international steel manufacturers and international  
20 power producers. We are a leader in the coal  
21 industry in mine safety and environmental compliance,  
22 with a talented workforce operating large and modern  
23 mines.

24                   For a comparison on mine safety, the  
25 five-year rolling average lost time incident rates

1 are for the entire coal industry is 2.84 lost time  
2 accidents, and for Arch Coal is .74 lost time  
3 incident rate. So Arch Coal's five-year lost time  
4 average is about 74 percent better than the industry  
5 average, and safety is a demonstrated value for our  
6 company and for our employees.

7 Arch Coal maintains a strong  
8 environmental compliance record compared to its peers  
9 in 2011. We had 7 percent lower violations than the  
10 violations of Peabody Coal, 18 percent lower  
11 violations than the violations of Consol, 87 percent  
12 lower violations than the violations of Alpha. All  
13 of Arch's western operations had zero violations in  
14 2011, which is three large surface mines and four  
15 large underground mines. 12 operations in Arch Coal  
16 had zero lost time, zero NOVs in 2011. And our  
17 company's five-year violation record averages a fifth  
18 of our major competitors.

19 The permitting history and current  
20 status of the proposed Lost Prairie Mine is, the  
21 permit application was submitted to IDNR in March of  
22 '09. Permit application was deemed complete in July  
23 2010. Permit to mine received from IDNR in September  
24 2011. Three other needed permits were applied for in  
25 June of 2009 and are close to being received, as

1 well. We are currently discussing coal supply  
2 contracts with several utilities, which would enable  
3 the initiation of construction of the mine.

4                   The future Lost Prairie Mine would  
5 infuse Perry County with new jobs and spur economic  
6 development. Mine to be developed once coal  
7 commitments are secured in the next one to three  
8 years. Mine construction costs will be about 250 to  
9 \$300 million. Annual coal production will be about  
10 three and a half million tons a year. Ultimate mine  
11 employment would be 240 to 260 people, with the  
12 majority recruited locally from the vicinity in Perry  
13 County.

14                   Payroll and benefits anticipated to be  
15 about 25 to \$30 million a year. And the mine is  
16 anticipating spending about this same amount for  
17 materials, supplies, and services, most of which will  
18 be originated in Illinois.

19                   We're seen as a good neighbor in the  
20 local communities where we live and work. Our mining  
21 operations have earned the National Good Neighbor  
22 Award from the U.S. Department of Interior five times  
23 in the past seven years. Forbes recognized Arch as  
24 one of the 100 most trustworthy companies in 2008.  
25 Arch Coal publishes a regular report on corporate

1 social responsibility.

2                   We do give back to the community that  
3 we live and work in through education programs and  
4 volunteerism. We believe acting responsibly and with  
5 integrity is the right thing to do for us and for  
6 future generations, and it's a central tenet in our  
7 long-term success. Support of the mine development  
8 and these permit applications from your group would  
9 be very beneficial. Thank you.

10                   MR. STUDER: Thank you. And could you  
11 spell your last name for the court reporter for the  
12 record.

13                   MR. KLICHE: Sure. It is K-L-I-C-H-E.

14                   MR. STUDER: Thank you, Mr. Kliche.  
15 The first person that I have that has indicated they  
16 would like to speak tonight is Rex Ferrero. If you  
17 would come forward and state your name and spell your  
18 last name. And any company or organization or  
19 association you represent, if you would also state  
20 that.

21                   MR. REX FERRERO: My last name is  
22 spelled F-E-R-R-E-R-O. I don't represent anybody.  
23 We're just landowners in the area. And our family  
24 feels like it's important that this mine go in, and  
25 it would be very beneficial to our area. That's

1 really all I have to say.

2 MR. STUDER: Thank you. Sandra  
3 Ferrero? You'll pass? Okay. Melvin Ferrero?

4 MR. MELVIN FERRERO: Yeah, that's me.  
5 I'm a landowner. My last name is Ferrero,  
6 F-E-R-R-E-R-O. I'm Rex's dad, and I'm a landowner.  
7 I have approximately two miles of land that joins  
8 Arch long. Wolf Creek runs through my property just  
9 like it does Arch's property. And I have no concerns  
10 whatsoever for that creek. Just like Rex said, I am  
11 in favor of the mines. Start a mines. Create jobs.  
12 And I don't represent anybody other than myself, and  
13 that's all I have to say. We'd like to see a mines  
14 and jobs. That's our concern.

15 MR. STUDER: Thank you, Mr. Ferrero.  
16 And for the record, I don't know if you got the first  
17 name. It was Melvin.

18 MR. MELVIN FERRERO: Melvin.

19 MR. STUDER: Okay. Thank you. Don  
20 Decker? Pass, okay. David Perardi?

21 MR. PERARDI: No.

22 MR. STUDER: You'll pass? Okay. Tom  
23 Buckley? Tom Buckley? No? Okay. Let's see if I  
24 can make out the writing. It says Ron Balch?

25 MR. BALCH: Yes. I'd like to pass at

1 this time.

2 MR. STUDER: Okay.

3 MR. BALCH: Reserve the right to speak  
4 at a later time.

5 MR. STUDER: Did you want to speak at  
6 the second hearing, also?

7 MR. BALCH: Yes.

8 MR. STUDER: Okay. Steve Glodo is it?

9 MR. GLODO: Yes. I have a copy of my  
10 remarks. My name is Steve Glodo. I am a  
11 professional engineer with Midwest Reclamation  
12 Resources. Prairie Coal Company hired our firm to  
13 prepare applications to obtain various permits for  
14 this project. We designed the sedimentation pond for  
15 Lost Prairie Mine that will be discussed here today.

16 The sedimentation pond is designed in  
17 accordance with the Illinois Department of Natural  
18 Resources Office of Mines and Minerals, permanent  
19 program rules and regulations, and the Illinois EPA  
20 regulations. The sedimentation pond will be located  
21 downstream of the mining operations, which allows the  
22 impoundment to collect all runoff before  
23 discharging.

24 The 189-acre feet capacity  
25 sedimentation pond is a temporary impoundment and

1 will be reclaimed during the final reclamation  
2 process. The sedimentation pond will collect and  
3 retain stormwater for a time sufficient to allow  
4 solids to settle. The pond is designed to meet the  
5 NPDES mandated discharge requirements.

6                   At the request of the regulatory  
7 agencies, a compacted clay liner, four feet in  
8 thickness with a minimum hydraulic conductivity of  
9 one times ten to the minus 7th centimeters per second  
10 will be constructed under the sedimentation pond.  
11 The clay liner will provide additional protection to  
12 the groundwater by minimizing disturbance of the  
13 hydrologic balance.

14                   Perhaps the most significant design  
15 detail of the sedimentation pond is that it will not  
16 have a significant discharge. This is because the  
17 mining operation will use the water in the pond for  
18 processing. Water will continually be pumped to the  
19 preparation plant to be used for coal processing and  
20 cleaning. The excess water from the preparation  
21 process will be pumped to the prep plant rejects  
22 pond.

23                   The prep plant rejects pond has a  
24 discharge to the sedimentation pond. However, this  
25 discharge will probably not occur, because the water

1 in this pond will be pumped back for use in the  
2 preparation process in a closed loop system. In  
3 order to ensure compliance with the regulations, this  
4 pond will also have not only a four-foot thick  
5 compacted clay liner, but also will have a drainage  
6 system.

7                   The drainage system will be constructed  
8 on top of the clay liner to control the hydrostatic  
9 head on the liner. The drainage system will consist  
10 of filter aggregate around slotted PVC drain pipe. A  
11 geotextile fabric will be installed around the drain  
12 pipe to ensure fine refuse will not be transported  
13 with the drainage.

14                   The drainage system will collect water  
15 and convey it out of the structure to a drop inlet  
16 structure, where it will then report to the  
17 sedimentation pond. A valve will be installed on the  
18 discharge pipe before the drop inlet. This valve  
19 will be closed until the hydrostatic head reaches  
20 five to six feet in the prep plant rejects pond.

21                   This will allow the slurry fines to  
22 settle, further ensuring that only water, not the  
23 fines, will be discharged. Once the hydraulic head  
24 of five to six feet is obtained, the valve will be  
25 opened to help prevent possible water infiltration

1 into the compacted clay liner.

2                   Of course, when the sedimentation pond  
3 does discharge, the water will be sampled and  
4 analyzed at an IEPA approved laboratory, to ensure  
5 the discharge limitations of the permit are being  
6 met. We believe the design features of the  
7 sedimentation pond and the prep plant rejects pond  
8 will allow this facility to meet the mandated NPDES  
9 discharge limitations and maintain the water quality  
10 in the receiving ephemeral stream. The pond designs  
11 have been approved by the Illinois Department of  
12 Natural Resources and meet all the criteria for this  
13 agency. Thank you.

14                   MR. STUDER: Thank you. Brian Perbix?

15                   MR. PERBIX: Good evening. My name is  
16 Brian Perbix. That's P-E-R-B-I-X. And thank you for  
17 the opportunity to provide comments here tonight to  
18 the Illinois EPA. I'm here to provide comments on  
19 behalf of Prairie Rivers Network, as well as the  
20 Illinois Sierra Club, for whom no representative  
21 could be here this evening.

22                   Prairie Rivers Network is the state  
23 affiliate of the National Wildlife Federation. We're  
24 a nonprofit that strives to protect the rivers,  
25 streams, and lakes of Illinois and also to promote

1 the lasting health and beauty of watershed  
2 communities. Several of our members, as well as  
3 members of the Illinois Chapter of the Sierra Club --  
4 which is a statewide organization representing over  
5 26,000 individuals committed to protecting the  
6 Illinois environment -- several of our members live  
7 and recreate in Perry County and would be adversely  
8 affected by the pollutants proposed to be discharged  
9 by this mine site. And for reasons that I will get  
10 into shortly, we would ask that the Illinois EPA  
11 refrain from approving this permit until our concerns  
12 raised here tonight and subsequent follow-up  
13 materials are addressed.

14                   First, one thing I want to be clear  
15 about. This project will result in additional  
16 pollutant loading to the unnamed tributary of Wolf  
17 Creek. Data collected by the Applicant indicates  
18 that sulfate levels, for example, in Wolf Creek are  
19 currently averaging around 235 milligrams per liter,  
20 and the permit calls for 1,674 milligrams per liter.

21                   Similarly, chloride concentrations in  
22 the creek are currently around 13 milligrams per  
23 liter on average, and the permit would allow a  
24 discharge of up to 500 milligrams per liter. And our  
25 primary concern here tonight is that the Agency not

1 allow additional pollutant loading to the stream,  
2 given that the application materials don't adequately  
3 demonstrate that there's a technical or economic need  
4 for doing so.

5                   To get into some of our technical  
6 concerns. I'm actually very thankful that the  
7 gentleman from Midwest Reclamation Resources was here  
8 tonight. That did answer a lot of questions that I  
9 had but also raised a number of concerns that my  
10 organizations share.

11                   In particular, we're concerned about  
12 the leachate collection system. So the liquid coming  
13 out of the bottom of the prep plant rejects pond, as  
14 the gentleman described, will be bled off slowly into  
15 the Sediment Pond No. 1. In the application  
16 materials that we saw, the Agency did not fully  
17 identify and quantify the proposed pollutant load  
18 coming from out beneath the slurry impoundment.

19                   In the materials, it simply states that  
20 the slurry impoundment will be a closed loop system,  
21 when actually, as the gentleman described it, water  
22 from the slurry impoundment will slowly be bled off  
23 and circulated through the sedimentation pond, back  
24 to the processing plant, into the slurry pond, back  
25 to the sediment pond in a continuous cycle in that

1 manner.

2                   And that raises concerns, we believe,  
3 in terms of winding up with increasingly high  
4 concentrations of dissolved pollutants, in particular  
5 chlorides and sulfates, as well as potentially other  
6 dissolved trace metals that could be associated with  
7 the coal fines. We don't feel that these have been  
8 adequately addressed, these pollutant load impacts  
9 have been adequately addressed in the permit  
10 application materials.

11                   Secondly, in the same vein, the draft  
12 permit does not consider the additional slurry  
13 impoundment acreage and refuse disposal acreage that  
14 will ultimately be necessary for this mine. Within  
15 various documents submitted in association with the  
16 application, the mine company has indicated that at  
17 least they're planning on a ten-year life of the  
18 mine. All that we've seen in terms of impacts  
19 proposed are five to seven years of refuse disposal.  
20 The Agency must require the Applicant to incorporate  
21 these concerns into the current application before  
22 they grant the permit.

23                   The State of Illinois' anti-degradation  
24 rules were designed to ensure the protection of  
25 existing uses of Illinois water, to protect the water

1 quality while preventing unnecessary deterioration of  
2 waters of the state.

3 In a similar vein, I would also state  
4 -- well, I guess I should ask the question. Has a  
5 reasonable potential analysis been done?

6 MR. STUDER: Scott?

7 MR. TWAIT: A reasonable potential is  
8 done when we actually have physical data that's  
9 collected from the discharge. And a reasonable  
10 potential is not done, per se, on a facility that  
11 hasn't been built.

12 MR. PERBIX: Right. I guess the  
13 concern here, though, is that, you know, what's being  
14 proposed here, to me, having reviewed a number of  
15 coal mine sites, doesn't sound, you know, entirely  
16 similar to what other coal mines in the state are  
17 doing. In particular, this closed loop system that's  
18 slowly bleeding off into the sedimentation pond,  
19 which is then discharging into waters of the state.  
20 I believe that there may be potential there for  
21 dissolved pollutants to build up in the sedimentation  
22 pond and discharge into the stream.

23 Also, that water continuously being in  
24 contact with coal waste, you know, we have concerns  
25 about the level of metals building up in that runoff

1 water and would like to see in the responsiveness  
2 summary how the Agency, you know, explains why they  
3 don't see a need to monitor for additional metal  
4 pollutants, for instance, as a result of this  
5 operations plan.

6                   Second, I'd like to talk about, well,  
7 we don't believe that the Agency has adequately  
8 demonstrated that existing uses will be fully  
9 protected in downstream waters. While we do note  
10 that in the Aquatic Resources Report, the Applicant  
11 has provided information on the habitat of the 83  
12 segments of streams, 84 stream segments on site, no  
13 biological assessments were performed on site, nor  
14 have any been performed by the Applicant or by the  
15 Illinois EPA in the unnamed tributary or in Wolf  
16 Creek itself, as far as I'm aware. Maybe I'm wrong.

17                   And this is a problem, of course,  
18 because with this additional pollution that we're  
19 sending to the stream, there's no way that the Agency  
20 can guarantee that existing uses, in this case  
21 aquatic life use, will be adequately protected if it  
22 does not have the actual biological data to serve as  
23 a base line. So in light of this lack of information  
24 on the stream that will be receiving the discharges,  
25 as well as the streams that will be impacted on site,

1 this NPDES permit should not be issued until such  
2 data is provided.

3                   We would also note, however, that there  
4 is a good deal of information available on downstream  
5 waters. And so an issue that we see with the  
6 application as it's been provided and the draft  
7 permit as it's been circulated by the Agency is that  
8 it simply states that the receiving stream NCK-01,  
9 which I believe is either Wolf Creek or the tributary  
10 to Wolf Creek, is not on the draft 2010 303(d) list  
11 of impaired waters.

12                   We do note, however, that additional  
13 downstream segments, so if you look just a bit  
14 further downstream, Swanwick Creek, for example, as  
15 well as a number of segments of Beaucoup Creek, NC-07  
16 and NC-03, they are, in fact, listed on the 303(d),  
17 and Illinois EPA must consider this before granting a  
18 permit. They're listed as not supporting aquatic  
19 life uses. And particularly, in a number of the  
20 downstream segments, surface mining activities are  
21 identified as a possible source of this impairment to  
22 the biology in the stream.

23                   The Agency can't assume that surface  
24 water impacts that will result from the proposed Lost  
25 Prairie Mine would be limited only to the small

1 tributary of Wolf Creek that will receive the mine's  
2 discharge. Given the impaired condition of numerous  
3 downstream segments for aquatic life, the Agency must  
4 require the Applicant to provide evidence that no  
5 discharges from the mine site, well, that discharges  
6 from the mine site will not further compromise  
7 existing aquatic life uses downstream.

8                   And third, we don't believe that the  
9 Illinois Anti-Degradation Rule has been adequately  
10 applied in this case. In particular, the Applicant  
11 has not adequately addressed alternatives for  
12 minimizing pollutant loading to the stream, in  
13 particular, sulfates, chlorides, irons, manganese,  
14 and other pollutants for which the State has numeric  
15 standards.

16                   While we do note that in the  
17 alternatives and economic benefits analysis provided  
18 with the application materials, the Applicant does  
19 identify a fairly wide range of alternate treatment  
20 methods that could be employed at the site, the  
21 analysis is lacking in a couple of major ways.

22                   First, cost estimates need to be  
23 provided for each of the treatment methods that are  
24 discussed in that analysis. This is all according to  
25 USEPA's Interim Economic Guidance for Water Quality

1 Standards. And second, the Applicant needs to  
2 perform an economic affordability analysis on each of  
3 those proposed techniques. None of that is  
4 provided.

5                   You know, if you read through this  
6 Alternatives Analysis, the Applicant simply states  
7 either that it would cause some amount of burden or  
8 some unknown amount of cost. But for the Applicant  
9 to argue that decreases in water quality downstream  
10 are both technically and economically necessary, they  
11 actually have to cost that out and demonstrate that  
12 it's actually an economic hardship, and we request  
13 that the Agency hold them to that in the spirit of  
14 our anti-degradation rule.

15                   And then finally, the last point that I  
16 want to cover in this hearing tonight are concerns  
17 about groundwater. In the application materials that  
18 we reviewed, we noted that I think it was 18 or 19  
19 private well owners are within the groundwater  
20 cumulative impact area as defined by the Applicant.  
21 And we also note that values, or excuse me, levels of  
22 different constituents of concern -- and I'm not  
23 finding my list at the moment -- but a number of  
24 constituents have levels that are near or in some  
25 cases above Illinois groundwater quality standards.

1                   So the question we would pose to the  
2 Agency and would like you to answer this briefly or  
3 in more detail in your responsiveness summary as to  
4 how can Illinois EPA authorize additional stress on  
5 this already stressed groundwater resource. You  
6 know, we note that, as the gentleman said, we  
7 approved the use of liners in this case or the  
8 four-foot compacted clay liner, but we would question  
9 why the Agency, particularly given the stressed state  
10 of groundwater at this site, is not requiring the  
11 Applicant to at least analyze how much it would cost  
12 to put in a composite liner.

13                   There are other coal mines in the  
14 state, I know Deer Run, for example, up in Montgomery  
15 County, they're doing four-foot compacted clay. They  
16 have a similar underground system, but then they also  
17 have a 60 mil HDPE geomembrane liner. And we would  
18 ask why this same standard is not required here,  
19 given the existing groundwater use and concerns that,  
20 you know, if one liner system fails, the other might  
21 protect that resource. So thank you.

22                   MR. DUNAWAY: Well, we only require  
23 four-foot liner with the drainage. As far as the  
24 existing concentrations are concerned, the  
25 Groundwater Quality Standards only apply except due

1 to natural causes. So if your groundwater quality  
2 starts at a level that's above class, you know, the  
3 class's numeric number, then the Applicant would be  
4 required to meet whatever the existing water quality  
5 is.

6                   And to that end, we have, or the permit  
7 requires that they establish a background, so that as  
8 long as they don't have a statistically significant  
9 increase of concentrations in groundwater in the down  
10 gradient direction, then they will be in compliance  
11 with the current, with the applicable groundwater  
12 standard, which would be sort of site-specific in  
13 this case.

14                   MR. PERBIX: Right. I mean, I think  
15 our concern is that groundwater levels would be, you  
16 know, at or just below the Groundwater Quality  
17 Standard, which corresponds roughly to usable  
18 groundwater. If any impacts, you know, if it's  
19 somewhat significant, perhaps not reaching the level  
20 of statistically significant that you're referring  
21 to, if that release of contaminants into the  
22 groundwater threatens an existing use of that  
23 groundwater, that I think would be a cause of  
24 concern. So our question would be why additional  
25 measures aren't taken to prevent that from taking

1 place.

2 MR. DUNAWAY: Well, we can give a more  
3 thorough explanation in the responsiveness summary.  
4 But based on our review of it, the four-foot liner  
5 and the drainage level was adequate to protect  
6 groundwater in this case.

7 MR. PERBIX: And then just one  
8 follow-up question. I recall that only a synthetic  
9 liner is going to be required in the drainage  
10 ditches; is that correct?

11 MR. DUNAWAY: Can you repeat that  
12 question?

13 MR. PERBIX: If I'm remembering  
14 correctly, within the REA and the prep plants rejects  
15 pond, there's going to be the four-foot clay liner.  
16 And then within the drainage ditches conveying runoff  
17 from those structures to the sedimentation pond, I  
18 believe there's only going to be a synthetic liner,  
19 no compacted clay?

20 MR. DUNAWAY: My recollection is that  
21 all are four-foot liners, but I'll double-check that  
22 and be sure.

23 MR. PERBIX: My concern is that if --  
24 my understanding is that synthetic liners ought to  
25 have a compacted clay liner installed beneath them to

1 maximize their effectiveness. So if only a synthetic  
2 liner is being used in those ditches, then we would  
3 be concerned about that.

4 MR. DUNAWAY: Okay.

5 MR. PERBIX: Thank you all for your  
6 time.

7 MR. STUDER: Thank you, Mr. Perbix.  
8 Let's see. I called Tom Buckley earlier, and no one  
9 responded. Is Mr. Buckley present? No? Okay. Is  
10 there anyone that has not spoken this evening that  
11 would like to make a comment on the record this  
12 evening? Let the record indicate, no one raised  
13 their hand. I have a couple of real quick issues  
14 before I adjourn this hearing.

15 The first three names I called, I  
16 believe they were Sandra, Melvin, and Rex, did either  
17 of you three want to speak at the second hearing?

18 MR. MELVIN FERRERO: I could, sir.

19 MR. STUDER: Okay. And you are  
20 Melvin?

21 MR. MELVIN FERRERO: Yes.

22 MR. STUDER: Okay. Don Decker, did you  
23 want to speak at the second hearing?

24 MR. DECKER: No.

25 MR. STUDER: No? Okay. The last one

1 that I've got to ask is David Perardi?

2 MR. PERARDI: No.

3 MR. STUDER: Let's see. Okay. All  
4 righty. I appreciate your attention this evening. I  
5 remind everyone here that the written record will be,  
6 the record will be open for written comments through  
7 the 20th of April, and we will accept comments  
8 through that date. If there are any issues that  
9 arise as you prepare comments, please let me know,  
10 and we can work to make sure that procedures are  
11 followed in getting those comments to us.

12 I thank you for attending this NPDES  
13 hearing, and this NPDES hearing is adjourned. We  
14 will start the 401 hearing at 9, or excuse me, at 7  
15 o'clock this evening.

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1 STATE OF ILLINOIS )

2 )

3 COUNTY OF JACKSON )

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6 I, Sharon Valerius, a Freelance Court  
 7 Reporter for the State of Illinois, do hereby certify  
 8 that I reported in machine shorthand the Public  
 9 Hearing held on March 21, 2012, from 5:00 p.m. til  
 10 6:00 p.m., at Pinckneyville Junior High School, State  
 11 Route 154, Pinckneyville, Illinois; that I thereafter  
 12 caused the foregoing to be transcribed into  
 13 computer-aided transcription, which I hereby certify  
 14 to be a true and accurate transcript of the same.

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16 Dated this 24th day of March, 2012.

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FREELANCE COURT REPORTER

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