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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

BUREAU OF WATER

CAPITAL RESOURCES DEVELOPMENT COMPANY, L.L.C.  
NORTH CANTON MINE  
NPDES PERMIT

PUBLIC HEARING

TUESDAY, DECEMBER 6, 2011

5:00 P.M.

DONALDSON CENTER  
250 SOUTH AVENUE D  
CANTON, ILLINOIS

PATKES REPORTING SERVICE  
(217) 787-9314

REPORTER: LAUREL PATKES, CSR 084-001340

1 PANEL MEMBERS:

2 DEAN STUDER, Hearing Officer

3 ROBERT MOSHER  
4 Manager  
5 Water Quality Standards Section

6 LARRY D. CRISLIP  
7 Manager  
8 Permit Section

9 LYNN E. DUNAWAY  
10 Environmental Protection Specialist  
11 Groundwater Section

12 STEPHANIE N. DIERS  
13 Assistant Counsel  
14 Division of Legal Counsel

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1 this hearing a little differently than some of our  
2 past hearings. For those wishing to make oral  
3 comments this evening, in addition to this hearing  
4 room, there is also an auxiliary room where oral  
5 comments can be made and recorded by a court  
6 reporter. I will provide more information on this  
7 option in just a few minutes.

8                                 This is an informational  
9 hearing before the Illinois EPA in the matter of a  
10 National Pollutant Discharge Elimination System, or  
11 NPDES, permit application for a proposed surface  
12 coal mining facility from Capital Resources  
13 Development Company, LLC with proposed discharges of  
14 runoff from disturbed areas through outfalls 001 and  
15 002 into the Middle Branch of Copperas Creek. Run  
16 off through outfall 003, 004, 005 and 006 discharge  
17 into unnamed tributaries and directly into the West  
18 Branch of Copperas Creek. And I believe on outfalls  
19 001 and 002, I said Copperas Creek, and it's  
20 actually the Middle Branch of Copperas Creek where  
21 those two go.

22                                 Because the West Branch of  
23 Copperas Creek is tributary to Canton Lake, the  
24 drinking water supply for over 20,000 people in this

1 area, no runoff from the disturbed areas discharge  
2 into the West Branch. Only stormwater runoff from  
3 undisturbed areas and reclaimed areas are discharged  
4 through the West Branch.

5 Illinois EPA is not the state  
6 agency authorized to permit the mining operations at  
7 this coal mine. The Office of Mines and Minerals  
8 (OMM), Illinois Department of Natural Resources has  
9 already issued the permit for this mining operation.  
10 Questions and comments regarding the OMM permit  
11 should be directed to Scott Fowler, and that's  
12 F-o-w-l-e-r, at the Illinois Department of Natural  
13 Resources, and that phone number is (217)782-4970.

14 The Illinois Department of  
15 Natural Resources permit authorizes the mining  
16 activities while the permit from Illinois EPA deals  
17 with the discharges from those activities. Illinois  
18 EPA is empowered to review and make a decision  
19 regarding the issuance, denial or revision of the  
20 NPDES permit, and that's permit number IL0072281.  
21 Issues relevant in this proceeding involve the NPDES  
22 permit.

23 Authority for the Illinois EPA  
24 to issue this permit is contained in Section 39 of

1 the Illinois Environmental Protection Act, 415 ILCS  
2 5/39. In pertinent part, this section reads, "It  
3 shall be the duty of the agency to issue such a  
4 permit upon proof by the applicant that the  
5 facility, equipment, vehicle, vessel or aircraft  
6 shall not cause a violation of this act or of  
7 regulations thereunder." The decision by the  
8 Illinois EPA in this matter will be based upon the  
9 technical merits of the application as it relates to  
10 compliance with this statute and regulations  
11 promulgated under it. The Illinois EPA decision is  
12 not based on how many people desire for the permit  
13 to be issued or on how many people desire for the  
14 permit not to be issued but rather on compliance  
15 with the law and regulations.

16 I want to be clear, if a  
17 permit applicant complies with the requirements for  
18 obtaining an NPDES permit, Illinois EPA by state law  
19 is mandated to issue the permit.

20 The Illinois EPA has made a  
21 preliminary determination that the proposed project  
22 meets the requirements for obtaining a permit and  
23 has prepared a draft permit for review. The EPA is  
24 holding this hearing for the purpose of accepting



1 comments from the public on the draft permit. Since  
2 we have a limited time in which to conduct this  
3 hearing, Illinois EPA staff members will be  
4 responding to issues only when clarification is  
5 necessary. I am asking Illinois EPA staff to  
6 provide only brief answers to questions raised.  
7 More in-depth answers will be provided in writing in  
8 the responsiveness summary.

9                                   Because of the overflow crowd,  
10 Illinois EPA will not be responding to follow-up  
11 questions during this hearing. You will be allowed  
12 to ask questions. We will just not allow a second  
13 round to be answered during this hearing. Those may  
14 be submitted to us in writing, and I'll go through  
15 how to do that in just a few moments.

16                                   Issues relevant to the NPDES  
17 permit include compliance with the requirements of  
18 the federal Clean Water Act and the regulations  
19 established by the Illinois Pollution Control Board  
20 in 35 Illinois Administrative Code, Subtitles C and  
21 D including the antidegradation requirements.  
22 Examples of issues not relevant to the NPDES permit  
23 include truck traffic and routes taken by the  
24 trucks, alleged past violations of the Act that are

1 not yet adjudicated or where the adjudication  
2 process is not yet complete, issues dealing with  
3 noise and other matters that are not included in  
4 either the NPDES permit or in the regulations  
5 governing the NPDES permit process.

6                               The public hearing is being  
7 held under the provisions of the Illinois EPA's  
8 procedures for permit and closure plan hearings  
9 which can be found in 35 Illinois Administrative  
10 Code Part 166, Subpart A, and in accordance with 35  
11 Illinois Administrative Code Part 309, Subpart A.  
12 Copies of these regulations are available at the  
13 Illinois Pollution Control Board website at  
14 [www.ipcb.state.il.us](http://www.ipcb.state.il.us), or, if you do not have easy  
15 access to the web, you may contact me and I can get  
16 a copy for you.

17                               I'd like to explain how  
18 tonight's hearing is going to proceed. First we  
19 will have the Illinois EPA panel members introduce  
20 themselves and provide a sentence or two regarding  
21 their involvement in the permit process. Then  
22 Illinois EPA staff members will make their brief  
23 presentations regarding the draft permit.

24                               Following this, Mr. Greg

1 Arnett representing the permit applicant will make a  
2 brief statement.

3 I will then provide further  
4 instructions as to how statements and comments will  
5 be taken during the hearing and as to appropriate  
6 conduct during this hearing tonight.

7 I will then allow the public  
8 to make comments.

9 I intend to conduct a fair  
10 hearing and remind everyone that with a crowd this  
11 size, it is important to be mindful of others.

12 I will enforce time limits for  
13 each speaker. That time limit will be two minutes.  
14 You may want to prioritize your comments so that you  
15 can make the comments at this hearing that you  
16 desire to make. If you have lengthy comments, you  
17 should consider giving only a summary of them at  
18 this hearing and providing the comments to me in  
19 their entirety in writing before the close of the  
20 comment period.

21 If you have not completed a  
22 registration card at this point, please see either  
23 Kurt Neibergall or Ron Morris in the registration  
24 area, and either of them can provide you with a

1 card. You may indicate on the card that you would  
2 like to provide comments at this NPDES hearing.

3                                 Additionally, if you plan to  
4 also comment during the 401 certification hearing,  
5 please let those at the registration table know so  
6 that they can appropriately mark the registration  
7 card.

8                                 Everyone legibly completing a  
9 card either for the NPDES hearing or for the 401  
10 hearing or filing written comments in either of  
11 these two proceedings before the close of the  
12 hearing record will be notified when the Illinois  
13 EPA reaches a final decision in this matter.

14                                 Two separate responsiveness  
15 summaries will be prepared. These will be available  
16 at the time of each individual decision, and we will  
17 make the final decision documents available at that  
18 time.

19                                 In the responsiveness summary,  
20 the Illinois EPA will respond to all relevant and  
21 significant issues that were raised at each hearing  
22 or submitted to me prior to the close of the comment  
23 period. The hearing record in this matter will  
24 close on January 5, 2012. I will accept written

1 comments as long as they are postmarked by  
2 January 5th. Please be sure to mark NPDES permits  
3 on comments submitted for this NPDES hearing and  
4 mark 401 on comments submitted for the 401  
5 proceeding.

6 I know that this may be a  
7 little confusing for some of us but Illinois EPA  
8 appreciates your efforts identifying the appropriate  
9 proceeding in which to enter your comments.  
10 Comments can also be filed electronically by e-mail  
11 at [epa.publichearingcom@illinois.gov](mailto:epa.publichearingcom@illinois.gov), and they must  
12 specify Capital Resources Development Company NPDES  
13 in the subject line to be included in the proceeding  
14 for the NPDES permit. Please make sure that these  
15 words are spelled correctly as e-mails are  
16 electronically sorted and distributed and may not  
17 make it into the record if words in the subject line  
18 are misspelled.

19 When your e-mail arrives, the  
20 system should send you an automated reply if the  
21 e-mail was received before the comment period ends  
22 and the e-mail has been properly sorted and  
23 distributed. I note that the server can become  
24 quite busy in the minutes just before the record

1 closes so you may want to take this into account  
2 when submitting your comments as electronic comments  
3 received on or after the stroke of midnight on  
4 January 5th as the date changes to January 6th will  
5 not be considered timely filed. The comment  
6 instructions and information are also included in  
7 the notice for this hearing.

8                               If you require any further  
9 information after the hearing on filing of comments,  
10 you may contact me at (217)558-8280, and again, that  
11 phone number is listed in the notice of the hearing.

12                               During this hearing and during  
13 the comment period, all relevant documents, comments  
14 and data will be placed into the hearing record as  
15 exhibits. Please send all written documents or data  
16 to my attention at Dean (D-e-a-n) Studer  
17 (S-t-u-d-e-r), Hearing Officer, Mail Code 5,  
18 regarding Capital Resources Development Company  
19 NPDES, Illinois EPA, 1021 North Grand Avenue East,  
20 P.O. Box 19276, Springfield, Illinois 62794, and  
21 again, this address is also listed on the public  
22 notice for this hearing tonight. Please indicate  
23 the NPDES number IL0078221 or reference Capital  
24 Resources Development Company NPDES on your comments

1 to help ensure they become part of this hearing  
2 record.

3 I note that everyone  
4 registering or submitting written comments to the  
5 Illinois EPA in either the NPDES or 401 water  
6 quality certification proceeding will be put on the  
7 mailing list for both proceedings. Final decisions  
8 in these two separate matters will not necessarily  
9 be made at the same time as each of these has its  
10 own rules, requirements and are handled in different  
11 parts of the Illinois EPA.

12 I would like to now ask the  
13 Illinois EPA panel to introduce themselves. This  
14 will be followed by brief statements from Illinois  
15 EPA staff and then from Mr. Greg Arnett speaking on  
16 behalf of the permit applicant.

17 Following these, I will  
18 provide additional information on proper conduct  
19 during this hearing and how comments will be taken  
20 for this proceeding.

21 MR. MOSHER: Good evening. My name  
22 is Bob Mosher. I'm with Illinois EPA in the Water  
23 Quality Standards Section.

24 MR. CRISLIP: I'm Larry Crislip.

1 I'm manager of the permit section for the Mine  
2 Pollution Control Program.

3 MS. DIERS: Stephanie Diers, legal  
4 counsel for Illinois EPA.

5 MR. DUNAWAY: Lynn Dunaway. I work  
6 in the Groundwater Section in the Bureau of Water.

7 HEARING OFFICER STUDER: Okay.  
8 We'll start with opening statement from Larry  
9 Crislip.

10 MR. CRISLIP: Good evening ladies  
11 and gentlemen. As I indicated, my name is Larry  
12 Crislip, and again, I am the manager of the Permit  
13 Section for the Illinois Environmental Protection  
14 Agency's Mine Pollution control program.

15 I'd like to welcome everyone  
16 here this evening for this public hearing being held  
17 regarding draft NPDES Permit No. IL0078221 for  
18 Capital Resources Development Company, LLC, North  
19 Canton Mine.

20 The purpose of this new NPDES  
21 permit is to regulate surface discharges to waters  
22 of the state from the proposed surface mining  
23 complex identified as the North Canton Mine. The  
24 draft permit for this facility covers an area of





1                   Now, with that brief summary  
2 of the NPDES permit and the drainage control plan  
3 currently proposed, I'd like to thank everyone for  
4 coming this evening and welcome you to the Illinois  
5 EPA's public hearing.

6                   Thank you.

7                   HEARING OFFICER STUDER: Thank you.

8                   Mr. Mosher?

9                   MR. MOSHER: My name again is Bob  
10 Mosher, and I'm the manager of the Water Quality  
11 Standard Section of the Division of Water Pollution  
12 Control and Illinois EPA.

13                   I along with another Illinois  
14 EPA employee under my supervision conducted the  
15 antidegradation reviews and water quality standards  
16 analysis for the North Canton Mine project. Early  
17 in the review process, it was noted that wastewaters  
18 from areas of the mine where stormwater encountered  
19 coal or coal refuse could not be allowed to flow  
20 into the tributaries of Canton Lake. This is due to  
21 several Clean Water Act provisions and Illinois  
22 standards that prohibit the addition of pollutant  
23 loading to water bodies that are already classified  
24 as impaired because of the parameters proposed for

1 discharge. For Canton Lake, this parameter was  
2 total dissolved solids which is a measure of the  
3 dissolved salts in water.

4                                   In response to this  
5 forewarning, the mine company submitted a redesign  
6 drainage plan that converts all discharges that  
7 would contain higher than background concentrations  
8 of total dissolved solids to the Middle Fork of  
9 Copperas Creek.

10                                   The West Fork Copperas Creek  
11 which flows to Canton Lake will receive only  
12 sediment pond discharges that stem from soil  
13 movement and stockpiling related to activities on  
14 the site. These discharges will not differ in  
15 quality from the current agricultural runoff from  
16 the site.

17                                   I hope this explanation clears  
18 any misconceptions that may exist concerning the  
19 quality of water that would flow into Canton Lake  
20 from the mine.

21                                   HEARING OFFICER STUDER: Thank you.  
22 Stephanie.

23                                   MS. DIERS: Good evening. As I've  
24 already stated, my name is Stephanie Diers. I am

1 the attorney involved with the Industry mine that we  
2 are currently reviewing the draft permit and working  
3 on the responsiveness summary. It's NPDES Permit  
4 No. IL671247, and I know there's been some  
5 confusion, questions, comments brought up concerning  
6 the Industry mine. I'd just like to give you an  
7 update that we are aware the Attorney General is  
8 going through an enforcement matter. Our office is  
9 working with the Attorney General in that matter,  
10 and we are still reviewing the draft permit and  
11 responsiveness summary. There will be no questions  
12 or comments taken on Industry tonight. We are just  
13 here to talk about the North Canton Mine.

14 Thank you.

15 HEARING OFFICER STUDER: Thank you,  
16 Stephanie.

17 And from the permit applicant,  
18 Greg Arnett will make a brief statement this  
19 evening.

20 Greg, if you'd come forward,  
21 and please spell your last name for the court  
22 reporter.

23 The active mike is going to be  
24 the one on the stand.

1                   MR. ARNETT: Good evening. My name  
2 is Greg Arnett spelled A-r-n-e-t-t. I'm the  
3 President of Black Nugget, LLC. My company performs  
4 surface coal mining and reclamation activities on a  
5 contractual basis. It also provides consulting  
6 services with regard to surface coal mining and  
7 reclamation permitting.

8                   I've been retained by the  
9 officers and directors of North Canton, LLC to  
10 provide opening remarks at this hearing on their  
11 behalf. The permittee, Capital Resources  
12 Development Company, LLC, is a member of North  
13 Canton, LLC. North Canton, LLC is a Springfield,  
14 Illinois company whose officers and directors are  
15 Mike Caldwell, Brian Veldhuizen and Tom Austin.

16                   Capital would like to thank  
17 the Agency for their tentative decision to approve  
18 this NPDES permit and getting this process to the  
19 public hearing phase for review.

20                   Capital would also like to  
21 thank the Fulton County Citizens for Growth for  
22 their overwhelming support of this project. This  
23 group recognizes the value this coal mine will add  
24 to this community, and it is impressive to see such

1 a large group of people supporting this project  
2 assembled here tonight.

3                                 What Capital has done to help  
4 in this hearing process is they've provided two  
5 maps. One is the operations map. That's the one  
6 that's here, and it may be somewhat different than  
7 what people are used to seeing. It's been revised  
8 to incorporate the mining of the No. 5 coal seam, so  
9 there's been some changes in this from what  
10 everybody has been seeing in Permit No. 385, the  
11 Office of Mines and Minerals permit. So it's been  
12 brought up here so everybody can look at it, can  
13 understand what's going on and get a better  
14 understanding on how the water is going to be  
15 handled in this operation.

16                                 The second map that's  
17 underneath here is one that I know a lot of people  
18 have seen. It's just blown up, and it really shows  
19 the Canton Lake watershed. It shows where Canton  
20 Lake is and where the permit area is.

21                                 So what I'd really like to do  
22 right now is, if I can, just point out some of the  
23 features on these maps so if someone comes up here  
24 and wants to discuss these issues, they know right

1 where to look for these things.

2                                 The roads that are on here on  
3 the north end, this is Brereton Road. It comes down  
4 through here, around down through here, and it goes  
5 down to Cypress which lies south of where this map  
6 ends.

7                                 11th avenue is over on this  
8 side over here. It's on the west side of the permit  
9 area.

10                                The facilities were originally  
11 shown to be over here across from some private  
12 residents. Those facilities have been moved. They  
13 have been moved to the far west end of the permit  
14 area. It was something that we had talked about  
15 with some of the residents, and we felt it was a  
16 possibility it would work, so we went ahead and  
17 moved them. It's going to make it a little more  
18 palatable for those people.

19                                These sediment ponds that were  
20 referred to, ponds No. 1 through 6, just so  
21 everybody knows how they're numbered, it's shown on  
22 the map, but it's 1, 2, 3, 4, 5, 6. It's clock-wise  
23 rotation, No. 1 being in the northeast corner and  
24 No. 6 being in basically the southwest corner of the

1 permit area.

2                                 There is also a stormwater  
3 detention basin that is shown up in the facilities  
4 areas up here in the northeast corner, and that's  
5 the basin that will receive any runoff from where  
6 the coal is being stockpiled, and that water, as has  
7 been discussed in the alternate drainage plan, is  
8 diverted into divergent ditch No. 1A and routes it  
9 down to discharge point number 1.

10                                Also shown are the West Branch  
11 of Copperas Creek that runs along this southern  
12 boundary of the permit area. The Middle Branch lies  
13 over here along this side and comes back here over  
14 towards the east here.

15                                There's also shown on this map  
16 all the surface water monitoring points that have  
17 been monitored since roughly 2004 to collect all the  
18 background data we could possibly collect to get us  
19 to this point.

20                                Points numbers 1 and 6 which  
21 are on the West Branch of Copperas Creek actually  
22 lie off the map. They're at the point where  
23 Brereton Road, where the West Branch crosses  
24 Brereton Road and also on the southern end where the



1 West Branch goes underneath Cypress. That's where  
2 the actual point numbers 1 and 6 are.

3 Points 7 and 8 are actually  
4 just upstream of pond 1 and just downstream of pond  
5 number 2.

6 Also shown on the map is where  
7 some of the private residences are that are around  
8 this property. I'm sure everyone knows where  
9 everybody lives here, but north is pointing in this  
10 direction. It's the top of the map.

11 Groundwater monitoring wells  
12 are also located on here. When you look at this map  
13 in particular, you'll see what looks like a diamond  
14 within 1, 2, 3, 4. Those are actually mining years.  
15 It was part of the Mines and Minerals permit, and it  
16 was just left on here for clarity so you could see  
17 which direction the mining was going to follow.

18 Also shown is a red dotted  
19 line, and that line lies in the western end of the  
20 permit area, and that is where there are some old  
21 works that were mined back in the early part of the  
22 century. It denotes where the recovery line in  
23 those old works was for the No. 5 Springfield seam.

24 I'll just try to hold this up

1 and you can look at it. This map is the one that a  
2 lot of people have seen. As I said earlier, it  
3 shows the proximity of the mining area to Canton  
4 Lake. There's a dark red line that shows the  
5 watershed area that reports to Canton Lake, and as  
6 you can see, part of the mining area is outside of  
7 that. Part of it reports to the Middle Branch.  
8 Part of it reports to the West Branch as Mr. Crislip  
9 had talked about.

10                               The permit boundaries shown,  
11 you can see down here on the southeast corner where  
12 Canton Lake is. The water treatment plant is also  
13 located on there and also located is the water line  
14 that goes down to the Illinois River that the City  
15 of Canton has just installed.

16                               Whenever this project was put  
17 together by Capital, I was working for that company  
18 at that time, and the number one thing that we  
19 looked at was, we have to protect the drinking water  
20 source that has been here that the city can use.  
21 Whether it's impaired or not makes no difference to  
22 Capital, it makes no difference to the Agency as far  
23 as I know. The whole thing is it has to be  
24 protected, and that's why these plans were modified



1 possible, if you could provide those two documents  
2 to me in no bigger than 11-1/2 or 11 by 17.

3 MR. ARNETT: You've got them.

4 HEARING OFFICER STUDER: Okay.

5 We've got them? Okay.

6 And also electronic versions I  
7 would like to post those on the Internet so that as  
8 people are reviewing the transcript, they would have  
9 the ability to also kind of look at the documents to  
10 try and go over a little bit in more detail what you  
11 were saying.

12 MR. ARNETT: Certainly we can do  
13 that.

14 HEARING OFFICER STUDER: Okay.

15 Thank you.

16 While the issues raised  
17 tonight may indeed be heartfelt concerns to many of  
18 us in attendance, applause is not appropriate during  
19 the course of this hearing. Booing, hissing, and  
20 jeering are also not appropriate and will not be  
21 tolerated tonight.

22 Secondly, I'm going to try and  
23 allow only statements that relate to the issues  
24 involved with the NPDES permit to be made during the

1 course of this hearing. Specifically, statements  
2 and comments that are of a personal nature or  
3 reflect on the character and motive of a person or  
4 group of people are not appropriate during this  
5 hearing. If statements or comments begin to drift  
6 into this area, I may interrupt the person speaking.

7                                 As hearing officer, I intend  
8 to treat everyone here tonight in a fair,  
9 professional manner and with respect. I ask that  
10 the same respect be shown to those raising relevant  
11 issues.

12                                 If the conduct of persons  
13 attending this hearing should become unruly, I am  
14 authorized to adjourn this hearing should the  
15 actions warrant. In such a case, the Illinois EPA  
16 would accept written comments through the close of  
17 the comment period on January 5, 2012.

18                                 Since we have a limited time  
19 in which to conduct this hearing, Illinois EPA staff  
20 members will be responding to issues primarily for  
21 clarification purposes. We are here tonight to  
22 listen to environmental issues related to the NPDES  
23 permit. You may disagree with or object to some of  
24 the statements and comments made here tonight but





1 the auxiliary room are given the same weight as  
2 comments made orally during this hearing.

3                               To assist those who wish to  
4 make written comments, we have comment forms  
5 available in the registration area. Again, I note  
6 that there are two different forms, one for comments  
7 on the NPDES permit for this facility and another  
8 form for the 401 certification for this facility.  
9 Please make sure that you comment on the form  
10 appropriate for the proper proceeding. Illinois EPA  
11 desires to keep these two proceedings as separate as  
12 possible and will be compiling two separate and  
13 different administrative records for each of the two  
14 proceedings.

15                               I point out that it is not  
16 necessary that the written comments are submitted on  
17 the form as Illinois EPA will accept all written  
18 comments as long as the proceeding in which to file  
19 the comments is specified and the comments are  
20 submitted before the close of the record.

21                               As I indicated at the start of  
22 this hearing, this hearing would be run a little  
23 differently than past Illinois EPA hearings. We  
24 have an auxiliary room with a court reporter as well



1 as a court reporter here in the main hearing room.  
2 The auxiliary room is located in the back, and as  
3 you face the back, it's on your left-hand side, and  
4 it's the door on the left right before the main exit  
5 door.

6                                 We will ask for volunteers to  
7 make statements in the auxiliary room for the court  
8 reporter to record. Those making statements in  
9 either the auxiliary room or in the main hearing  
10 room will only be allowed to make oral comments in  
11 one of these two rooms. In other words, you do not  
12 get a second opportunity to make comments. The same  
13 time limits will apply and the same weight will be  
14 given to comments made in either room.

15                                 The transcripts for both the  
16 auxiliary and the main hearing will be posted on the  
17 Illinois EPA website. When making a comment in the  
18 auxiliary room, you'll be accompanied by an Illinois  
19 EPA staff member as well as the court reporter. The  
20 door will then be shut to reduce background noise so  
21 that an accurate statement of your statement can be  
22 recorded. Once your statement is completed, the  
23 Illinois EPA will escort you out of the auxiliary  
24 room and you will have the option of observing the

1 rest of the hearing or you may depart from the  
2 building. The next person desiring to make a  
3 statement in the auxiliary room would then be  
4 escorted into the room.

5                                 For the benefit of the court  
6 reporter, regardless of which room you are in,  
7 please keep the general background noise in the room  
8 to a minimum so that she can hear everything that is  
9 said.

10                                Illinois EPA will post the  
11 transcripts for this hearing both for the main  
12 hearing and the auxiliary room on our web page in  
13 the same general place where the hearing notice,  
14 fact sheet and draft permit have been posted. It is  
15 my desire to have these posted in about two and a  
16 half weeks following the close of the hearing, but  
17 the actual posting date will depend upon when I get  
18 the transcript from the court reporter.

19                                The procedure for giving  
20 comments is to state your name and, if applicable,  
21 any governmental body, organization or association  
22 that you represent. If you are not representing a  
23 governmental body, an organization or an  
24 association, you may simply indicate that you are a

1 concerned citizen or a member of the public.

2                               For the benefit of the court  
3 reporter, I ask that you spell your last name. If  
4 there are alternate spellings for your first name,  
5 you may also spell your first name.

6                               Once you spell your name, I  
7 will start timing, and you will have two minutes to  
8 complete your comments.

9                               I ask that while you are  
10 speaking that you direct your attention to the  
11 hearing panel and to the court reporter to ensure  
12 that an accurate record of your comments is made.  
13 Prolonged dialogue with members of the hearing panel  
14 or with others here in attendance will not be  
15 permitted. Comments directed to the audience are  
16 also not permitted.

17                              Again, I remind everyone that  
18 the focus of this hearing is the environmental  
19 issues associated with the NPDES permit.

20                              Are there any questions on the  
21 procedures that I will use this evening? Let the  
22 record indicate that no one raised their hand.

23                              Kurt or Ron, are we ready in  
24 the auxiliary room if there are people that want to

1 make statements in the auxiliary room?

2 MR. NEIBERGALL: Yeah, I think we  
3 are, Dean, although we've got quite limited capacity  
4 back here.

5 I would just suggest that  
6 anybody that's in the back here now, there is room  
7 along this wall and there in the front up here.

8 HEARING OFFICER STUDER: What  
9 you're saying, is it going to be recorded by the  
10 court reporter because we can't hear it up here?

11 MR. NEIBERGALL: From a logistical  
12 standpoint, we've got people in front of our room  
13 here. I'm just suggesting that anybody standing,  
14 make your way to the front over here, and then we  
15 will start a list in the back for the auxiliary  
16 room.

17 HEARING OFFICER STUDER: Okay. We  
18 need to move forward. There are chairs in the front  
19 up here. If we continue to block the doors or cause  
20 obstructions to that area, we are going to have some  
21 issues. So I'm going to ask that we start filling  
22 up these chairs up here so that we can keep the area  
23 around the exit doors and around the auxiliary  
24 hearing room available.

1                   AUDIENCE: There's 13 at least on  
2 this side.

3                   HEARING OFFICER STUDER: And  
4 there's 15 on this side, so there's approximately 30  
5 chairs in the front of the room.

6                   (Pause)

7                   HEARING OFFICER STUDER: As we're  
8 directing traffic in here, I'll announce who that  
9 first speaker will be, and if that person would make  
10 their way to the podium, I'd appreciate it.

11                   The first one is James Malone.

12                   MR. MALONE: Unfortunately I came  
13 here first so I'd like to defer. However...

14                   HEARING OFFICER STUDER: Okay. I  
15 may not get back to you this evening. I'm saying  
16 that now because we've got more people here than  
17 probably what we'll have time for.

18                   MR. MALONE: All right. I will say  
19 something then.

20                   HEARING OFFICER STUDER: Okay.  
21 You'll need to come forward to the podium though so  
22 that she can make a proper transcription of what you  
23 say.

24                   MR. MALONE: James Malone

1 (M-a-l-o-n-e). This will be the last time I come  
2 first to a meeting.

3 HEARING OFFICER STUDER: The mike  
4 that works is the actual one on the stand. You can  
5 pick it up and put it in your hand if you'd like if  
6 that would be easier for you.

7 MR. MALONE: I understand the  
8 ground rules, and they're specific to the hearing on  
9 the water discharge. I have not had the opportunity  
10 to read this entire document. I just got it  
11 tonight. However, I do have a question relevant to  
12 the water discharge in terms of any kind of problems  
13 that occur that are unanticipated for the adjacent  
14 property owners at Canton Lake itself.

15 If that's an inappropriate  
16 question, it's not intentionally appropriate.

17 The reason I say that is my  
18 background for many years, not that it's important,  
19 but I conducted hearings for conditional use permits  
20 for the Fulton County Zoning Board of Appeals, and  
21 we dealt with in the '80s many of the mines in this  
22 county, and sometimes problems arose, some were  
23 unanticipated, with respect to water in other areas  
24 as well.



1 Meade, that's M-e-a-d-e, mayor of the City of  
2 Canton.

3 First of all, I want to  
4 welcome you and thank you from for coming tonight.  
5 I think as you can see in this room, it's packed as  
6 I think I've ever seen a room here showing the  
7 interest in this issue for our community, and I  
8 think it all revolves around the lake.

9 We have a city council meeting  
10 this evening at 6:30 so I can't stay here for the  
11 second part of this, but I just want to make one  
12 clarification.

13 I think in the permit process,  
14 it talked about the lake being a secondary water  
15 source. The lake is our primary water source today,  
16 and we anticipate it being our primary water source  
17 moving forward. We did build a line to the river  
18 which we are going to draw water from, but it's our  
19 intention at least at this point to continue to use  
20 that lake as our primary water source for the  
21 foreseeable future. We have not made any decisions  
22 any other way.

23 So I want to be sure that you  
24 understand that this is not going to be a backup,





1 I'm not denying it, but I have a permit that was  
2 prepared and said how they were going to do things.  
3 Well, I get the same thing in 2006 from the same  
4 company and it's full of holes. They ended up  
5 denying the permit.

6 So I'm asking, please, for our  
7 own area, do not pollute that creek. We have an  
8 NPDES permit ourselves for Banner, and we do not  
9 want the water disturbed in any way because if it  
10 is, it could ruin our operation of our plant. So I  
11 want you to think about that, please.

12 Thank you very much.

13 HEARING OFFICER STUDER: Thank you.

14 William Dodds, and he'll be  
15 followed by Clifford it looks like Sagaser.

16 MR. DODDS: Bill Dodds (D-o-d-d-s),  
17 Fulton County Citizens for Growth. I'm going to  
18 read my comments into the record.

19 HEARING OFFICER STUDER: That's  
20 fine.

21 MR. DODDS: We want to thank the  
22 Illinois EPA for conducting this public hearing and  
23 allowing the citizens of our community to comment on  
24 the North Canton Mine project. I'm providing



1 the North Canton Mine in Fulton County. It will  
2 create 45 to 50 head of household jobs with an  
3 average annual salary of \$50,000. With an  
4 unemployment rate of around ten percent, these jobs  
5 are badly needed in our county. Many local business  
6 leaders have endorsed the mine. I know you are  
7 aware of the spinoff economic impact a mine creates.

8 I'm submitting for the record  
9 tonight petitions of support for this project, many  
10 of which Gale DeRenzy personally circulated. There  
11 are nearly 2,500 signatures from local residents who  
12 want this mine to open. Also, two recent articles  
13 from the Canton Daily Ledger indicate the Canton  
14 Lake will not be the only source of water for 20,000  
15 people in Canton and surrounding communities in the  
16 future and that Canton Lake contains substances that  
17 would not qualify it for a source of public water  
18 under today's stricter regulations according to Greg  
19 Pollitt, superintendent of water. Canton has spent  
20 millions of dollars in creating this new water  
21 source, and it should be completed before the mine  
22 starts, so Canton Lake is not the only source of  
23 water in our community.

24 We trust the Illinois

1 Department of Natural Resources, the Corps of  
2 Engineers, and the Illinois Environmental Protection  
3 Agency have thoroughly reviewed this mine and will  
4 continue to monitor it.

5 We hope the Illinois EPA will  
6 stand by their findings of their experts and do  
7 everything possible to finalize this permit in a  
8 timely manner and will be the voice and support for  
9 a project that brings blue collar jobs back to our  
10 community.

11 We were dismayed to hear a  
12 petition on the website appealing to the governor to  
13 stop the Illinois Environmental Protection Agency  
14 from issuing these two permits. We submitted a copy  
15 of the Fulton County Citizens for Growth petition to  
16 the governor so that he understands the overwhelming  
17 local support for this project.

18 Again, thank you for your time  
19 and allowing us to submit our comments. I submit  
20 these documents to the record.

21 HEARING OFFICER STUDER: Thank you.  
22 If you have that document, I'll go ahead and enter  
23 it into the record.

24 Clifford Sagaser, and that

1 will be followed by Susan Payne.

2 MR. SAGASER: I normally don't like  
3 to read something that I've written. I'd rather  
4 talk freehand, but to make sure I get this done in  
5 two minutes, I'm going to try to do that.

6 My name is Cliff Sagaser  
7 (S-a-g-a-s-e-r). I'm from Canton. I used to be the  
8 city engineer, director of public works here back in  
9 the '80s and early '90s.

10 My purpose in being here is  
11 because I'm a tight wad. I don't like to waste  
12 money, and I don't like to spend money that isn't  
13 necessary. Right now that's my big concern.

14 I'm opposed to the coal mine  
15 being located in Canton Lake watershed. Canton's  
16 water supply is probably the most important asset  
17 the area has above everything else. We cannot  
18 afford to jeopardize our water supply by allowing  
19 any increase in silt, I mean none entering our lake,  
20 nor chemicals entering the lake, thus adding to the  
21 cost of treatment. Neither can we afford to have  
22 any significant amount of rainfall water diverted  
23 from our watershed to the Middle Branch drainage  
24 area. We need every acre of rainfall to go into our

1 lake during heavy rains or light rains when that  
2 engineering report indicates that there is a  
3 possibility of failures in the operation of the  
4 system -- I had to read it three times before I  
5 actually caught that -- and a diversion of much  
6 water going to the Middle Branch rather than West  
7 Branch.

8 I believe that if this permit  
9 is granted, stipulations should be made by the  
10 authorities demanding a bond or insurance policy  
11 protecting the City of Canton to hold the coal  
12 company responsible for any damage done to our lake,  
13 not only during the ten years it's going to be  
14 operating but possibly ten years afterwards.

15 I'm going to add to my  
16 conversation if I've got another half a minute.

17 I don't believe there's very  
18 many people in this room that's not in favor of coal  
19 company starting and making money. I don't believe  
20 there's anybody in this room that's not in favor of  
21 more labor, more jobs, but at what price are you  
22 willing to trade the small amount of money this is  
23 going to bring into our community (and it's not near  
24 as much as the report indicates) to what the cost is

1 going to be to our children and grandchildren for  
2 treating water that has been injured or jeopardized  
3 by this coal mine being in our watershed.

4 That's about all I have to  
5 say. Thank you.

6 HEARING OFFICER STUDER: Thank you.

7 Susan Payne followed by Mary  
8 Medus.

9 MS. MEDUS: I pass.

10 HEARING OFFICER STUDER: Okay.

11 That will be followed by Kevin Williams after  
12 Ms. Payne.

13 Just for the record, Ms. Payne  
14 showed us where she lived on the map.

15 MS. PAYNE: I'm going to try to  
16 read this as fast as I can. Susan Payne  
17 (P-a-y-n-e), and unfortunately, I'm a homeowner in  
18 the worse possible spot there could be.

19 We are concerned about the  
20 mine's impact on Copperas Creek and the loss of  
21 tributary streams because of the location of the  
22 mine. We live in the bulls-eye. The mine will  
23 encroach upon three sites of our property. Our well  
24 is only a 25-foot hand dug well which is less than



1 300 feet from the mine's permit area. We're worried  
2 about contaminants from the holding ponds draining  
3 into the middle Copperas Creek which flows out our  
4 property; also, the water flow and level to the  
5 natural springs that feed our well due to seasonal  
6 changes with the added impact of the mine. This  
7 shadow well has not failed us yet.

8                   The mine's sediment ponds are  
9 a whole other issue. Heavy rains will cause  
10 uncontrolled overflows. When we get heavy rains  
11 now, the mine's property floods our pasture with mud  
12 and water. The lack of rain and the mine  
13 withholding water from our creeks and the  
14 destruction of the tributaries from the mine will  
15 affect all downstream users. We are on top of the  
16 contamination chain. You can't get any closer to a  
17 substantial risk than we are.

18                   In 2006, we asked Mr. Arnett,  
19 the engineer for the project, what would happen if  
20 our well was impacted in any way. He told us all we  
21 would have to do is walk across the road and let the  
22 mine employees know, and they would immediately have  
23 to haul us water. Sounds easy, right? Let me  
24 explain how easy it would be for us.

1                                 First, we would have to  
2 purchase two 200-gallon water tanks, put one down in  
3 our basement and the other in our truck because even  
4 though the mine says they would have to haul us  
5 water, we couldn't trust that they would keep their  
6 word and the water tank would be clean.

7                                 The reason we could only use a  
8 200-gallon tank is because anything bigger wouldn't  
9 fit through our cellar door.

10                                Secondly, we would have to  
11 disconnect the pipe that normally pumps the water  
12 from our well and attach another pipe to it so it  
13 would reach down into the water tank we have placed  
14 in our basement.

15                                Thirdly, we'd load the tank  
16 into the back of our truck, drive to Canton, fill  
17 the water tank up and return home.

18                                Then we'd have to transfer the  
19 water from the tank that's in the back of the truck  
20 by hose to the water tank in the basement. The  
21 whole time we would be heating and cooling the great  
22 outdoors because in order to transfer the water from  
23 tank to tank, the cellar doors would have to be  
24 open, not to mention the fun we would have keeping

1 the ice and snow off the cellar doors during the  
2 winter.

3 Do you realize how many times  
4 a week we would have to do this? We have to supply  
5 our horses, dogs and cats with water daily. We also  
6 like to take showers daily and flush our toilet.  
7 You can't live in the armpit of a mine and not be  
8 impacted in some way at some time.

9 Thank you.

10 HEARING OFFICER STUDER: Thank you.

11 MS. PAYNE: I just did want to say  
12 one more thing to Mr. Arnett.

13 Thank you for moving that  
14 plant from in front of our house. We really  
15 appreciate that.

16 HEARING OFFICER STUDER: Kevin  
17 Williams, if you'd come forward to the podium, and  
18 Nells Henry will be after Mr. Williams.

19 MR. WILLIAMS: Thank you for having  
20 me. My name is Kevin Williams (W-i-l-l-i-a-m-s).  
21 I'd like to read through my credentials real quick.

22 I'm a business owner and a  
23 landowner, and I will also submit this for the  
24 record. I've been a business owner and a landowner

1 for over 20 years in the Copperas Creek watershed.  
2 I'm the first landowner below the three branches of  
3 the Copperas Creek. I currently have over  
4 \$5 million of real estate within Copperas Creek, and  
5 related to this presentation, I feel for you. I  
6 wish I didn't have to hear what you had to say so  
7 that would be a concern of mine also.

8 I currently employ over 70  
9 people within the watershed. I'm a standing member  
10 and a founding member of the Copperas Creek  
11 Watershed Committee. It's over ten years old. And  
12 I'm also a founding member and a chairman of the  
13 Illinois River Bluffs Ecosystem Partnership which is  
14 a two million acre watershed encompassing from  
15 LaSalle-Peru down to the Emiquon area. Copperas  
16 Creek also is within that watershed.

17 I'm considered the most  
18 knowledgeable and experienced person in regards to  
19 the natural resources within this 85,000 acre  
20 watershed, not just because of my background but I  
21 also live on the farm. I own around both sides of  
22 the Copperas Creek; the full size when all three  
23 branches come together.

24 I've studied this watershed



1 mine to improve the Copperas Creek watershed area.

2                               The reason that I am very much  
3 supportive of this is from my knowledge and  
4 background and basis of seeing the coal mine and its  
5 ability to retain water and hold it in retention and  
6 release it slowly. The largest downstream effect  
7 Copperas Creek has, negative effect, is stream bank  
8 erosion. The stream bank erosion comes from large  
9 rainfalls that are released quickly and come down  
10 Copperas Creek, and that's where the sedimentation  
11 comes from.

12                               I do see a very positive  
13 effort here in the coal mine to control large  
14 amounts of rainfall, and I very much support the  
15 coal mine.

16                               Thank you.

17                               HEARING OFFICER STUDER: Thank you.

18                               Nells Henry?

19                               MR. HENRY: My name is Nells Henry,  
20 and I would pass.

21                               HEARING OFFICER STUDER: Robert  
22 Marlette, and that will be followed by Terry Beam.

23                               MR. MARLETTE: Robert Marlette  
24 (M-a-r-l-e-t-t-e). I grew up in Canton. I grew up

1 on the Village Square. I used to run --

2 HEARING OFFICER STUDER: Can you  
3 pick up the mike, please, so they can hear you in  
4 the back?

5 MR. MARLETTE: I grew up in Canton.  
6 I was born out there luckily enough to be out in  
7 Village Square. I was an only child. I ran around  
8 that area my entire life. I know the back side of  
9 the lake like the back of my hand.

10 I come back from war. I don't  
11 have a job. I need that job. I love my lake. This  
12 year because I didn't have a job, I sat out back,  
13 back side of the lake, caught a lot of catfish, big  
14 ones, nice 8-pounders. The sedimentation is all  
15 over back there. What needs to happen is a dredge.  
16 The lake needs to be deeper. We're concerned about  
17 the sediments getting into the lake. The sediments  
18 are in the lake. I watched the Copperas Creek flow  
19 backwards this year.

20 That's all I've got to say.

21 HEARING OFFICER STUDER: Thank you.

22 Mr. Beam?

23 MR. BEAM: Pass.

24 HEARING OFFICER STUDER: Robert

1 Lascelles?

2 Jason Ballard will be following  
3 him.

4 Again, please pick up the  
5 mike.

6 MR. LASCELLES: Robert Lascelles.  
7 It's spelled L-a-s-c-e-l-l-e-s. I am on the board  
8 of directors for Spoon River Electric Cooperative  
9 here in Canton.

10 I want to thank the IEPA for  
11 conducting this public hearing and allowing citizens  
12 and businesses in the community to comment on the  
13 North Canton Mine project.

14 The proposed North Canton Mine  
15 is located within the Spoon River Electric Service  
16 Territory. Spoon River Electric supports the  
17 issuance of all permits for the mine. The  
18 additional electrical load of the mine will help our  
19 electric cooperative to maintain reasonable rates by  
20 allowing us to spread the fixed costs of serving our  
21 members over a larger load. Due to the additional  
22 regulations, power costs are increasing and our  
23 members are having a hard time paying their current  
24 bills. The additional jobs that the mine will



1 create are badly needed in our county as well as in  
2 the electric cooperative service territory.

3                                 This surface mine project has  
4 been in the works for nine years now. There is  
5 tremendous support for the North Canton Mine in  
6 Fulton County by the silent majority. We all  
7 recognize that the vocal environmental groups have  
8 tried to make Canton Lake an issue in this project.  
9 Permits have been granted by the Illinois Department  
10 of Natural Resources, the U.S. Army Corps of  
11 Engineers and the Mine Safety and Health  
12 Administration.

13                                 Recently, the Illinois  
14 Environmental Protection Agency issued draft permits  
15 for water quality and discharge. These permits were  
16 issued after careful study by expert engineers and  
17 other experts in their fields. We can rest assured  
18 that these agencies have developed a plan that  
19 protects our safety, Canton Lake, and the  
20 environment while allowing our community and the  
21 cooperative to enjoy the benefits.

22                                 I am submitting my comments  
23 tonight for the record on behalf of Spoon River  
24 Electric Cooperative in support of the project. We

1 trust that the Illinois Department of Natural  
2 Resources, the U.S. Army Corps of Engineers, and the  
3 Illinois Environmental Protection Agency have  
4 thoroughly reviewed the plans for this mine and have  
5 made the right decision.

6 I hope that the IEPA will  
7 stand by the findings of their experts and do  
8 everything possible to finalize this permit in a  
9 timely manner.

10 Again, thank you for your time  
11 and allowing us to submit our comments.

12 I submit a copy of my comments  
13 for the record.

14 HEARING OFFICER STUDER: Thank you.

15 Jason Ballard?

16 MR. BALLARD: Pass.

17 HEARING OFFICER STUDER: Traci  
18 Barkley will be next, and she'll be followed by  
19 Patricia Rykhus.

20 MS. BARKLEY: Good evening. My  
21 name is Traci Barkley; T-r-a-c-i. Barkley is  
22 B-a-r-k-l-e-y. I'm a water resources scientist for  
23 the Prairie Rivers Network. We're a state affiliate  
24 of the National Wildlife Federation, a nonprofit

1 organization that strives to protect the rivers,  
2 streams and lakes of Illinois and to promote the  
3 lasting health and beauty of watershed communities.  
4 We work to focus on how policies such as the Clean  
5 Water Act and Safe Drinking Water Act are used in  
6 Illinois, laws that are intended to protect our  
7 waters, our environment and ultimately our health.

8 Thank you for holding this  
9 public hearing and allowing an opportunity for those  
10 concerned about this asinine proposal to speak their  
11 mind, bring more information to light and ask  
12 questions of those ultimately responsible for the  
13 protection of the most basic public right -- clean  
14 water.

15 Prairie Rivers Network objects  
16 to the permit proposed by the Illinois EPA in that  
17 it does not protect this public's water supply even  
18 though part of the mission of the Illinois EPA is to  
19 ensure that every Illinois public water system will  
20 provide water that is consistently safe to drink.

21 Specifically we object to this  
22 permit because:

23 The permit allows mixing in  
24 the receiving waters to meet water quality

1 standards.

2                               The permit assumes no release  
3 or discharge of mercury from coal mining operations  
4 though this, which, of course, is unavoidable.

5                               The permit does not  
6 acknowledge additional pollutant loading to the West  
7 Branch of Copperas Creek, instead trusting in an  
8 alternative drainage plan that will require extreme  
9 feats against physics and weather to accomplish.

10                              And, for the record, I'd like  
11 to see that fully explained with a map and detailed  
12 instructions on how the alternative control plan  
13 will actually be put into practice because it seems  
14 impossible.

15                              This permit allows discharges  
16 of pollutants at levels greater than currently exist  
17 in the receiving waters.

18                              The permit allows for  
19 discharges of pollutants at levels greater than the  
20 public water supply standards that are set to  
21 protect drinking water.

22                              The permit allows for  
23 discharges of pollutants into a water body that's  
24 already considered impaired from many of these

1 pollutants.

2                                   The permit allows for  
3 stripping of lands, damming of streams, regrading of  
4 land and discharge of pollutants in a watershed that  
5 is protected under the Source Water Protection  
6 Program, the program that many citizens in this  
7 community worked really, really hard to implement to  
8 protection the drinking water source. This is in  
9 direct conflict with the Safe Drinking Water Act.

10                                  The permit allows for the  
11 redirection of water that would otherwise drain into  
12 and provide a steady water supply to Canton Lake  
13 creating a potential to exacerbate existing water  
14 quality and supply problems.

15                                  The permit allows for the  
16 discharge of drainage runoff from hundreds of acres  
17 to the Middle Branch of Copperas Creek with  
18 potential to worsen flood conditions, erode stream  
19 banks, and destroy habitat.

20                                  This permit would allow the  
21 discharge of pollutants into Canton Lake that must  
22 be removed before the water can be distributed to  
23 the customers and consumers. This places an undue  
24 burden on the Canton water plant and the taxpayers

1 of the City of Canton.

2                                 This permit does not take into  
3 consideration the connection between groundwater and  
4 surface water underestimating potential for  
5 groundwater contamination and destruction of seeps  
6 and springs.

7                                 This permit does not fully  
8 explore or address alternatives that could be  
9 employed to reduce pollutant loading or minimize  
10 environmental degradation including using offline  
11 sedimentation basins, biological treatment in  
12 wetlands, and sulfate removal techniques.

13                                 And this permit does not  
14 satisfactorily address coal waste, coal preparation,  
15 and the potential for coal ash disposal on site.

16                                 In closing, we urge the  
17 Illinois Environmental Protection Agency to deny  
18 this permit and fulfill their mission in protecting  
19 clean water for the residents of the Canton  
20 community.

21                                 Thank you.

22                                 MR. MOSHER: Traci, could you help  
23 us out? You mentioned springs. Do you have  
24 firsthand knowledge? In other words, have you

1 visited springs within the mine permit area?

2 MS. BARKLEY: I believe that there  
3 are residents that will be talking about springs,  
4 but I'd like to submit for the record a map that was  
5 part of the application package that mentions  
6 springs that feed Copperas Creek located on lands to  
7 be mined, and from what I can tell, there are six.

8 MR. MOSHER: Okay. But you don't  
9 have firsthand knowledge?

10 MS. BARKLEY: Actually, last winter  
11 I went through many of the ravines that are in the  
12 land with the permission of Mr. Arnett and saw water  
13 seeping out of the ground through the coal seams and  
14 saw exposed springs, so, yes, I do have firsthand  
15 knowledge.

16 MR. MOSHER: Do you have knowledge  
17 whether those are perennial springs; in other words,  
18 they never stop flowing?

19 MS. BARKLEY: No, I don't, but I  
20 hope Mr. Dunaway in the groundwater section does.

21 Thank you.

22 HEARING OFFICER STUDER: I'll enter  
23 that, Traci, as a petitioner's exhibit. Thank you.

24 Patricia Rykhus, please.

1 MS. RYKHUS: I'll pass.

2 HEARING OFFICER STUDER: Tom  
3 Snowman, and he'll be followed by Katie Mimnaugh.

4 Tom Snowman.

5 MR. SNOWMAN: My name is Tom  
6 Snowman (S-n-o-w-m-a-n). Thank you for the  
7 opportunity to speak to you tonight.

8 I'll just say right now I'm  
9 against the location of the mine. Our farm  
10 property, family farm, borders this mine on the east  
11 side. We'll be the first area the water will run  
12 into.

13 I would like to read part of  
14 this.

15 I'm concerned about the added  
16 water through our farm and erosion and water  
17 quality. I'm including some pictures of erosion and  
18 the failed attempt by the soil conservation district  
19 to solve this problem.

20 At one time, they did side the  
21 banks and put willow branches in and did everything  
22 they could to control that, and it failed. In other  
23 words, I'm still losing at times, like last year,  
24 probably as much as ten feet of bank in some places,



1 and if the mine does succeed in getting the permit,  
2 are they going to do anything to help control this  
3 because there certainly is going to be some more  
4 water going through there than what there is now.

5 I'm also including a map that  
6 shows a location of a spring which you just talked  
7 about. It is I would say less than a hundred feet  
8 off of the mine property and about a hundred feet  
9 off of our property. It's not on my farm or the  
10 mine but the next farm just south of the mine, and  
11 it runs all year all the time.

12 When we had the drought a few  
13 years ago, in fact, farmers came into my property,  
14 went in there and pumped water out of this area  
15 where it ran into Middle Branch of Copperas Creek,  
16 so it was the only thing really supplying that with  
17 a big supply of water.

18 We also use this middle branch  
19 of the creek as backup water for our livestock and  
20 my children, grandchildren play in it. I just want  
21 to make the point that I'm really concerned about  
22 this because it affects us. It's our property, and  
23 I like the peace and quiet there, even though I'm  
24 not supposed to say anything about the noise.

1 Thank you.

2 HEARING OFFICER STUDER: Thank you.

3 Katie Mimnaugh?

4 That will be followed by

5 Carolyn Markley.

6 MS. MIMNAUGH: My name is Katie  
7 Mimnaugh (M-i-m-n-a-u-g-h). I am a member of  
8 Students for Environmental Concerns at the  
9 University of Illinois in Urbana-Champaign and an  
10 intern for the Sierra Club, and a member of the VIVC  
11 Beyond Coal Campaign.

12 First of all, I'd like to  
13 thank the IEPA for having this hearing, and I'd like  
14 to thank the citizens of Canton for coming out and  
15 making their voice heard.

16 Let me begin by addressing the  
17 issue of jobs. Jeff Biggers, a writer for the  
18 Huffington Post wrote, quote, "Despite inflated and  
19 unverified claims of employment, an estimated 28 to  
20 45 market-driven jobs would most likely go to  
21 out-of-town heavy equipment operators while green  
22 job investments are revamping small towns in rural  
23 communities such as Pike County where a \$300 million  
24 industrial wind farm will generate 600 jobs." It's

1 pretty hard to argue with those facts.

2                                   Are mine towns on the east  
3 coast booming? Which brings me to the permit for  
4 the discharge of wastewater. What will be in that  
5 wastewater, because coal contains harmful chemicals  
6 and heavy metals like arsenic, mercury, lead,  
7 cadmium, selenium, and hexavalent chromium. Any or  
8 all of these chemicals can be in that wastewater if  
9 it is used around coal or where coal is mined  
10 because mining causes particles to be stirred up.  
11 Even in very small amounts they are dangerous for  
12 you, and they will build up in Canton Lake over time  
13 from continuous dumping.

14                                   Let me stress again how  
15 disadvantageous this is. If you drink water  
16 contaminated with arsenic, your risk for cancer  
17 jumps to 1 in 50 which is 2,000 times the level  
18 considered acceptable by the EPA. Mercury  
19 contaminates the fish which are eaten by people.  
20 Mercury pollution causes brain damage, mental  
21 retardation, other developmental problems in unborn  
22 children and infants and has been linked to a  
23 greater risk for coronary artery disease in men. In  
24 fact, the greatest threats to humans from mining and



1 the devastating affects of strip mining."

2 So I implore that the panel  
3 reject the permit for Capital Resources Development  
4 Company. Illinois does not need another strip mine,  
5 and 20,000 people have the right to clean water.

6 As a lifelong resident of  
7 Illinois, I want my state to preserve its beautiful  
8 wetlands and use clean renewable energy to bring  
9 jobs and prosperity to Illinois.

10 Thank you.

11 HEARING OFFICER STUDER: Thank you,  
12 Ms. Mimnaugh.

13 Carolyn Markley?

14 MS. MARKLEY: I just want to submit  
15 a paper.

16 HEARING OFFICER STUDER: I'm sorry?

17 MS. MARKLEY: I don't want to talk.  
18 I just want to submit a paper.

19 HEARING OFFICER STUDER: That's  
20 fine.

21 Shawn Snowman?

22 Mr. Snowman will be followed  
23 by Melinda Hacker.

24 MR. SNOWMAN: My name is Shawn

1 Snowman; S-h-a-w-n S-n-o-w-m-a-n. Our family farm  
2 borders the proposed mine site. I live within two  
3 miles of where the proposed mine will also be so I'm  
4 from the area.

5 I'm concerned about the volume  
6 of water that will be discharged to an already very  
7 erodible and high volume stream of the Middle Branch  
8 of Copperas Creek. We have worked with the Fulton  
9 County Soil Conservation to try to control bank  
10 erosion and have not had as much luck as I had  
11 hoped, so I feel that even more water being diverted  
12 to the Middle Branch of Copperas Creek under this  
13 plan will cause more erosion of my property and also  
14 lead to more sediment downstream to the Illinois  
15 River and beyond.

16 I have three pictures I want  
17 to show here tonight. One shows low water and how  
18 the stream normally is for part of the year, and I  
19 have two pictures showing how the water has come up  
20 and just came back into the banks so there's a lot  
21 of water there.

22 I have worked for many years  
23 on this property to make it better than when I got  
24 it, and I feel that allowing this permit will lower

1 my property value and my enjoyment of my property.

2 Thank you.

3 HEARING OFFICER STUDER: Thank you,  
4 Mr. Snowman.

5 We'll enter the pictures in  
6 the record as an exhibit.

7 Melinda Hacker?

8 MS. HACKER: I pass.

9 HEARING OFFICER STUDER: Pass.  
10 Okay.

11 Betty Ann Manock, and that  
12 will be followed by Brenda Dilts.

13 MS. MANOCK: My name is Betty Ann  
14 Manock (M-a-n-o-c-k). My husband and I are owners  
15 of lakefront property on Canton Lake, and we built  
16 our home there 51 years ago. Our family swims and  
17 plays in the lake, and we do not want the water  
18 contaminated so we no longer feel comfortable  
19 swimming there. We fish and we do not want the  
20 water contaminated so that we cannot eat the fish  
21 that we catch.

22 We have geese and ducks that  
23 come into our cove year round. They lay and hatch  
24 their eggs in our yard and bring their young to our

1 feeding stations that we provide for them. We do  
2 not want the water contaminated so that this joyful  
3 experience discontinues.

4                                 We have feeding stations for  
5 squirrels and all kinds of birds. We do not want  
6 them poisoned as we enjoy watching them in our  
7 senior years. Taking the chance of polluting Canton  
8 Lake is unacceptable to us. We have flocks of  
9 pelicans and cormorants that come to our cove while  
10 on their way back and forth from north to south or  
11 south to north. We enjoy these migrations for the  
12 few days that they are here. We enjoy watching the  
13 pools of fish that come into the cove in the spring  
14 jumping and frolicking so much that the water seems  
15 to churn. This area that they want to mine is one  
16 of the largest natural habitats for wildlife in  
17 Fulton County.

18                                 I'm aware that farmers are  
19 fined by the State of Illinois for polluting and yet  
20 you are contemplating giving a permit to a coal mine  
21 to do that very thing. Why is coal mine pollution  
22 so much more acceptable than a farmer's pollution?  
23 We, of course, do not want either to pollute our  
24 water source. We, my husband and my family and I,



1 want to demand that you do not approve this reckless  
2 coal mine to have a water pollution permit. They  
3 are a known criminal polluter and have polluted the  
4 water in another area in Illinois for at least eight  
5 years and it continues.

6 I'll skip the next part  
7 because you told another lady she couldn't say it,  
8 which is silly.

9 We are especially concerned  
10 because this body of water, Canton Lake, is the sole  
11 water source for over 20,000 people in and around  
12 Canton. There are also many rural families who  
13 depend on wells for their water supply for their  
14 homes and livestock. Digging through miles of the  
15 subsidiaries that feed these wells will cause many  
16 to have problems either through pollution or no  
17 water.

18 This coal company has proven  
19 itself to not be a good steward of the water. They  
20 blatantly polluted for at least eight years and were  
21 either unable or unwilling to stop the polluting.  
22 This is unacceptable behavior, and the permitting  
23 agencies are not doing their jobs when they allow  
24 this sort of thing to happen and continue. Why



1 I have a list of questions  
2 that I won't expect answers tonight but I will  
3 expect answers.

4 If a coal mine pollutes --  
5 HEARING OFFICER STUDER: We have  
6 gone the time limit. If you can do them very  
7 quickly, I will allow them.

8 MS. MANOCK: If a coal mine  
9 pollutes water, what happens to that company, the  
10 owners/investors and the employees?

11 How many water pollution  
12 violations does the EPA allow a coal company to have  
13 before they shut them down.

14 If a coal company exceeds the  
15 EPA limits, what happens?

16 Are the owners/investors ever  
17 fined or jailed?

18 What about the person in  
19 charge of the mine operations? What is their  
20 responsibilities concerning water pollution? Are  
21 they ever fined or jailed?

22 Do you do onsite inspections?  
23 If not, why not?

24 If violations are found at a

1 mine site, how do you go about handling them? Is  
2 the mining operations stopped? If not, why not?

3 If the polluting continues for  
4 a period of time, what does the EPA do?

5 Thank you.

6 HEARING OFFICER STUDER: Thank you.  
7 We'll provide written responses to those in the  
8 responsiveness summary.

9 MS. MANOCK: Thank you.

10 HEARING OFFICER STUDER: I will say  
11 this. In Illinois, EPA does not have the authority  
12 to fine anyone. That does have to go through a  
13 prosecutorial authority, and that's the same thing  
14 when shutting down because that's not an authority  
15 that the legislature has given the Illinois EPA.

16 We'll provide, like I said, a  
17 full response to these questions in our  
18 responsiveness summary.

19 Ted Strode?

20 MR. STRODE: I don't think I need  
21 to say anything.

22 HEARING OFFICER STUDER: Okay.  
23 Thank you.

24 Brenda Dilts?

1 MS. DILTS: Good evening. My name  
2 is Brenda Dilts (D-i-l-t-s).

3 I am Brenda Dilts, a resident  
4 of Canton, Illinois and chairperson of Canton Area  
5 Citizens for Environmental Issues.

6 AUDIENCE: Microphone.

7 MS. DILTS: Sorry.

8 I am Brenda Dilts, a resident  
9 of Canton Illinois and chairperson of Canton Area  
10 Citizens for Environmental Issues, Canton Lake and  
11 its watershed.

12 Thank you to Mr. Studer and  
13 the rest of the Illinois EPA crew for coming to  
14 Canton. We appreciate having you here for this  
15 opportunity to speak.

16 My comments I guess will be  
17 brief because I have them all scratched out as  
18 they've either been said or we're not allowed to say  
19 them.

20 In 2006, I opposed Capital  
21 Resources Development Company locating the strip  
22 mine in the watershed of Canton Lake. It's now five  
23 years later and I'm still opposing the location.

24 By strip mining within the

1 watershed, the three streams that flow through the  
2 mine site will be disturbed as well as the springs,  
3 groundwater, aquifers, channels and ravines. All of  
4 these water sources contribute to the quantity and  
5 quality of the Canton Lake water. The impoundment  
6 ponds will not contribute to the flow water to the  
7 lake that is needed.

8                                   The Canton Lake will be  
9 impacted as the IEPA public notice permit states  
10 that the mine operations will result in the  
11 discharge of alkaline mine drainage. It also states  
12 the mine outfalls will be classified as alkaline  
13 mine drainage.

14                                   The Middle Branch will have a  
15 discharge point into ditches and then into the  
16 Middle Branch of Copperas Creek. This seems to be  
17 contrary to the USEPA guidelines of having treated  
18 water at the point of discharge. The water in the  
19 ditches will be hazardous and will contaminate the  
20 soil and groundwater.

21                                   The hearing notice states  
22 sulfates, chlorides and manganese from outfall 1 and  
23 outfall 2 will constitute an increase in loading to  
24 Middle Branch Copperas Creek as a result of the

1 mining activities. This is unacceptable. At what  
2 point will this discharge be diluted? This is not  
3 in the permit and needs to be spelled out. These  
4 changes are significant and should have been brought  
5 to the public long before now.

6                               The steep slopes of Middle  
7 Branch Copperas Creek will generate increased  
8 velocity of the flow during heavy rains and, mixed  
9 with the greater amount of water from outfall 1 and  
10 outfall 2, will cause an increase of flash flooding  
11 within the immediate area of Orion and Banner  
12 Township.

13                              There are homes/farms all  
14 along the Middle Branch of Copperas Creek. There is  
15 one particular low spot on County Road 27 at the  
16 bottom of Freeman Hill, and another area that floods  
17 often during storms is north of Banner and on both  
18 sides of U.S. Highway 24 at the bridge on the east  
19 side of Banner.

20                              With the increased water  
21 discharge, flooding impacts many of the farmers, the  
22 income of the farmers and also the county and the  
23 state in flood control measures and protection of  
24 bridges and roads.

1                               It is strange that six  
2 operational outfalls were designed to have two  
3 outfalls carry the water from the disturbed areas  
4 and four outfalls will carry the water from  
5 undisturbed areas. It seems that there should have  
6 been more outfalls from the disturbed areas since  
7 more acres are to be mined.

8                               It is unacceptable for IEPA to  
9 accept this application and make a tentative  
10 determination to issue an NPDES permit to this  
11 company who has mislead the City of Canton, the city  
12 residents and the township residents. The  
13 application for this permit has been misleading.

14                              I understand that a lot of  
15 times we can't talk about other things but I have in  
16 my hand, "The mine is not open. The mine has not  
17 dug any coal. The mine has not even had all of its  
18 permits." And yet, I have a notice of violation,  
19 No. 381711, permit No. 385. The company operator is  
20 Capital Resources Development Company, LLC, Unit No.  
21 1233. The mine is North Canton. It's a surface  
22 mine. It's in Fulton County, and the date of  
23 inspection was 8-3-2011.

24                              The person served with the



1 citation was Andy Ditch, Environmental Engineer, and  
2 the nature of the violation was the failure to  
3 submit groundwater monitoring reports for the second  
4 quarter of 2011, and also, failure to submit an  
5 updated groundwater flow map, and this is in  
6 violation of the statute sections and regulations 62  
7 Illinois Administrative Code 1816.41(c), 1816.41(e)  
8 and 1773.17(b), and it's signed and dated from  
9 Clifford Johnson, Authorized Representative of the  
10 Director of Illinois Department of Natural  
11 Resources.

12 HEARING OFFICER STUDER: Thank you,  
13 Ms. Dilts. We've gone the time limit.

14 Next it looks like Robert  
15 Gilstrap, and that will be followed by Kurt Skender.

16 MR. SKENDER: I'll pass.

17 HEARING OFFICER STUDER: Okay.  
18 That will be followed by Brian Perbix.

19 MR. GILSTRAP: My name is Bob  
20 Gilstrap (G-i-l-s-t-r-a-p). I'm a retired coal  
21 miner, coal mine operator. I appreciate this  
22 opportunity, by the way, to speak.

23 Coal provides 60 percent or  
24 more of the electricity in this country, and it's a

1 very important commodity, something the Lord put  
2 here for us to use. But, more than that, we need  
3 the jobs in this area. The country needs the  
4 energy; the area needs the jobs. There's no doubt  
5 in my mind that as strict as the laws are and as  
6 diligent as the agencies are that enforce these,  
7 this mine company will have no opportunity  
8 whatsoever to violate this without being immediately  
9 stopped.

10 (Laughter in the audience)

11 HEARING OFFICER STUDER: Let's try  
12 and keep our applause and other noises to a minimum.  
13 I don't want to hear that.

14 Continue, please.

15 MR. GILSTRAP: I've been in the  
16 mining industry for over 40 years, and I've dealt  
17 with the EPA, the Illinois EPA. I've dealt with all  
18 of the regulatory agencies. These people do their  
19 job well. They know their job well. There's no  
20 doubt in my mind that this is a necessary thing for  
21 this area. We need these jobs badly and these  
22 people will do a good job taking care of the water.  
23 These people sitting here will see to that. I have  
24 no doubt in my mind, and I do appreciate the

1 opportunity to voice my opinion. I do think this  
2 mine would be a big asset to the area.

3 HEARING OFFICER STUDER: Thank you.

4 Brian Perbix will be next, and  
5 he'll be followed by Terrence Ingram.

6 MR. PERBIX: Good evening, and  
7 thank you for the opportunity to provide comments on  
8 Illinois EPA's draft NPDES permit for the proposed  
9 North Canton Mine.

10 My name is Brian Perbix.  
11 That's Brian with an "i". Perbix is P-e-r-b-i-x,  
12 and I'm here on behalf of the Prairie Rivers Network  
13 and Illinois Sierra Club.

14 The Prairie Rivers Network is  
15 the state affiliate of the National Wildlife  
16 Federation. We're a nonprofit organization that  
17 strives to protect the rivers, streams and lakes of  
18 Illinois and to promote the lasting health and  
19 beauty of watershed communities.

20 The Illinois Chapter of the  
21 Sierra Club is the state branch of the Sierra Club,  
22 a national not-for-profit environmental organization  
23 that works to protect the environment for our  
24 farmers and for our future with over 26,000 members

1 here in Illinois.

2                                 Tonight's hearings are an  
3 important opportunity for local residents to voice  
4 their concerns about the proposed North Canton strip  
5 mine which would discharge polluted water into  
6 Copperas Creek and Canton Lake. Unfortunately, for  
7 the over 20,000 local residents who rely on Canton  
8 Lake as their primary source of clean drinking  
9 water, Illinois EPA is set to issue a water  
10 pollution permit that contains no special  
11 protections or provisions that recognize the  
12 importance of Copperas Creek and Canton Lake as a  
13 public drinking water source.

14                                 Residents of Fulton County are  
15 no strangers to coal mining. The town of Canton is  
16 practically surrounded by old mine ground and so  
17 people here who live in the area and have for some  
18 time know quite well how drastic a disturbance strip  
19 mining can be from blasting damage to dust to  
20 polluted runoff, and perhaps that is why so many  
21 local residents are so skeptical of the applicant's  
22 assurances that they will comply with their NPDES  
23 water pollution permit.

24                                 Based on the applicant's

1 compliance history at a mine that shall not be named  
2 in McDonough and Schuyler Counties, any reasonable  
3 person would be skeptical that the mine will have  
4 any more respect for their permit here, and we  
5 expect an explanation as to how the Illinois EPA can  
6 justify issuing the permit based on compliance  
7 history.

8                                 Allowing this mine to move  
9 forward in this location almost result in the  
10 destruction in the first phase alone of nearly 1,000  
11 acres of land much of which drains to the Canton  
12 Lake. Even if the mine meets its permit limits,  
13 that would result in the mine sending additional  
14 pollution into Canton Lake.

15                                 Furthermore, as we have seen  
16 at other mines in this part of the state, and you  
17 can actually see this if you go on Google Earth at  
18 other mines in McDonough and Schuyler Counties which  
19 shall not be named, you can see hot spots and  
20 seepage of orange runoff water that is then directed  
21 to the sedimentation basins which discharge into our  
22 rivers and streams.

23                                 Disturbed mine ground is  
24 simply not the same in terms of the quality of

1 runoff that it provides and the shallow groundwater  
2 that flows out of it through the perennial springs  
3 that feed the rivers and streams in this area as  
4 undisturbed grounds. The permit as it is written  
5 assumes that the mined ground will be no different  
6 than unmined ground.

7 Why would Illinois EPA even  
8 consider rolling the dice with this public water  
9 supply lake. The people of Canton deserve better.

10 With all due respect, I ask  
11 you to please reject this permit in the interest of  
12 protecting clean drinking water for generations to  
13 come.

14 Thank you.

15 MR. MOSHER: Brian, I am very  
16 interested in perennial springs on the mine site.  
17 Are your ideas about where they exist the same as  
18 Traci Barkley's and the same as on the map that was  
19 submitted to us?

20 MR. PERBIX: Bob, I haven't seen  
21 the map. I along with a number of other folks in  
22 this room were on that same tour of the mine sites,  
23 and I do recall that a number of perennial springs  
24 that we observed appeared to be flowing independent

1 of rain events or anything like that.

2 Perhaps it would be useful to  
3 get together and talk about these locations with the  
4 local landowners and the folks who are on that tour.

5 One thing I neglected to  
6 mention. Permit 385 is currently under  
7 administrative review thanks to Canton Area Citizens  
8 For Environmental Issues, and I know there have been  
9 a number of expert testimonies submitted documenting  
10 perennial flowing shallow groundwater, and so we  
11 could certainly provide those expert testimonies as  
12 well.

13 MR. MOSHER: Thank you for doing  
14 that.

15 MR. PERBIX: Thank you.

16 HEARING OFFICER STUDER: Terrence  
17 Ingram?

18 And that will be followed by  
19 Jimmy Essex.

20 Go ahead, Mr. Ingram.

21 MR. INGRAM: Terrence Ingram  
22 (I-n-g-r-a-m). I'm president and executive director  
23 of the Eagle Nature Foundation. We just celebrated  
24 our 50th year of fighting to save the bald eagle.





1 at our records of our 14-day hearing and see what  
2 chemicals we're talking about. I won't take time  
3 here to go through all of them, but there were many  
4 chemicals in there that we talked about that would  
5 be coming out of that mine, and I would think the  
6 same chemicals would come out of this mine. That's  
7 my feeling. I don't know. Location, location.

8 Okay. Thank you.

9 HEARING OFFICER STUDER: Thank you.

10 Jimmy Essex?

11 And he'll be followed by  
12 Douglas Schmidt.

13 MR. ESSEX: I want to submit  
14 written comments.

15 HEARING OFFICER STUDER: Okay.

16 MR. ESSEX: And then I'll pass.

17 HEARING OFFICER STUDER: Okay.

18 Thank you, Mr. Essex.

19 Douglas Schmidt? Douglas  
20 Schmidt?

21 (No response)

22 HEARING OFFICER STUDER: Okay.

23 We're going to move on.

24 Charles Luthy?



1 Illinois who has cattle deals with multiflora rose  
2 which was intentionally planted and spread by the  
3 State of Illinois with their best intentions. It's  
4 a disaster.

5 A second plant which we deal  
6 with is called Autumn olive. The Autumn olive was  
7 intentionally propagated by the State of Illinois.  
8 Why I do not know. It is a disaster. It's very  
9 expensive for the farmers.

10 In this room a few years ago,  
11 there was a stage right where you folks are sitting,  
12 and we had a hearing by the Metropolitan Sanitary  
13 District of Illinois monitored by the State of  
14 Illinois. They hired a man named Dr. Cecil Lue-Hing  
15 who had the audacity to stand on this stage and tell  
16 us in this room that sludge was odorless. Those of  
17 you who were here at that time probably remember  
18 Dr. Cecil Lue-Hing who tried to get us to believe  
19 that sludge was odorless. Those same people brought  
20 down the Illinois River a bargeload of undigested  
21 sludge and sprayed it on Fulton County, and many of  
22 you remember what happened. Canton stunk. Your  
23 eyes burned. It was awful.

24 So in the unintended

1 consequences with the best of intentions, what  
2 happens if these people mess up or we have the  
3 100-year storm at the wrong time and the flood  
4 washes out the dam. We are left without drinking  
5 water. That's my concern. Who will take care of us  
6 if they mess up with the best of intentions doing a  
7 good job like Willett Wandell leaving us with the  
8 curse of multiflora rose? Who will take care of us  
9 when our drinking water is polluted? That's my  
10 concern.

11 Thank you very much.

12 HEARING OFFICER STUDER: Thank you.

13 Carl Simons is next, and that  
14 will be followed by Ronald Dilts.

15 (No response)

16 HEARING OFFICER STUDER: Ronald  
17 Dilts will be next.

18 Mr. Dilts will be followed by  
19 Dennis and Virginia Reter.

20 MS. RETER: We pass.

21 MR. DILTS: My name is Ronald  
22 Dilts, and I live at Gettysburg Drive here in  
23 Canton.

24 The area of the North Canton

1 Mine is in the wrong location. The area is north in  
2 higher elevation than the Canton Lake. This is  
3 where the water flows down from that area to the  
4 Canton Lake.

5 By pumping the water from  
6 sediment ponds 3, 4, 5 and 6 to sediment ponds 1 and  
7 2, the water will flow down Middle Branch Copperas  
8 Creek. This will cause polluted water in Middle  
9 Branch Copperas Creek to flow down through farms to  
10 the Illinois River. This will affect the farmers  
11 who have livestock on their farms or heavy metals  
12 deposited in fields if we have a flood.

13 There may not be enough water  
14 flowing down the West Branch at Copperas Creek to  
15 Canton Lake to keep it full. There's a possibility  
16 that Canton Lake could get close to going dry. If  
17 this happens, the cost of water for Canton, Cuba,  
18 Fiatt, Fairview, WeeMaTuk, St. David, Dumfermline  
19 and Norris Citizens will go up due to getting the  
20 water from the Illinois aquifer by Banner.

21 There is also the possibility  
22 that wells next to the mine location could be  
23 polluted or go dry.

24 HEARING OFFICER STUDER: Thank you,

1 Mr. Dilts.

2 Cindy Skrukruud?

3 And she'll be followed by Kim  
4 Knowles.

5 And, for the record, Reter is  
6 spelled R-e-t-e-r.

7 MS. SKRUKRUD: Good evening. My  
8 name is Cindy Skrukruud. My name is spelled  
9 C-i-n-d-y; last name Skrukruud (S-k-r-u-k-r-u-d).

10 AUDIENCE: Can't hear.

11 HEARING OFFICER STUDER: Cindy,  
12 could you pick up the mike?

13 MS. SKRUKRUD: I am the Clean Water  
14 advocate for the Illinois Chapter of the Sierra  
15 Club. I've edited my comments so I can hopefully  
16 have time to get a few of my questions answered in  
17 my two minutes.

18 I along with Sierra Club  
19 members and many Canton area citizens you see here  
20 tonight are concerned about the impacts the proposed  
21 North Canton Mine will have on the existing uses in  
22 the Copperas Creek watershed including impacts to  
23 aquatic life in both the west and middle branches of  
24 the creek and the use of the West Branch watershed

1 as a source of drinking water.

2 I reviewed the data collected  
3 at sample point NC 1 on the West Branch of Copperas  
4 Creek that was collected by Capital Resources  
5 Development Company. Chloride levels were no higher  
6 than 85 milligrams per liter. Sulfate was no higher  
7 than 114 milligrams per liter. Manganese was no  
8 higher than 1.77 milligrams per liter.

9 The draft permit sets the  
10 limit for outfalls 3 through 6 which discharge to  
11 the West Branch at 500 milligrams per liter  
12 chloride, 1,995 milligrams per liter sulfate, and  
13 2.82 milligrams per liter manganese.

14 The antidegradation assessment  
15 states, quote, "Outfalls 3 through 6 will not result  
16 in increases in loading to West Branch Copperas  
17 Creek."

18 How can that statement be true  
19 given the draft permit limits for chloride, sulfate  
20 and manganese?

21 MR. MOSHER: We, as I think the  
22 three of us said in our opening remarks, we had  
23 discussions with the coal company a long time ago,  
24 over a year ago that we could not write a permit

1 that had mine wastewater. In other words,  
2 wastewater/stormwater that encountered coal or  
3 refuse, the rocks surrounding the coal, and the  
4 results of those discussions was the rerouting of  
5 effluents.

6 But you're pointing out that  
7 we assigned permit limits to the discharges that  
8 would not have the mine wastewater, would just have  
9 soil stockpile, sedimentation ponds, and those are  
10 going to the West Branch that go to Canton Lake.  
11 You're saying why do we have permit limits, and our  
12 reply is that although the mine company is not  
13 authorized to discharge higher chloride, sulfate,  
14 manganese through those, we still put the permit  
15 limit in, and if they should not do what they're  
16 supposed to do, then we have a record. We have  
17 monitoring from those outfalls, and we can cite them  
18 for violations.

19 MS. SKRUKRUD: My question isn't  
20 why do you have permit limits at outfalls 3 through  
21 6 but why are those permit limits so high?

22 MR. MOSHER: Sulfate and chloride  
23 are set at the water quality standard. The  
24 manganese is not as you said it was. It's set at



1 the water quality standard also at 1.0, the current  
2 water quality standard.

3 By setting those limits, it  
4 puts in motion monitoring, and we not only get  
5 monitoring data to see how they're doing but, like I  
6 say, if they goof up, we have the data to give to  
7 the attorney general or whatever happens to enforce  
8 those limits.

9 HEARING OFFICER STUDER: We've gone  
10 the time limit, but what I'll do is if you've got a  
11 number of questions, Cindy, I'll allow you to read  
12 those in the record so we've got them here, and  
13 we'll respond to those in writing. We've gone a  
14 little over four minutes.

15 MS. SKRUKRUD: Okay. I have two  
16 questions that I'd like to put forward then.

17 If all my runoff is going to  
18 be collected and directed toward outfalls 1 and 2,  
19 then there is a new opportunity to control flows and  
20 make use of alternative onsite treatment methods  
21 such as treatment wetlands that could be placed in  
22 diversion ditch 1A. Another possible method is the  
23 biological sulfate reduction method.

24 Have or will the applicant be

1 required to further evaluate alternative treatment  
2 methods that would reduce the loadings of chloride,  
3 sulfate and manganese to the Middle and West  
4 Branches of Copperas Creek?

5 My second question is has the  
6 agency considered the water quality standards for  
7 public water supplies in setting the limits for  
8 outfalls 3 through 6?

9 Thank you.

10 HEARING OFFICER STUDER: Thank you,  
11 Ms. Skrukrud.

12 Kim Knowles and Kim will be  
13 followed by Joyce Blumenshine.

14 MR. KNOWLES: My name is Kim  
15 Knowles; K-i-m K-n-o-w-l-e-s. I am the staff  
16 attorney for Prairie Rivers Network.

17 As Traci Barkley, my  
18 co-worker, mentioned earlier, we are concerned that  
19 the permit as drafted does not, in fact, ensure that  
20 the applicable water quality standards for public  
21 and food processing water supply will, in fact, be  
22 met in Canton Lake where this use applies. There's  
23 specific pollutants that we're concerned about, and  
24 those are chlorides, sulfates, total dissolved

1 solids, iron and manganese.

2                               The permit as drafted  
3 contains, for chloride, the permit as drafted  
4 contains a limit of 500 milligrams per liter, and  
5 the applicable water quality standard for public  
6 water supply is, in fact, 250 milligrams per liter,  
7 2 milliliter for sulfate, and the permit level is  
8 now set at 1,995 milligrams per liter where the  
9 applicable water quality standard is 250 milligrams  
10 per liter.

11                              Total dissolved solids permit  
12 limit, there is no limit currently in the permit.  
13 Public water supply water quality standard is 500  
14 milligrams per liter.

15                              For iron, the permit limit is  
16 now set at 3 milligrams per liter whereas the  
17 applicable water quality standard is just .3 of a  
18 milligram per liter.

19                              And finally, manganese, the  
20 permit limit, there's a range of permit limits  
21 depending upon precipitation events. One of the  
22 limits is 1.0 milligrams per liter. Another is  
23 2.82. Both of these permit limits are higher than  
24 the applicable water quality standard which is .15

1 milligrams per liter.

2                               So given these limits and the  
3 applicable standards, it appears that the draft  
4 permit will not, in fact, meet these standards, so  
5 we would like an explanation in the record including  
6 calculations that show how the permit -- you know, I  
7 understand what you just said Bob about they aren't  
8 supposed to be discharging, but if they do, in fact,  
9 mess up or not do what they said they were going to  
10 do, please provide an explanation, calculations that  
11 will show how these draft limits will, in fact,  
12 allow water quality standards in the lake to be met  
13 for the designated use.

14                               Thank you.

15                               HEARING OFFICER STUDER: Thank you,  
16 Ms. Knowles.

17                               Joyce Blumenshine is coming to  
18 the podium, and she will be followed by Joseph  
19 Cooper.

20                               MS. BLUMENSHINE: Thank you very  
21 much.

22                               My name is Joyce Blumenshine  
23 (B-l-u-m-e-n-s-h-i-n-e). I am a volunteer with  
24 Illinois Sierra Club, and our motto is to protect

1 the environment for our families and our future. I  
2 believe we all in this room know that water is life,  
3 and we have to have water.

4 I thank the IEPA staff for  
5 your time and attention. We hold you I guess  
6 accountable for our future because you do hold the  
7 future of Canton in your hands in your consideration  
8 of this permit. Without adequate water supply, what  
9 will this community and all the area communities  
10 that depend on the Canton water supply be.

11 I would like to address issues  
12 of water quantity because numerous excellent  
13 comments have been made to question the quality  
14 issue, so just briefly.

15 For those who want a coal  
16 mine, if the coal mine affects the water of Canton  
17 Lake, what's going to happen to several other major  
18 employers in Canton? And I'll make a list.

19 Number one, as we sit here  
20 tonight, the City of Canton is in the process of  
21 approving a new agreement with the Canton ethanol  
22 plant which is coming back again. We hope it will  
23 work.

24 Now, I think that ethanol

1 plant would be in operation more than the five or  
2 ten years of a coal mine we hope.

3                               The water quantity that this  
4 ethanol plant will depend on the Canton water supply  
5 for, and this is from the Canton City Hall, it is  
6 anticipated for startup the ethanol plant will need  
7 600,000 gallons of water per day. Once they reach  
8 operational levels, they'll go down to only needing  
9 400,000 gallons of water per day. That's a lot of  
10 water.

11                              I wonder how IEPA in their  
12 considerations of the antideg and other issues with  
13 this coal mine application can guarantee in your  
14 assessment that the water that the mine would hold  
15 for its sediment ponds, that the water that the mine  
16 would hold because of its water diversion, latest  
17 gimmick, and the water that this mine would hold  
18 through the destruction of the specific natural  
19 layers of this watershed will indeed be able in the  
20 future to produce the water needed for Canton Lake.

21                              I also would like to ask other  
22 industries coming into Canton, we have cook  
23 industries that are hiring people that depend on  
24 water, there are other issues about the future of

1 Canton's growth, if there's suburban growth, it will  
2 have to be to the north. This area is surrounded by  
3 old strip mines, and as Mr. Perbix mentioned, there  
4 is precious little area that is not mined around  
5 Canton, and if you drive into town on Route 9, you  
6 see signs saying "vacant land for sale." So the  
7 issue of water quantity is a huge issue for this  
8 application.

9 I would like to refer under  
10 the antidegradation assessment where it says about  
11 the mine providing jobs. The question is long term.  
12 What is the best for the future of Canton and its  
13 people. I hope that this permit will not be for the  
14 short-term interest but really take into  
15 consideration that this is the water supply, that  
16 this is the watershed, and that you will look at an  
17 assessment of the topography of this area.

18 The mine site is on a high  
19 plateau, and West Branch Copperas Creek and Middle  
20 Branch Copperas Creek are sitting below that, and if  
21 you ruin this watershed, which this strip mine will  
22 do because the IDNR permit says it will not be  
23 reclaimed to complete original contour, then this  
24 town is in trouble.

1 Thank you.

2 HEARING OFFICER STUDER: Joseph  
3 Cooper?

4 MR. COOPER: Pretty much everything  
5 I want to say has been said. If I have any  
6 questions can it be done back under testimony in the  
7 back room?

8 HEARING OFFICER STUDER: I'm sorry?

9 MR. COOPER: If I have any  
10 questions, can it be done in the back?

11 HEARING OFFICER STUDER: Yes. We  
12 won't be answering them, but if there's still a  
13 court reporter in there.

14 Kurt, is the court reporter  
15 still here for the auxiliary room?

16 MR. COOPER: And it will be made  
17 part of the record?

18 HEARING OFFICER STUDER: Yes.

19 MR. COOPER: I appreciate it.

20 Thank you.

21 HEARING OFFICER STUDER: Okay. The  
22 auxiliary court reporter is here.

23 We've got a number of cards to  
24 go through, and we're approaching the time. We've



1 got time for a few more, so we'll go ahead and take  
2 what we can up until 20 after is what we'll do.

3 At that point as we're not  
4 obviously going to get through all 12 of these in  
5 the ten minutes that we have remaining, we will take  
6 statements in the auxiliary hearing room or I will  
7 also consider reopening the record for NPDES  
8 comments following the 401 water quality hearing.

9 I do want to make sure that  
10 people are afforded the opportunity to make comments  
11 on the record.

12 The next person is Robert  
13 Spangler?

14 And as he's coming forward,  
15 following him will be -- it looks like Morris Smith  
16 will be following him.

17 Please go ahead Mr. Spangler.

18 MR. SPANGLER: My name is Robert  
19 Spangler spelled S-p-a-n-g-l-e-r.

20 First I'd like to thank the  
21 panel of the Illinois EPA for being here and  
22 listening to the comments for all of us represented  
23 here.

24 The thing that was brought up

1 first in opening comments as a matter of fact by you  
2 folks was that the permit would be issued based on  
3 technical merits. I would encourage that you go  
4 back to that, that it is on technical merits.

5 I would assume that you've  
6 studied and restudied and consulted with engineers  
7 and other people that would be familiar with this  
8 project, and I would encourage you not to give into  
9 either emotional or political pressures on this  
10 project.

11 Fulton County, we badly need  
12 the jobs, not only the jobs of the mine but the jobs  
13 that the mine will also bring in. I work for  
14 Hitchcock Scrap Yard, and we realize the value of  
15 the other jobs that it does bring from fuel to tires  
16 to equipment, so I would just ask that you would  
17 consider that.

18 You know, some names that are  
19 familiar to everybody, Peabody, Consolidated, Truax,  
20 Midland, Freeman, Amax, those are all names that a  
21 lot of us are familiar with that and that have been  
22 coal companies that have been in this area and  
23 affected a lot of communities, and we just would  
24 encourage you to stick with the technical merits.

1 Thank you.

2 HEARING OFFICER STUDER: Thank you.

3 Mark Smith? I apologize. I  
4 was having a hard time making out the first name.

5 And that will be followed by  
6 William Ripper.

7 Go ahead, Mr. Smith, and I  
8 think we know how to spell that one.

9 MR. SMITH: Pardon me if my  
10 question is too simple or obvious or whatever.

11 Greg had said earlier that it  
12 will be -- being that he said it will be issued, I  
13 assume he was meaning the permit will be issued. It  
14 will be issued.

15 Am I correct in understanding,  
16 panel, that I have no choice in the matter?

17 I thought this whole, the coal  
18 mining situation was a proposed coal mine currently.

19 HEARING OFFICER STUDER: It's a  
20 draft permit. We'll consider comments.

21 As far as denying a permit,  
22 we'll look at the issues that are raised and compare  
23 those to regulations.

24 Our preliminary determination,

1 as I said in the opening statement, was based on the  
2 fact that it appeared that it met the requirements  
3 for issuing a permit, and that's why we proceeded  
4 with the draft permit. That's the issue, the  
5 issuance of a permit.

6 And the point that I was  
7 trying to get across is that it is not a democratic  
8 process that so many say yes, so many say no. It's  
9 based on the application and state statute.

10 MR. SMITH: It just feels like it  
11 will be issued. It feels like it's going to go  
12 through no matter what is how it felt to me.  
13 Anyway, that's my personal feeling.

14 And I just have the comment,  
15 in researching this myself, I got on the Internet in  
16 Wikipedia and looked up limited liability of the  
17 companies, and also, it took me to a link to  
18 flowthrough entities. It said that limited  
19 liability, meaning that owners of the LLC are  
20 protected from some or all liability for acts and  
21 debts of the LLC depending on state shield laws. If  
22 the company with limited liability is sued, then the  
23 plaintiffs are suing the company, not its owners or  
24 investors. So perhaps this is why there has been no

1 previous fines.

2 Thank you.

3 HEARING OFFICER STUDER: Thank you,  
4 Mr. Smith.

5 William Ripper.

6 MR. RIPPER: I'm Bill Ripper, and  
7 it's spelled R-i-p-p-e-r.

8 I was born in 1926 about the  
9 time the strip mine started here in Fulton County so  
10 you might say I've been around them all my life.  
11 They left us around 1975 leaving us thousands of  
12 acres of torn up land, unclaimed potholes and lakes  
13 with no means for drainage but to let the gravity  
14 take the runoff to the nearest stream or lake.  
15 Thus, we have documented proof of pollution and  
16 toxic drainage from the mines.

17 Now it is 2011 and they're  
18 proposing a new strip mine in the watershed at  
19 Canton Lake. There is no way they can honestly  
20 guarantee that no runoff from the mine will ever  
21 reach the lake. On a long-term basis, that is  
22 impossible, and pollution of the lake would be an  
23 irrevocable tragedy.

24 These mine officials tell us

1 what they will do but the integrity of the strip  
2 mines in Fulton County is next to none. Their track  
3 record speaks for itself. We were fooled before by  
4 doing nothing and letting the strip mines come in  
5 and rape our land and confiscate our country life,  
6 take our roads, ruin our rural economy by lowering  
7 our tax rate, tax base.

8 We have been robbed of a lot  
9 of things and now they want to endanger our water.  
10 If necessary, we will fight until the end.

11 Thank you.

12 HEARING OFFICER STUDER: Thank you,  
13 Mr. Ripper.

14 The last person that we have  
15 time for is Kim Sedgwick.

16 MS. SEDGWICK: Hi. I'm Kim  
17 Sedgwick (S-e-d-g-w-i-c-k), and I live here in  
18 Industry.

19 I know I'm not supposed to  
20 talk about the other location, but it is quite  
21 disturbing to see the natural habitat and waterways  
22 emaciated in the name of coal, but I want to take a  
23 different twist on it tonight.

24 Feelings are irrelevant to the

1 situation. Past water pollution violations are  
2 irrelevant. Aquatic fish studies, reductions in the  
3 creek and everything is irrelevant to this  
4 situation, but the sad facts are the law basically  
5 allows companies to pollute if it is in the IEPA's  
6 guidelines. The IEPA actually gives companies  
7 pollution margins to follow despite their mission,  
8 and I just want to read your mission, IEPA's mission  
9 from your website, just a couple things.

10                               It says that you guys address  
11 outstanding solid and hazardous waste management  
12 concerns. You enhance capability to fund  
13 environmental cleanup, and you promote pollution  
14 prevention.

15                               Also, according to the Clean  
16 Water Act, I feel it's a misconception on what the  
17 IEPA really does, and I'm going to read it. "The  
18 Clean Water Act establishes the basic structure for  
19 regulating discharges of pollutants into the waters  
20 of the United States, and the Clean Water Act made  
21 it unlawful to discharge any pollutant from a point  
22 source into navigable waters unless a permit was  
23 obtained." So, see, they're getting permits, and  
24 the law says they can do this.

1                                   Now, the EPA's National  
2 Pollutant Discharge Elimination System permit  
3 program controls discharges. It doesn't really  
4 eliminate it as the name basically states in there.  
5 It just controls it, and don't you see, the state  
6 allows polluting to a degree, and I feel that we are  
7 at the mercy of the state law already second to  
8 place. We cannot stand here and change rules and  
9 regulations spoken at this one public hearing. We  
10 can, however, address issues of concern and  
11 hopefully address modifications.

12                                   But the law set in place to  
13 allow for discharges must be changed prior to the  
14 stage that we're at right now. They have to be  
15 changed in Congress because it's too late. They  
16 have already got everything in motion, especially  
17 regarding what the EPA can and cannot do. We have  
18 to go with what is already set in place for us to  
19 use even though we feel the laws are obsolete.

20                                   However, the EPA does have  
21 authority to correct issues at hand according to --  
22 oh, where am I at here. Well, they do have the  
23 right to correct issues at hand, and on their  
24 website, it says the Office of Water (OW) ensures





1 coal production.

2 I have lights on at my house.  
3 Who has Christmas lights on? I mean, we need to  
4 conserve. We need to conserve so much that it's not  
5 in demand anymore, and we're all guilty of it, and  
6 we need to use alternative methods; otherwise,  
7 mining is just going to keep going.

8 I have wind and solar but it  
9 doesn't do the complete system yet.

10 So anyway, to the IEPA, I ask  
11 that you please evaluate this permit carefully for  
12 what you as the IEPA wish to uphold and for what you  
13 wish to be responsible for and liable for.

14 Thank you.

15 HEARING OFFICER STUDER: Thank you,  
16 Ms. Sedgwick.

17 Okay. It's now a few minutes  
18 beyond 7:20 which is the deadline that we set to end  
19 this hearing.

20 We have a number of people  
21 that have filed cards and that have asked to speak.  
22 Those people have two options. The options would be  
23 to make the statements in the auxiliary hearing room  
24 or I will also reopen the NPDES record immediately

1 following the 401 hearing which will start at 7:30,  
2 but I do want those people to have an opportunity to  
3 speak this evening, and I do want them to have the  
4 opportunity to make their comments heard.

5 I think that you have done a  
6 very good job of trying to stay within the time  
7 limits, and I appreciate your patience as we've gone  
8 and worked through this this evening.

9 This hearing is adjourned, and  
10 I do reserve the right to reopen the NPDES hearing  
11 immediately following the 401.

12 Thank you.

13 (Ending time: 7:25 p.m.)

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1 STATE OF ILLINOIS )  
 )SS.  
2 COUNTY OF SANGAMON)

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4

CERTIFICATE

5

I, Laurel A. Patkes, Certified Shorthand

6

Reporter in and for said County and State, do hereby

7

certify that I reported in shorthand the foregoing

8

proceedings and that the foregoing is a true and

9

correct transcript of my shorthand notes so taken as

10

aforesaid.

11

Dated December 16, 2011.

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Certified Shorthand Reporter

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