

1 S100675

2
3 BEFORE THE ILLINOIS
4 ENVIRONMENTAL PROTECTION AGENCY

5
6 In Re the Matter of:)
7 Public Hearing on the)
8 Proposed Modifications) Permit No. IL0001759
9 to Wedron Silica)
10 Company's Existing)
11 NPDES Permit.)

12
13 REPORT OF PROCEEDINGS

14 Serena High School
15 2283 North 3812th Road,
16 Serena, Illinois 60549

17 June 12, 2014
18 6:04 p.m. to 7:33 p.m.

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21
22
23 Reported by: Joanne E. Ely,
24 CSR, RPR
Notary Public, Kane County, Illinois

PANEL MEMBERS PRESENT:

MR. DEAN STUDER, Hearing Officer;

MR. BILL BUSCHER, Member;

MR. THADDEUS FAUGHT, Member;

MS. JOANNE OLSON; Member; and

MR. SCOTT TWAIT, Member.

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1 HEARING OFFICER STUDER: Good evening.
2 I'm assuming that everybody can hear me. My name is
3 Dean Studer. I am the Hearing Officer for the Illinois
4 Environmental Protection Agency. On behalf of Director
5 Lisa Bonnett and Bureau of Water Chief Marcia Willhite,
6 I welcome you to this hearing this evening.

7 My purpose here is to ensure that these
8 proceedings run properly and according to the rules.
9 To that end, I will not be responding to technical
10 issues but will assist those making comments to ensure
11 that we stay focused on issues under the purview of the
12 Illinois Environmental Protection Agency, and we'll
13 refer to ourselves as the Illinois EPA for this
14 permitting action and, consequently, appropriate for
15 this hearing.

16 This is an informational hearing before the
17 Illinois EPA in the matter of a modified National
18 Pollutant Discharge Elimination System, usually
19 referred to as NPDES, permit for Wedron Silica Company,
20 NPDES Permit No. IL0001759. The Illinois EPA believes
21 that the public hearings we hold are a crucial part of
22 the permit review process.

23 I note that the relevant topics for this
24 hearing do not directly involve the groundwater

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1 contamination in Wedron. Those investigative efforts
2 are being spearheaded by the United States
3 Environmental Protection Agency, U.S.EPA. I know that
4 many here tonight have spoken with Steve Faryan from
5 the U.S.EPA regarding Wedron groundwater issues. You
6 can find additional information on groundwater
7 contamination on the U.S.EPA web page at
8 [www.epa.gov/region5/cleanup/](http://www.epa.gov/region5/cleanup/wedron/)
9 wedron/. That Web site address can be obtained at the
10 registration table also.

11 I want to be clear that while Wedron Silica
12 Company has agreed to perform some groundwater
13 monitoring activities, this is not to be construed as
14 Wedron Silica being the cause of this groundwater
15 contamination.

16 The sources of the groundwater contamination
17 are still being investigated, and the latest
18 information that I have is that U.S.EPA is expecting
19 more definitive results regarding the sources of
20 groundwater contamination later this summer. I fully
21 expect the U.S.EPA will conduct a public hearing to
22 share those results once they are available.

23 I also want to point out that the Illinois
24 EPA received a letter from the applicant just this

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1 week. In that letter the applicant has indicated that
2 they are withdrawing their request for increased flow
3 from Discharge No. 004 and have asked that the
4 permitted flow rate of 0.15 [sic] million gallons per
5 day be maintained at Outfall 004.

6 The issues relevant to this hearing include
7 compliance with the requirements of the federal Clean
8 Water Act and the rules set forth in 35 Illinois
9 Administrative Code, Subtitle C. Other relevant issues
10 include the potential impacts to the receiving waters
11 from the proposed discharge and the water quality in
12 those receiving waters.

13 The Illinois EPA has made a preliminary
14 determination that the applicant has met the
15 requirements for obtaining a permit and prepared a
16 draft permit for review.

17 The purpose of this hearing is for Illinois
18 EPA to accept comments from the public on the draft
19 permit. The public hearing is being conducted
20 according to the provisions of Illinois EPA's
21 procedures for permit and closure plan hearings, which
22 can be found in 35 Illinois Administrative Code, Part
23 166, Subpart A, and under the provisions of 35 Illinois
24 Administrative Code, Part 309. Copies of these

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1 regulations are available at the Illinois Pollution
2 Control Board website at www.ipcb.state.il.us; or if
3 you do not have easy access to the web, you may contact
4 me, and I'll get a copy for you.

5 I point out that this is a hearing and not a
6 meeting. I intend to follow the regulations in
7 conducting this hearing and will be providing
8 additional instructions regarding appropriate conduct a
9 little later. I intend to keep the issues focused on
10 the purpose of this hearing.

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

16 I'd like to explain how tonight's hearing is
17 going to proceed. First, I will have the Illinois EPA
18 panel introduce themselves and provide a sentence or
19 two regarding their involvement in the permit process.

20 Then Thaddeus Faught, an engineer in the
21 Division of Water Pollution Control, Facility
22 Evaluation Unit will give a brief overview of the draft
23 modified NPDES permit, including the items in the NPDES
24 permit that are being modified. Pursuant to federal

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1 regulations, the only parts of this permit open for
2 comment are the parts being modified.

3 If you have not yet signed a registration
4 card, please see either Michelle Tebrugge or Mara
5 McGinnis in the registration area and either of them
6 can provide you with a card. You may indicate on this
7 card that you would like to make oral comments.
8 Everybody legibly completing a registration card or
9 submitting written comments during the comment period
10 will be notified when the Illinois EPA reaches a final
11 decision in this matter. A responsiveness summary will
12 be made available at that time.

13 In a written responsiveness summary, the
14 Illinois EPA will answer all relevant and significant
15 questions and issues that were raised at this hearing
16 or submitted to me prior to the close of the comment
17 period. The responsiveness summary will also be posted
18 on the Illinois EPA Web site in the same place where
19 the hearing notice and draft permit have been posted.

20 I will also arrange for the transcript of
21 this hearing to be posted on the web page. The timing
22 of the posting of the transcript will depend largely on
23 when I get the transcript back from the court reporter.

24 The written record in this matter will close

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1 on July 9th, 2014. I will accept written comments as
2 long as they are postmarked by July 9th. E-mail
3 comments will be accepted provided the following three
4 conditions are all met: They are to be sent to
5 epa.publichearing.com. That's epa.
6 p-u-b-l-i-c-h-e-a-r-i-n-g-c-o-m, at illinois.gov.
7 Unless other arrangements have been previously made
8 with me regarding where to send those, they must be
9 sent to that address. They are to be received by the
10 close of the comment period in this matter, and the
11 comment period closes again on July 9th, 2014; and the
12 subject line of the e-mail must contain either the
13 words "Wedron Silica NPDES" or contain the permit
14 number, and that's IL0001759.

15 Note that I will not be accepting e-mails
16 originating on third-party systems or servers intended
17 for submittal of multiple e-mails of the same or nearly
18 the same content without my prior approval.

19 The Illinois EPA is committed to resolving
20 outstanding issues and reaching a final decision in
21 this matter in an expeditious manner; however, the
22 actual decision date will depend upon a number of
23 factors, including the number of comments received and
24 the substantive content of those comments, as well as

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1 other factors.

2 During the hearing and comment period,
3 relevant comments, documents, and data will be placed
4 into the hearing record as exhibits. Please send all
5 written documents or data to my attention; and that is,
6 Dean Studer, Hearing Officer, regarding Wedron Silica
7 NPDES, Illinois EPA, 1021 North Grand Avenue East, P.O.
8 Box 19276, Springfield, Illinois 62794. This address
9 is also listed on the public notice for the hearing
10 tonight. Again, please indicate "Wedron Silica NPDES"
11 on your comments to help ensure that they become part
12 of this hearing record.

13 I will now ask the Illinois EPA panel to
14 introduce themselves. Following those introductions,
15 Thad Faught will make a brief opening statement.

16 MEMBER TWAIT: My name is Scott Twait.
17 I work for the water quality standards. I worked on
18 the antidegradation assessment for this facility.

19 MEMBER FAUGHT: My name is Thaddeus
20 Faught, and part of what I do is review applications
21 for non-coal mines such as the Wedron Silica permit.

22 MEMBER BUSCHER: My name is Bill
23 Buscher. I work for the groundwater section of the
24 Bureau of Water. We provide assistance to the

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1 permi tting.

2 MEMBER OLSON: My name is Joanne Olson.
3 I work in the division of legal counsel, and I provide
4 legal counsel.

5 MEMBER FAUGHT: The purpose of this
6 hearing tonight is for the Agency to take public
7 comments on the proposed modification to Wedron
8 Silica's existing NPDES Permit No. IL0001759. The
9 NPDES permit governs the discharge of wastewaters to
10 waters of the State of Illinois, including treatment
11 prior to discharge, water quality and its effects on
12 the receiving stream.

13 The existing Wedron Silica site is currently
14 permitted as a 1,407-acre industrial silica mine with
15 four outfalls. The outfalls discharge stormwater, mine
16 process water and pit pumpage after being treated in
17 settling basins. The permit includes effluent limits
18 for these outfalls for pH, total suspended solids, and
19 offensive conditions. The outfalls are also monitored
20 for Benzene, Ethylbenzene, Toluene, and Xylene.

21 Permit modifications under consideration
22 tonight are the addition of approximately 500 acres of
23 mine property to the permit area, an increase to the
24 discharge rate from Outfall 002 due to the increased

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1 drainage area of the mine property, expansion of the
2 permit stormwater condition to allow certain stormwater
3 discharges covered by a stormwater pollution prevention
4 plan, and the addition of a special condition allowing
5 the use of a flocculant if needed for treatment.

6 I would like to note that since the issuance
7 of the public notice with draft permit, the applicant
8 has withdrawn the request to increase the discharge
9 rate at Outfall 004 which discharges to an unnamed
10 tributary of the Fox River. There are no modifications
11 proposed to the discharge rates of Outfalls 001
12 and 003.

13 The average discharge rate for Outfall 002,
14 which discharges to Buck Creek, is proposed to be
15 increased from 1.44 million gallons per day to
16 5.04 million gallons per day. The Agency issued a
17 public notice and draft permit for these modifications
18 on December 10th, 2013. The hearing tonight is to be
19 focused on these proposed modifications only.

20 HEARING OFFICER STUDER: Thank you,
21 Thad.

22 I will now go over the process for making
23 comments during this hearing.

24 As hearing officer, I intend to treat

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

10 I'll remind you that we have a court reporter
11 here making a verbatim record of tonight's hearing.
12 For her sake, and in the interest of obtaining an
13 accurate transcript of this hearing, I ask that
14 background levels and noises in the room be kept to a
15 minimum. Applause and other reactionary responses are
16 inappropriate during this hearing and will not be
17 allowed.

18 Written comments may be submitted at any time
19 within the public comment period which ends on
20 July 9th, 2014. This hearing is the only time that the
21 Illinois EPA will accept oral comments on this
22 permitting action.

23 If you have lengthy oral comments, it may be
24 helpful to submit them to me in writing before the

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1 close of the comment period, and I will ensure that
2 they are included in the hearing record as exhibits.
3 Please keep your comments relevant to the issues
4 involved with this permit modification.

5 If your comments fall outside the scope of
6 this hearing, I may ask you to proceed to your next
7 relevant issue. For the purpose of allowing as many
8 people as possible to express oral comments at this
9 hearing, I will initially allow everyone eight minutes
10 to make comments.

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

20 The issues that are relevant in the Illinois
21 EPA final decision are those that are directly related
22 to the contents of the permit modification and the
23 regulations governing the issuance of the permit
24 modification. Simply stating opposition or support for

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1 this project will not impact the Illinois EPA decision
2 in this matter.

3 Illinois EPA decision making is limited to
4 those items associated with the environmental issues
5 and other items as determined by state and federal law.
6 In this case, relevant issues must relate to the water
7 discharge permit modification in some way. If the
8 applicant meets the requirements for obtaining a
9 modified permit, then the Illinois EPA is required by
10 law to issue the permit modification.

11 When it is your turn to speak, I will call
12 your name. Please come forward and speak into the
13 microphone in the front of the room. I will then call
14 a second name, and that person should be prepared to
15 speak once the current speaker has completed their
16 comments.

17 When I call your name, if you do not desire
18 to speak or if someone has already said what you were
19 prepared to say, you may pass, and I will announce
20 another name.

21 When providing comments, please speak
22 clearly. State your name and, if applicable, any
23 governmental body, organization, or association that
24 you represent. If you are not representing a

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1 governmental body, an organization, or an association,
2 you may simply indicate that you are a concerned
3 citizen or a member of the public.

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

8 Comments are to be directed to the members of
9 the hearing panel. This will help to ensure that an
10 accurate transcription of your comments is made.
11 Dialogue with the hearing panel or with others in
12 attendance will not be permitted in this hearing.

13 Are there any questions regarding the
14 procedures that will be used for conducting this
15 hearing?

16 (No response.)

17 HEARING OFFICER STUDER: Okay. Let the
18 record indicate that no one raised their hands.

19 I will now open the floor for comments. The
20 first person is going to be Mr. Stoutner. Mr. O.J.
21 Stoutner.

22 MR. STOUTNER: I have no comment.

23 HEARING OFFICER STUDER: You have no
24 comments. Okay.

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1 Gary Swick.

2 MR. SWICK: I want to thank you for the
3 opportunity. I'm Gary Swick. I'm the current
4 president of the Friends of the Fox River and --

5 HEARING OFFICER STUDER: Speak into the
6 mic, please, and spell your last name.

7 MR. SWICK: Gary Swick, S-w-i-c-k.

8 HEARING OFFICER STUDER: Thank you.

9 MR. SWICK: President of Friends of the
10 Fox River.

11 I'm here as a voice for the watershed. For
12 over 10,000 years, the watershed did not need any
13 advocates nor defenders. Today, all of the mainstem of
14 the Fox River is designated as an Impaired Water by the
15 IEPA.

16 My organizational job is to protect the
17 natural and cultural resources of the watershed; and as
18 the IEPA, your job is also to restore those resources.
19 I'm proud that we have such a cause in common, and our
20 organization relies on you. The proposed permit and
21 its increased effluent threatens both of our interests.

22 First, in my eight minutes, I'll speak for
23 the fish. Buck Creek is considered a Class A stream.
24 Although it's a very small stream, it makes up 10

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1 percent of all Class A stream in the over 670 miles of
2 watershed. That makes it extremely significant and
3 very precious.

4 To be considered a Class A section, a stream
5 must have IBI, that is Integrated Biological Index, of
6 a rate over 51.60 is the maximum rating.

7 In the IDNR survey of 2002, it rated a 51 and
8 a 54 in 2007; however, in the 2012 drought year, it was
9 scored 42; and in the 1996 flood year, it scored a 46.
10 These lower scores indicate that it is biologically
11 very sensitive to disruptive conditions.

12 Even though it is pressured by pasture
13 influences, it maintains very good habitat. Buck Creek
14 is home to four species of Darters which are
15 categorized as sensitive species. It is home to the
16 very rare Rainbow Darter. It also supports two larger
17 species that are categorized as sensitive species, the
18 Mad Tom and the Stone Cat. Since it connects to the
19 Fox and it's a high-quality habitat, it serves as a
20 Small Mouth Bass nursery.

21 It also hosts the endangered threatened
22 Redhorse in its vicinity, and according to -- I don't
23 have that paper up here -- the 2012 survey, there were
24 four species of fish that the quantity of all the

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1 strains in the basin, and I think it's like 30, it had
2 the number one, the number -- twice the number two, and
3 the three most quantity of fish of that particular
4 species in there. So it really is a valuable resource
5 to the watershed.

6 The current conditions in Buck Creek support
7 a great diversity of fish species because it is
8 exceptional habitat. Altering that habitat will reduce
9 its Class A status. That condition will not be
10 repairable.

11 No additional effluent can be accepted into
12 Buck Creek without negative impacts. The proposed
13 increase in effluent will surely impact the sensitive
14 fish species, degrade the habitat, and impact other
15 members of the fragile ecosystem and probably
16 permanently impair Buck Creek. The fish and I find
17 this permit proposal a violation of our right to a
18 healthy environment. I realize that the outfall is at
19 the mouth and not at the headwaters, but a lot of those
20 species go in and out of the Fox and into the stream.

21 So I'm asking you to please help me do my job
22 and do your job by denying this permit increase, and
23 I'll end there and hope I get another chance.

24 HEARING OFFICER STUDER: Yes. We'll see

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1 what we've got time-wise once we have gone through the
2 cards the first time.

3 Jim Limacher, and you'll be followed by Cindy
4 Skrukrud.

5 MR. LIMACHER: I live just opposite Buck
6 Creek, and over the years, I have watched the water
7 being pumped into Buck Creek.

8 HEARING OFFICER STUDER: Can you state
9 your name and spell your last name.

10 MR. LIMACHER: I'm sorry. I thought
11 you did it. I am Jim Limacher, L-i-m-a-c-h-e-r. I
12 represent nobody except myself.

13 HEARING OFFICER STUDER: Thank you.

14 MR. LIMACHER: I live opposite of Buck
15 Creek along the Fox River, on the west side of the Fox
16 River -- the east side of the Fox River, and for years
17 I've watched when they have pumped water into Buck
18 Creek, and it's gotten worse and worse as the years
19 go on.

20 If I go back 25 years ago, that was an active
21 creek right from the mouth of it. There was a lot
22 going on. Now, there is nothing but sand, and the sand
23 is so light that if you try stepping in it, you'll go
24 down to your knees because it's so fine.

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1 I don't know how much water --

2 HEARING OFFICER STUDER: Will you speak
3 into the mic, please.

4 MR. LIMACHER: I don't know how much
5 water is going into Buck Creek right now, but when I
6 read the permitting, the only way that I see that you
7 guys, the Illinois EPA, is going to know if they
8 accidentally pump too much in is if Wedron Silica says,
9 Oh, we goofed up, and we actually pumped too much in.

10 There is no monitoring. I mean there's
11 limited-type monitoring, but, you know, they're pumping
12 at night, they're pumping in the daytime, and sometimes
13 100 yards or more down the river where the water is
14 actually changed, and I worry about my grandkids who
15 have all swam in that river and the small particles of
16 water that they ingest, they get in their eyes.
17 They're scratching their eyes afterwards. It doesn't
18 seem safe.

19 But also and the main problem, I guess, is
20 the monitoring, and I don't believe that Wedron Silica
21 is going to do what they say. There is no way to
22 keep --

23 HEARING OFFICER STUDER: Speak into the
24 mic.

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1 MR. LIMACHER: There is no way to keep
2 them on task that I can see, and I trust that my kids
3 will be home at curfew, but I always check their beds.

4 HEARING OFFICER STUDER: Thank you.

5 Cindy Skrukrud, and she will be followed by
6 Ross Montana.

7 MS. SKRUKRUD: My name is Cindy
8 Skrukrud, C-i-n-d-y S-k-r-u-k-r-u-d.

9 I'm the clean water advocate for the Illinois
10 Chapter of the Sierra Club, and so I'm here to ask
11 questions and raise some concerns related to protecting
12 the water quality of Buck Creek and the Fox River for
13 wildlife and for the people who live nearby and make
14 use of these waters. So I have a number of questions.

15 So Wedron Silica is operating under an
16 existing permit. When was that permit issued?

17 MEMBER FAUGHT: I don't think I have an
18 exact date in front of me. It was September of last
19 year, September of 2013, and we can obviously get you
20 that date in the responsiveness summary, but just last
21 September.

22 MS. SKRUKRUD: Okay. Okay. Because we
23 had done a Freedom of Information Request, and we were
24 sent a permit that was issued in 1996 and expired in

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1 2001. So I was wondering if we were still operating
2 under that permit.

3 MEMBER FAUGHT: No. It has been
4 renewed.

5 MS. SKRUKRUD: Okay. The permit talks
6 about water withdrawals from Buck Creek with the
7 proposed expansion of the mine. Do you know if they're
8 proposing to expand the withdrawal of water from the
9 creek?

10 That's in the -- it talks about that in the
11 construction authorization, which is on the last page
12 of the permit or close to that. Yeah, the last page of
13 the draft permit: "Water is drawn from Buck Creek as
14 necessary to maintain the water level in the fresh
15 water pond."

16 MEMBER FAUGHT: I don't know. I'll have
17 to check and get back to you on that. That possibly
18 has been updated, but yeah, let me check into that
19 comment, and we'll get back to you.

20 MS. SKRUKRUD: So does IEPA play any
21 role in permitting their water withdrawals?

22 MEMBER TWAIT: No, we do not.

23 MS. SKRUKRUD: Do you know who would
24 permit that?

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1 HEARING OFFICER STUDER: No. I don't
2 know if it's even regulated by a state agency.

3 MEMBER BUSCHER: I would expect DNR
4 but, you know --

5 MS. SKRUKRUD: Do you know if the mine
6 has already received a permit from DNR for this
7 proposed expansion?

8 MEMBER FAUGHT: Yes, they have.

9 MS. SKRUKRUD: Oh, bummer.

10 Then I've now got a series of questions on
11 the antidegradation assessment.

12 So I want to be clear, Dean, maybe I
13 misheard, but in your introduction, I thought you said
14 that Wedron Silica said that they -- that their
15 discharge from Outfall 004 would be only .15 million
16 gallons per day.

17 HEARING OFFICER STUDER: No, I think
18 it's --

19 MS. SKRUKRUD: It's .58 in the permit,
20 but --

21 HEARING OFFICER STUDER: Yes, it's .58.

22 MS. SKRUKRUD: Okay. I'm wondering if I
23 misunderstood.

24 HEARING OFFICER STUDER: I hope up I

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1 didn't misspeak, but it is .58.

2 MEMBER FAUGHT: That's what you said.

3 HEARING OFFICER STUDER: It is .58.

4 MS. SKRUKRUD: Okay. It's .58. Then I
5 transcribed it as .15.

6 HEARING OFFICER STUDER: I still said it
7 wrong.

8 MS. SKRUKRUD: So if they decided that
9 they don't need to discharge water there, then my
10 question is where is that water going to go now?

11 MEMBER FAUGHT: Some of it will be going
12 into basically the processing water they use to -- as
13 water they use to do the actual mining, and some of it
14 was just sort of an updated calculation that they do
15 not need to discharge that much.

16 MS. SKRUKRUD: Okay. I know we had
17 raised an issue in our comment letter that we sent back
18 in January, but it's noted in the antidegradation
19 assessment that Buck Creek is a stream that's subject
20 to the state's enhanced DO standards, and so I'm just
21 wondering was there any consideration of the impacts of
22 this discharge on that issue?

23 MEMBER TWAIT: Since this discharge does
24 not have any biological oxygen demand, we did not put a

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1 DO limit in the permit.

2 MS. SKRUKRUD: Have you ever required
3 them to monitor BOD or dissolved oxygen in their
4 discharges to Buck Creek?

5 MEMBER TWAIT: I don't believe so. BOD
6 is not something typical from a sand mine.

7 MS. SKRUKRUD: So then moving down the
8 antidegradation assessment, there's a section that
9 talks about the identification of proposed pollutant
10 load increases or potential impacts on uses, and there
11 it's stated that total suspended solid permits will be
12 set at the most stringent federal categorical limits
13 applicable, but that the stream is going to see an
14 increase in loading of suspended solids.

15 So I wanted to make a comment that under
16 antidegradation, we can certainly set limits that are
17 more stringent than the federal categorical limits; and
18 given the high integrity of Buck Creek, I think that's
19 something that we need to be considering.

20 Release of TSS can smother the sand and
21 gravel that supports habitat in high-quality streams
22 like Buck Creek. I was certainly unhappy to hear what
23 Jim reported on how that appears to have been going on,
24 that we've had a lot of sand coming off of this site

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1 and coming into Buck Creek and ultimately into the
2 Fox River.

3 So I know the antidegradation assessment says
4 settling ponds are the treatment that are being used,
5 but I certainly think that there's -- we need to be
6 considering the very best treatment when we're
7 discharging to a high-quality stream like this.

8 In our FOIA request, F-0-I-A, request, we
9 received the application, and in that application
10 for -- I'm assuming it was for the renewal of the
11 permit, I saw instances where total suspended solid
12 discharges were reported as 35 milligrams per liter.
13 That's certainly above the monthly average limit in the
14 permit.

15 One page I saw was EPA Form 3510-2F, Section
16 VII, Roman Numeral VII, discharge information. On that
17 page, it listed that suspended solid discharges from
18 outflow 001 were as high as 476 and 236 milligrams per
19 liter.

20 In the engineer's notes that we received, it
21 also stated that the engineer had noted that the
22 suspended solids and discharge monitoring reports were
23 greater than limits.

24 We also received a copy of the consent decree

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1 that resulted from a case that the attorney general
2 brought against the mine for excess discharges of
3 suspended solids that was filed in July 2012. So
4 clearly they were having problems before that.

5 And then last I looked at the ECHO Report,
6 Enforcement and Compliance History Online Report. I
7 downloaded that information today and note that as
8 recently as April 2013, the company had a violation for
9 management practices and improper operation and
10 maintenance. So I can give that to you as an exhibit.

11 HEARING OFFICER STUDER: Sure. I'll
12 enter that as an exhibit.

13 MS. SKRUKRUD: So, again, my concern is
14 given the past and fairly recent problems at this site,
15 I'm just concerned that we're not going to be able to
16 protect Buck Creek and the Fox River from harmful
17 impacts from the expansion of this mine.

18 Another thing that we received in our FOIA
19 request was a September 7th, 2012, Western Solution
20 Superfund Technical Assessment and Response Team Report
21 that said that further investigation needed to be done
22 on the Wedron Silica site with regards to soil and
23 groundwater contamination.

24 I know earlier you said that they were doing

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1 groundwater monitoring. I wonder have you considered
2 the potential for contamination in the groundwater and
3 soil as the mine expands to lead to the contamination
4 of surface waters?

5 MEMBER BUSCHER: In the actual expansion
6 area? Is that what you're referring to, or are you
7 referring to the present area where there's known
8 contamination?

9 MS. SKRUKRUD: You could answer for both
10 instances. Yeah, in the expansion area and then in the
11 present area.

12 MEMBER BUSCHER: In the expansion area,
13 I wouldn't expect that either would -- in effect, the
14 net flow should be neutral. That's why I wouldn't
15 expect that it would negatively affect the groundwater
16 in that area. In the area where there is known
17 contamination, it's under investigation. So we'll just
18 leave that to that process.

19 MS. SKRUKRUD: Okay.

20 HEARING OFFICER STUDER: We've got a
21 time limit too. If you've got questions that are along
22 these same lines, I'll allow you to finish this area
23 before we -- and we will have time to come back to you.

24 MS. SKRUKRUD: Okay. Okay. This is

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1 probably a good breaking point.

2 HEARING OFFICER STUDER: Okay.

3 MS. SKRUKRUD: Thank you.

4 HEARING OFFICER STUDER: Ross Montana.

5 MR. MONTANA: Good evening, gentlemen.

6 My name is Ross Montana, spelled just like the state,
7 M-o-n-t-a-n-a.

8 I'd like to make a short comment, and then I
9 have two small questions.

10 Some 24 years ago, I bought the property
11 directly across from Buck Creek. When we bought that,
12 I could walk across there, and it was solid rock.
13 Today you step in there, and you've got 2 or 3 inches
14 of sand. You can no longer walk across it. I don't
15 think that's good for the environment. I don't think
16 it's good for the fish. I don't think it's good for
17 anybody. Okay. So I would definitely think we should
18 look to something to help us there.

19 Question 1: My grandchildren swim in this
20 river, and they canoe in there. How safe is that
21 water? Once or twice a month I see it come out solid
22 green. Okay. I'd like to know how safe it is.

23 Second question: Would you let your children
24 or grandchildren swim in that water? Okay.

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1 Last question of all: In the last year or
2 two, further south we have those piles of white sand.
3 My children call that the Tetons because they remind
4 them of that. Okay. You know what I'm talking about?

5 Either way what I'm saying is that sand blows
6 directly at us. Okay. It's unbelievable. It will
7 kill your lawnmower if you don't cover it. Okay. Even
8 a car, I'm afraid to park the car right there. Okay.

9 Is it possible that they could put some kind
10 of a screen or something to prevent it from blowing
11 east and hurting everybody? In fact, if you go in my
12 home, windows closed now, we don't open them no more,
13 you can find sand on the tables. So I would just like
14 to know is it possible that they could to do something?
15 Put up a screen? I know we can't stop business.
16 They're a big business. I understand that. But can
17 they help us with that?

18 I want to thank you for letting me have the
19 time. You have a good evening.

20 HEARING OFFICER STUDER: Thank you.
21 Andrew Paxson.

22 MR. PAXSON: My name is Andy Paxson,
23 P-a-x-s-o-n. I'm here with the Friends of the Fox
24 River. I have a comment and a question, if I may.

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1 The question is I notice there's Benzene,
2 Toluene, Xylene, and Ethylbenzene for monitor only. Is
3 there any of these found in the discharge? Is there a
4 certain limit that they have to report to the EPA, or
5 if there is any of them, they have to report it?

6 MEMBER FAUGHT: They monitor for any
7 limit. If it's detected, they report the DMRs. Once
8 we have enough data, then we'll take a look at it and
9 sort of evaluate what happens on the next permit, but
10 they do report anything they detect in the chart
11 monitoring reports.

12 MR. PAXSON: Okay. And my comment is
13 according to Title 35, Subchapter C of the Water
14 Pollution Control Board, you state that a NPDES permit
15 should not be issued if discharge would, in the
16 judgment of the Secretary of the Army acting through
17 the chief engineer, impairs the water and would not
18 have the ability for anchorage.

19 I'll leave it at that. Thank you very much.

20 HEARING OFFICER STUDER: Thank you,
21 Mr. Paxson.

22 Is there anyone in the room that has not
23 spoken that would like to make a comment on the record
24 this evening? Okay.

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1 MR. DEMPSEY: Thank you for this chance
2 to quickly say something. My name is Kelly Dempsey,
3 D-e-m-p-s-e-y.

4 I would like to remind everybody 1 1/2
5 percent of LaSalle County is employed by mining. The
6 other 98 1/2 percent of us and maybe even the other
7 1 1/2 percent need their present and future quality
8 water resources like Buck Creek and the Fox River
9 protected.

10 These stream beds need more protection from
11 silt and fine sand for the fish eggs that they're
12 obviously getting from here. And the amount of money
13 these companies are pulling out, the least they could
14 do is -- I guess I can call them citizens, but when I
15 say "citizens," I'm talking about people who are alive,
16 people who can be incarcerated, imprisoned, all of that
17 versus if -- I think we need to get back to the
18 founding principles of this country, the principle that
19 this is for all, not the 1 1/2 percent.

20 Thank you.

21 HEARING OFFICER STUDER: Thank you,
22 Mr. Dempsey.

23 If I can pronounce the name, is it Mark
24 Bermabei?

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1 MR. BERMABEI: Bermabei. Yes.

2 Good evening, everyone. Mark Bermabei,
3 M-a-r-k, last name B, as in boy, -e-r-m-a-b, as in boy,
4 -e-i.

5 Can I make questions first before I develop
6 my comments?

7 HEARING OFFICER STUDER: Sure.

8 MR. BERMABEI: And maybe you don't have
9 all the answers to my questions.

10 I heard the gentleman over here that I
11 believe commented about flocculants. Can you just tell
12 me briefly what flocculants are, what ones will be
13 allowed in the discharge; and if there's a change in
14 the flocculants being used, is that going to be
15 permitted under the permit, or will they need to have a
16 file -- a new permit filing and then refile for a new
17 permit regarding flocculants?

18 I think I actually have three questions
19 there.

20 MEMBER FAUGHT: The flocculants that
21 they're asking for approval of possible usage, if
22 needed, for -- most of the time, flocculants are used
23 to sort of bind solids together, and it basically helps
24 settle out the solids to decrease the amount of

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1 suspended solids in the discharge.

2 They have asked for approval for a choice of
3 three different flocculants. I guess I can give you
4 the names. They're all from Neo Solutions. The first
5 one goes by the name NS 3450P, the second one is
6 NS 6850P, and the last one is NS 6350P.

7 As part of the review of the permit, our
8 water quality staff -- water quality standards staff
9 did review their proposed dosage rate and found that
10 they would not cause any toxicity or impairment of the
11 receiving streams. So they did give approval for those
12 dosage rates.

13 So with this permit modification, they will
14 have approval for the dosage rates they proposed for
15 those three flocculants. If they need to increase
16 those dosage rates or use a different flocculant, they
17 will have to come back for approval, which will most
18 likely follow the same water quality standards section
19 review of their proposed flocculant use.

20 MR. BERMABEL: So let me clarify. If
21 the dosage rate changes, that will trigger a new
22 permit?

23 MEMBER FAUGHT: If it increases, it will
24 require a new review, yes.

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1 MR. BERMABEI: A new review then a
2 permi t.

3 MEMBER FAUGHT: Possibly. I guess it
4 sort of depends what their proposal is, but we would
5 definitely review that increased dosage rate.

6 MR. BERMABEI: Are the flocculants
7 biodegradabl e?

8 MEMBER FAUGHT: I'd have to -- the
9 person with the water quality standards section that
10 reviews the flocculants is not with us tonight, so I'd
11 have to check with him and get back to you.

12 MR. BERMABEI: I'd appreciate a
13 clari fication on that.

14 MEMBER FAUGHT: Okay.

15 MR. BERMABEI: Along with that, I'm just
16 interested in how far downstream the flocculants could
17 potentially travel before they settle out or before
18 they biodegrade, if they do. Will they collect in a
19 wetland? Potentially over time if these things keep
20 collecting in a wetland, are we going to have a
21 superfund site essentially in a wetland?

22 What is the procedure then if we have that
23 situation happen potentially on someone else's
24 property, are they now a PRP? Is it their

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1 responsibility to clean this disaster up? Is it the
2 sand company who is going to be cleaning it up, or is
3 the EPA going to be stuck with cleaning it up? Who is
4 going to do the engineering on it? Where is the
5 disposal going to go to?

6 And then this will lead into my question.
7 Can you answer some of that?

8 MEMBER FAUGHT: I'll give it a shot.

9 I guess, first, we aren't sure if there's
10 going to actually have to be a cleanup at all, but I'd
11 have to check with the same water quality standards
12 staff member who reviewed them.

13 Most of the time we figure that the
14 flocculants are going to settle out in their settling
15 ponds because it binds to the solids. That's sort of
16 what they're designed to do. So most of the
17 flocculants will settle out into the applicant's
18 settling ponds.

19 MR. BERMABEL: All right. Is that the
20 only settling device that would be allowed then under
21 the permit? I mean, would they be -- could they be
22 using a settling structure, a containment structure
23 other than a settling pond?

24 MEMBER FAUGHT: It's possible they could

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1 either increase their existing settling basins to
2 provide more settling time or come up with a series
3 leading up to their existing settling ponds. It is
4 possible to add settling that way.

5 MR. BERMABEL: All right. The settling
6 ponds designed as they are currently going to be using
7 underneath this permit, is that something that's been
8 used for a long time in the industry? Is it an
9 antiquated design? Are there better designs out there?
10 Can you share some of that with us?

11 MEMBER FAUGHT: The settling basins have
12 been used for quite a long time, and pretty much the
13 best way to take care of suspended solids is a settling
14 basin.

15 MR. BERMABEL: All right. So I just
16 want to clarify here. There is going to be suspended
17 solids that make it out into these various outflows.

18 Is there any way to engineer that there's no
19 settling -- sediment coming out of there at all? If we
20 raise wherever the suction point is, the head point of
21 the pump, and we make the definite settling pond
22 another 20 feet deeper, will that eliminate or cut in
23 half potentially the amount of sediments that are
24 coming through the outflow? Is there a way to engineer

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1 less sediments in there with this design structure
2 for --

3 MEMBER FAUGHT: There probably is, but I
4 think the applicant is basically tied to meeting our
5 effluent limit for suspended solids. So they're
6 basically designed or required to design the structure
7 to meet our effluent limit.

8 MR. BERMABEL: So if we were able to get
9 an effluent design limit change, and I'm speaking of
10 lowering it potentially in the future, then they could
11 engineer it, to your knowledge, to make it perform
12 better than the current standards?

13 MEMBER FAUGHT: Yes. That's possible.
14 But again for the permit, they're only required to meet
15 our effluent limit.

16 MR. BERMABEL: I understand. I'm just
17 trying to get clarification because I'm not an engineer
18 that is an expert in this, unfortunately.

19 MEMBER TWAIT: These are fine grain
20 sands. There's probably not a way to screen
21 100 percent of them without doing something really
22 expensive, but there's probably ways, and it may be
23 expensive to reduce them, But I'm not sure if they're
24 applicable in this situation.

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1 MR. BERMABEL: What's the structure of
2 the grains? Are they circular? Are they jelly bean?
3 Are they angular? Are they shard-like, columnar? Pick
4 a shape.

5 MEMBER TWAIT: I don't know the answer
6 to that.

7 MR. BERMABEL: All right. You guys
8 don't have to have clarification on the particle -- the
9 structure of the particle that's being put out in the
10 effluent?

11 MEMBER TWAIT: No.

12 MR. BERMABEL: Can that be made part of
13 the permit?

14 HEARING OFFICER STUDER: If there's a
15 legal requirement, we can examine whether or not we can
16 make it part of the permit. The basis is we've got to
17 have something in law that, you know --

18 MR. BERMABEL: I understand.

19 HEARING OFFICER STUDER: -- that's the
20 basis for it.

21 MR. BERMABEL: All right. Kind of what
22 I'm leading up to here, does the Army Corps sign off on
23 any of this permit application at any juncture?

24 MEMBER FAUGHT: The Army Corps of

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1 Engineers does permits when there are discharges to the
2 waters of the United States, and the applicant has not
3 proposed any discharges to -- or fill material, dredge
4 or fill material in the waters of the U.S. So there
5 have been no activities under the Army Corps of
6 Engineers' purview.

7 MR. BERMABEL: So they have no overreach
8 essentially over this permitting process at all?

9 MEMBER FAUGHT: Not actually as it's
10 proposed.

11 MR. BERMABEL: You know, I heard
12 something earlier, I guess testimony or comments,
13 regarding sand, sediment making its way into the
14 waterways.

15 Have any of you been around any of the river
16 dredges in the Illinois valleys, have any experience
17 being on site when they do a river dredge or holding
18 that material in your hand, or any pertinent
19 information of what comprises the river dredge
20 material? Let's say in the Illinois River, for
21 example, are you guys aware of what's in that dredge
22 material?

23 MEMBER FAUGHT: I have been to a few of
24 the Army Corps of Engineers dredging sites, yes.

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1 MR. BERMABEL: Have you witnessed silica
2 sand, quartz-size silica in the river dredging?

3 MEMBER FAUGHT: I am not sure what type
4 of sand it was.

5 MR. BERMABEL: Was it a round-shaped
6 sand?

7 MEMBER FAUGHT: I honestly cannot tell
8 you.

9 MR. BERMABEL: Or was it like when you
10 go to Key West, and you're walking on conk shell
11 shards?

12 MEMBER FAUGHT: I don't think it's like
13 that, no.

14 MR. BERMABEL: All right. You haven't
15 been to Key West yet.

16 I guess my next question is where does
17 the water -- where is all this water coming from? Are
18 they taking this water out of the river and treating it
19 and using that in their process, or is this coming out
20 of deep water wells; and if it is, what strata is that
21 coming from, how deep, I guess?

22 MEMBER FAUGHT: I think most of the
23 water they are using is from their onsite settling
24 ponds. They basically reuse water already on their

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1 site, and I guess I will have to check back on the
2 question that came up earlier about withdrawing water
3 from Buck Creek. I don't think that is the case, but I
4 do know most of the water -- we'll get a better answer
5 for you -- is from onsite from their own treatment
6 ponds that they reuse.

7 MR. BERMABEL: All right.

8 MEMBER TWAIT: And that's basically
9 stormwater and some groundwater.

10 MR. BERMABEL: Meaning a well,
11 groundwater, well water.

12 MEMBER TWAIT: Not that they pump the
13 well. It's just that the groundwater seeps into their
14 excavation pond.

15 MR. BERMABEL: Do they have a well
16 onsite that they use for this watering process ever?

17 MEMBER BUSCHER: They don't pump water
18 for process. They do have a well onsite that they
19 utilize for drinking, but it is strictly for restrooms
20 in their office.

21 MR. BERMABEL: All right. So no
22 processing water.

23 MEMBER BUSCHER: That's my
24 understanding.

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1 MR. BERMABEL: All right. Well, that
2 answers a couple of my other questions.

3 Thank you very much. I appreciate your help.

4 HEARING OFFICER STUDER: Thank you.

5 Is there anybody else that hasn't spoken this
6 evening that would like to make comments on the record?

7 (No response.)

8 HEARING OFFICER STUDER: Okay. I know
9 that, Cindy, you had additional comments you wanted to
10 make.

11 Is there anyone else that has spoken -- what
12 was your name again?

13 MR. SWICK: Gary Swick.

14 HEARING OFFICER STUDER: Okay. Is there
15 anyone else besides Gary and Cindy that have already
16 spoken that would like to make additional comments on
17 the record?

18 (No response.)

19 HEARING OFFICER STUDER: Okay.

20 MS. SKRUKRUD: So thank you for the
21 chance to ask a few questions, but I first wanted to
22 follow up on Mr. Montana's comments.

23 I know that this is a hearing about water
24 discharges from this facility, but clearly the problems

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1 that he discussed is air pollution. I wondered if you
2 could provide who he should speak with at the Agency
3 about that issue.

4 HEARING OFFICER STUDER: We can examine
5 that and will provide that in the responsiveness
6 summary.

7 MS. SKRUKRUD: Okay. Great. Thank you.
8 Then I have -- Mark asked some of my
9 questions about flocculants, but I have some questions
10 on page -- at the bottom of page 11.

11 Going in order, Special Condition 16 talks
12 about an asphalt concrete plant. Is there an asphalt
13 concrete facility on this mine site?

14 MEMBER FAUGHT: There is none. There is
15 no asphalt or concrete plant at this site.

16 MS. SKRUKRUD: So why did the IEPA place
17 monitoring conditions for BTEX in the permit when it
18 was reissued in 2013? What were your concerns, and why
19 did you place those monitoring conditions in the
20 permit, and can you tell us what the results have been
21 of that monitoring that's gone on since it went into
22 the permit in 2013?

23 MEMBER FAUGHT: The reason we added the
24 monitoring for the BTEX was that -- it's due to the

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1 known groundwater contamination at Wedron. We just
2 wanted to get an idea if their discharge would be
3 drawing some of those parameters into it, and
4 basically, just like the permit says, we want to
5 monitor that.

6 Since the monitoring has started, there have
7 been several less nondetects or less than reporting
8 limits for those parameters, and the highest level
9 reported in the DMR have been 2 micrograms per liter of
10 Xylene and 1 microgram per liter of the three other
11 parameters, and those values are well under the
12 existing water quality standards, in some cases
13 thousands times -- 4,000 times less than the existing
14 water quality standards.

15 MS. SKRUKRUD: Okay. But those are the
16 levels found in the discharges from the mine site, so
17 that is diluted with stormwater and groundwater
18 seepage; correct?

19 MEMBER FAUGHT: It's what's in the
20 discharge, which is what the permit governs.

21 MS. SKRUKRUD: Okay. Thank you.

22 I wonder, Thad, do you have with you the
23 dosage rates for the three flocculants they propose to
24 use, and could you give me those rates, if you do?

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1 MEMBER FAUGHT: Yes. The first set of
2 flocculants, the Neo Solutions NS 3450P, they are a
3 proposed dosage rate of 1 part per million; and for the
4 other two, Neo Solution -- or the flocculants,
5 Neo Solution NS 6850P and NS 6350P, they are both a
6 proposed dosage rate of .25 parts per million.
7

8 MS. SKRUKRUD: Great. Thank you.

9 And then I wanted to make a comment again
10 about the limits in the permit, that we had under
11 antidegradation set more stringent limits on the
12 suspended solids in this permit, and that I think is --
13 not being a lawyer, but I would say that's the basis in
14 law is the antidegradation rule.

15 And I would think that there are technologies
16 available that could filter out even the smallest
17 particles. For example, reverse osmosis allows you to
18 filter out things at the molecular level. So we
19 certainly could have a filtration system that captures
20 very fine particles.

21 Then we, in our comment letter from January,
22 had requested that the Agency place as a special
23 condition in this permit the same special condition
24 language that's being placed in all permits issued in

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1 the Fox River watershed that deal with efforts -- local
2 watershed stakeholder efforts to address water quality
3 problems in the Fox River.

4 So I think you have the comment letter, but I
5 again request that the language provided be included in
6 any permit.

7 Basically, in the first condition, it says
8 this permit may be modified to include alternative or
9 additional final effluent limitations pursuant to
10 either an approved total maximum of a daily load study
11 or an approved Fox River watershed -- I guess I would
12 say an approved Fox River implementation plan. That's
13 the plan that we are currently working on that will be
14 completed a year from now.

15 HEARING OFFICER STUDER: Cindy, that's
16 the January 9th --

17 MS. SKRUKRUD: Yes.

18 HEARING OFFICER STUDER: That is Exhibit
19 3 in the record.

20 MS. SKRUKRUD: And then the second
21 special condition asks that the permittee participate
22 in the Fox River study group, and the study group is
23 working to resolve problems with loads on the oxygen
24 levels and offensive conditions in the Fox River.

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1 So one of the main issues that we are looking
2 at in addressing the Fox River is high allergen levels.
3 So I'm concerned when I hear that the discharges from
4 this site are very green and are adding algae to the
5 Fox River.

6 I also question whether there should be a
7 phosphorous limit placed in this permit. Again,
8 referring back to EPA Form 3510-2F, Section Roman
9 numeral VII, discharge information, in reviewing that
10 information today, it says that, at least in a certain
11 instance, the measure of discharge of phosphorus in the
12 effluent from this facility was .99 milligrams per
13 liter; and we know that we need to be getting our
14 phosphorous discharges much less than that if we're
15 going to clean up the Fox River. So given the volume
16 here, I think -- please take a look at whether we need
17 a phosphorous limit on this permit.

18 And then my last question is -- we looked at
19 the map earlier, and we see how -- where they've --
20 where the company has already mined, they essentially
21 are leaving Buck Creek high and dry.

22 As they mine west, and Thad said they're not
23 going to request a floor permit so that must mean
24 they're not going to mine, dredge, or mine the creek;

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1 but I'm really concerned that we have this high-quality
2 creek that we're going to be de-watering. They're
3 going to leave the creek parched. They're going to
4 mine next to the creek.

5 We talked earlier about how -- groundwater
6 that is seeping into their pit. The pit will be a cone
7 of depression that will be de-watering one of the
8 finest tributaries to the Fox River. I know that's not
9 a water quality issue, but it seems to me that's got to
10 be some kind of antidegradation issue that we need to
11 be considering.

12 HEARING OFFICER STUDER: Yeah. The
13 issue, I think, that you have brought up, Cindy, has to
14 do with the quantity of flow; but if you can clarify,
15 you know, specifically what you're asking in written
16 comments just so that we've got it in the record before
17 the comment period closes just to make sure that we
18 accurately reflect and look at the issue that you're
19 talking about, we would appreciate that.

20 MS. SKRUKRUD: Okay. I think that's it
21 for me. Thank you.

22 HEARING OFFICER STUDER: Thank you.
23 Gary Swick.

24 MR. SWICK: I have a combination of

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1 concerns and questions. I appreciate all the residents
2 that came out and the fine comments that they made.
3 They're really -- for somebody who is interested in
4 water quality protection, we really appreciate people
5 caring.

6 I especially like the gentleman's comment
7 about he trusts his children, but he checks on them in
8 bed, and I have concerns over trusting an entity that
9 has a very recent past of noncompliance.

10 I know that it's IEPA's job to be watching,
11 and I know that you're severely understaffed and that
12 we have to rely on self-regulation, but we can see --
13 my organization does water quality monitoring; and just
14 by getting thousands of kits in the stream, we find out
15 things that are happening, and we can address those.

16 Companies oftentimes are very cooperative,
17 and they don't know what's going on. But we heard a
18 couple reports here from residents about conditions,
19 and I would call a change in the substrate to gushy
20 sand to be habitat degradation, and I find that
21 unacceptable regardless of the condition, and I don't
22 think that -- I don't know if that kind of condition
23 actually gets scoured out in the annual process.

24 And talking about the fine grains, to me that

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1 is a discharge if it's physical material, and I think
2 it ought to be considered by the Corps of Engineers. I
3 realize that maybe you're not doing it on purpose, and
4 so I think that that should be addressed. Especially
5 if we're talking about a 29 percent increase, if I do
6 my math right, in the discharge.

7 If it's already unacceptable, and now we're
8 going to raise it to that magnitude, how are we going
9 to repair that? It's a question I propose, and I
10 question the philosophy of allowing increases in
11 permits to a public waterway. I realize, God bless
12 America, we all have a right to conduct our business;
13 but to me when we're talking about a national pollution
14 discharge elimination system, and our goal is zero
15 discharge, then why are we granting permits that would
16 allow additional discharge. I guess it's a
17 philosophical thing, but I don't agree with that.

18 I would like to live long enough to see zero
19 discharge and clean water effluent, and I really
20 believe that I will be able to swim and fish and drink
21 the waters everywhere.

22 I have a question that maybe Bill can help me
23 out with. I think Cindy was getting at this with the
24 quantity of water in Buck Creek.

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1 I just visualize, if we're building these
2 pits, that we're going to be collecting more surface
3 water into these pits, and that's surface water that
4 used to be part of the regular dynamic process of Buck
5 Creek. So that to me seems like we right away would be
6 limiting the quantity of water in the creek which will
7 impact the biological integrity of that, and I also
8 think if we're collecting that, it does not have the
9 opportunity to recharge the local groundwater.

10 I don't know what percent of Buck Creek
11 relies on groundwater, but I just go on the general
12 rule that the waters around here are about half surface
13 water and half groundwater. So to me, we're messing
14 with the quantity of water on two different aspects,
15 and I'm interested in your comments because you're more
16 of an expert than I am.

17 MEMBER BUSCHER: It's certainly going --
18 turn it on. It is going to have an effect, you know.
19 The mining process in itself, they specifically contain
20 the water that is in contact with the pit in order to
21 control discharges. You know, that plainly is done for
22 the purposes of eliminating impact.

23 So, you know, there is a certain amount of
24 that water that goes into and affects their product

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1 system, so there, you know, is impact. The question of
2 to what degree really, I believe, is what it comes
3 down to.

4 MR. SWICK: So we haven't studied that.
5 We don't know.

6 MEMBER BUSCHER: I don't believe that
7 it's been quantified.

8 MR. SWICK: Okay. So I have concerns
9 because this is a precious, little, delicate,
10 high-quality creek, and I don't think there is room for
11 error, and I would like to see research done by whoever
12 can do it, modeling or however, or have things go
13 slowly in the process so that it's not just another
14 instance where we -- oops.

15 I mirror the gentleman's comments --

16 MEMBER BUSCHER: Excuse me.

17 MR. SWICK: Go ahead.

18 MEMBER BUSCHER: Just for clarification,
19 water quantity issues really are not our call. That's
20 DNR's issue relative to, you know, the mining process.

21 MR. SWICK: To what extent does the DNR
22 sign off?

23 MEMBER BUSCHER: They sign off based on
24 the mining permit itself. We are really looking at the

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1 discharges from the operation.

2 MR. SWICK: Okay. I understand. Okay.
3 That indeed is a bummer.

4 And I just want to mirror that gentleman's
5 frustration because I had the same thing about a very
6 small percentage, like 1 percent of somebody being a
7 benefactor of something that's impacting what I
8 consider a public resource. The impact of this -- if
9 we're discharging quantities of material, that has a
10 potential impact for boating recreation, for fishing
11 and hunting recreation, for aesthetics, and for the
12 people that have residential enjoyment of just where
13 they are. I feel terrible for somebody that has to ask
14 for a screen to be put up to protect themselves from
15 not just the visual part of it, but the impact upon
16 their property when they're getting, as far as I know,
17 no benefit from that.

18 So it seems like very few are the
19 benefactors, and a lot of the people in Illinois are
20 the losers in this endeavor. I can't support an
21 increase.

22 And, Joanne, I just have a question about why
23 in this instance isn't an environmental impact
24 statement required?

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1 HEARING OFFICER STUDER: I was just
2 going to say I'm not aware of that being required on
3 any NPDES. If you've got, you know, a regulation that
4 you can cite either now or -- I don't know the answer.
5 That's why I'm asking you.

6 MEMBER OLSON: I don't know that it's
7 required. We can look into that and follow up in the
8 responsiveness summary.

9 MR. SWICK: All right. Thank you.

10 I think it's because we didn't anticipate
11 some of these concerns, like material discharge into
12 the river or impact on sensitive species.

13 MEMBER OLSON: There is an analysis that
14 has to be done under the Endangered Species Act, which
15 I believe the permit indicates that that has been done.

16 Thad, do you know where the -- on the fact
17 sheet it says -- it talks about the EcoCAT?

18 MEMBER FAUGHT: It's in the
19 anti degradation assessment.

20 MR. SWICK: I think it mentioned the
21 Redhorse on there.

22 MEMBER FAUGHT: Yeah. It's the third
23 page.

24 MEMBER OLSON: On the bottom of the

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1 third page, it talks about endangered -- aquatic
2 endangered/threatened species and the study that was
3 done.

4 HEARING OFFICER STUDER: So that is
5 directly on here.

6 MEMBER TWAIT: We did an EcoCAT
7 assessment, which is if you want to know what the
8 project is and exactly where it's at, on August 15th,
9 and they took a look at it and made the recommendation
10 that their consultation be terminated since adverse
11 effects are unlikely.

12 MR. SWICK: What would be terminated?
13 I'm sorry.

14 MEMBER TWAIT: The consultation.

15 MR. SWICK: Okay.

16 MEMBER TWAIT: We consulted with IDNR
17 through EcoCAT --

18 MR. SWICK: Okay.

19 MEMBER TWAIT: -- and they determined
20 that adverse effects are unlikely, and the consultation
21 was terminated.

22 MR. SWICK: All right. And then I just
23 want to reiterate that Buck Creek is really so
24 precious. I'm very troubled that we don't have

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1 assurances that there's not going to be any negative
2 impacts to this creek. I think it's very unfortunate
3 that this project happens to be in the vicinity.

4 I know I'm supposed to stay on the facts of
5 the whole matter, but philosophically, when the
6 gentleman was talking about -- both people, residents,
7 were talking about their grandchildren, and so often
8 we're just looking for short-term situations, you know,
9 how is this going to be impacted now, and we're selling
10 out the future in so many ways.

11 I have a child here, and I would hate to come
12 back here 10 years from now and want to look at the
13 last Class A stream in the Fox River watershed and have
14 my child or my grandchild say, Well, what did you do
15 about that? I would be ashamed if I didn't fight my
16 best to protect that stream.

17 If I was on the permitting end, and I don't
18 mean to be spreading guilt on anybody, but if I was on
19 that end, I'd be ashamed that I allowed that to happen
20 for the benefit of a few. If I was one of those few
21 that was doing it for their personal gain and they were
22 sacrificing something as precious as this, I would
23 truly be ashamed.

24 So I hope that I can come down there with the

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1 gravel mining pit people and the permitting people and
2 that we can see that Buck Creek is still a Class A
3 stream.

4 So thank you for your work.

5 HEARING OFFICER STUDER: Thank you.

6 Gary -- I'm sorry -- James. Gary just
7 finished speaking.

8 MR. LIMACHER: I'm sorry. I want to
9 make one thing clear. You mentioned that it was an
10 A-rated stream. You're using the BSE category, I
11 assume. That used to be a joint collaboration between
12 IDNR and the EPA, which the BSE stopped being updated
13 in 1998, I believe.

14 I just want you to know that they went to an
15 integrity rating, which we identified as rated a B
16 stream. I'm not saying it's not a high-class stream or
17 it's not of value. I just wanted to mention that the
18 BSE was no longer being issued by IDNR.

19 MR. SWICK: Yeah. I'm aware of that,
20 and I have this here, and I just spoke with the IDNR
21 fisheries people about this issue. I've seen the
22 report that it's listed as a class B, but that's at the
23 mouth of the stream. It is not listed because of the
24 IBI being over 51 where they did their sampling

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1 upstream.

2 So I understand that it's different sections
3 of the stream, but upstream will be affected by
4 downstream because there's fish traffic between the
5 river and the upstream section of that.

6 MR. LIMACHER: Okay.

7 HEARING OFFICER STUDER: Good.

8 MR. LIMACHER: I just wanted to clarify
9 something that LaSalle County was very stringent on me
10 about. The section of the Fox River from the Dayton
11 Dam to the mouth of Indian Creek is under the control
12 of the Corps of Engineers; and to do anything, you have
13 to get permits from the Corps of Engineers for that
14 section of the river because it was affected, I guess,
15 on the level of the water where the dam was built.

16 And I'm a little shocked to find out that if
17 I replace a house that's exactly the same, and then I
18 have to go back in and get another permit to get the
19 grade on my grass approved so it doesn't discharge into
20 the Fox River too quickly. But somehow they don't have
21 to go to the Corps of Engineers to dump 5 million
22 gallons of water a day into the same river. That seems
23 a little silly.

24 HEARING OFFICER STUDER: Again, I won't

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1 speak for the Corps one way or another because I
2 can't -- I don't work for the Corps of Engineers.

3 MR. LIMACHER: It is their water.

4 HEARING OFFICER STUDER: I don't think
5 anybody here is arguing that.

6 Okay. That concludes those that have
7 registered and asked to speak.

8 Is there anyone else that has not spoken
9 tonight that would like to, or is there anyone that has
10 already spoken that would -- okay.

11 While Mr. Dempsey comes to the mic, is there
12 anyone else?

13 All right. Cindy just raised her hand, and
14 we will adjourn after Cindy speaks.

15 Go ahead, Mr. Dempsey.

16 MR. DEMPSEY: Are there any
17 acid-producing materials onsite in the drainage?

18 MEMBER FAUGHT: The application
19 indicates that there are no acid-producing materials
20 onsite.

21 MR. DEMPSEY: Coal and shale then?

22 MEMBER FAUGHT: Correct. There's no --
23 they indicate there's no acid-producing material.

24 MR. DEMPSEY: Thank you very much.

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1 HEARING OFFICER STUDER: Thank you.

2 Cindy Skrukrud.

3 MS. SKRUKRUD: I'm sorry. I forgot to
4 ask this question earlier.

5 To your knowledge, has Wedron Silica complied
6 with the terms of the July 17th, 2012, consent decree?

7 MEMBER OLSON: I don't know if --
8 there's two conditions in that consent decree. Are you
9 asking about both of those conditions? The first SEP
10 or the second or both?

11 MS. SKRUKRUD: I'm asking about both,
12 and then I have a specific question about SEP 1.

13 MEMBER OLSON: Okay. I don't believe we
14 know -- I did not handle that case. There is another
15 attorney that handles the enforcement actions. So I am
16 not sure about the second SEP.

17 I'm not sure if Thad knows about the first.
18 I think he might be able to talk about some of the
19 things that have happened at that site since July 2012,
20 which may be able to address your question.

21 MEMBER FAUGHT: I guess I do know as
22 part of that first SEP, they have increased their
23 settling time to allow for better treatment of solids;
24 and since that time, they have not had any effluent

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1 limits for solids or any other parameters.

2 MS. SKRUKRUD: You mean they haven't had
3 any violations of their effluent limits? Is that what
4 you're saying?

5 MEMBER FAUGHT: Since that time, yes.

6 MS. SKRUKRUD: So my one specific
7 question about that is that SEP 1 was designed to
8 improve the treatment of total suspended solids, but
9 they were supposed to -- waters were supposed to be
10 routed -- I'm quoting here, "be routed to the much
11 larger Pit No. 1 settling basin for enhanced treatment
12 prior to discharge via existing NPDES Permit Outfall
13 002 into Buck Creek.

14 Then I'm skipping a sentence, and then the
15 next sentence says, quote, "The current routine
16 discharges from Pit No. 6 via Outfall 004 shall be
17 significantly reduced from high-volume daily discharges
18 to an intermittent or low-volume usage," unquote.

19 So then my question is -- I know because of
20 the interest of the hearing that they were proposing
21 that they weren't going -- now they weren't going to
22 increase discharges from Outfall 004, but it seems to
23 me from reading this, that we should be expecting
24 discharges to be decreased from that outfall. So I

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1 think the permit should reflect that, and I don't
2 believe it does.

3 Then looking on ECHO -- in ECHO it gives a
4 value of what penalty or whatever they've been
5 assessed, and I believe in the ECHO Report, which I
6 gave you as an exhibit, it was around 31,500 which was
7 supposedly the cost of SEP No. 2; but the consent
8 decree says they're supposed to be doing projects more
9 in the \$51,500 range, which doesn't seem like a lot of
10 money for all the sand that we hear is ending up in
11 Buck Creek and the Fox River.

12 So I think they still need to do a better job
13 in the future to make up for the bad acts in the past.

14 Thank you.

15 HEARING OFFICER STUDER: Thanks, Cindy.

16 I want to remind everyone that the hearing
17 record in this matter will remain open until July 9th,
18 and I appreciate everyone being here and the comments
19 that have been said this evening.

20 This hearing is adjourned.

21 PROCEEDINGS CONCLUDED AT 7:33 P.M.

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF K A N E)

3
4 I, JOANNE E. ELY, Certified Shorthand
5 Reporter No. 84-4169, CSR, RPR, and a Notary Public in
6 and for the County of Kane, State of Illinois, do
7 hereby certify that I reported in shorthand the
8 proceedings had in the above-entitled matter and that
9 the foregoing is a true, correct, and complete
10 transcript of my shorthand notes so taken as aforesaid.

11 IN TESTIMONY WHEREOF I have hereunto set my
12 hand and affixed my Notarial Seal this 20th day of
13 June, 2014.

14
15 *Joanne E. Ely*
16 _____
 Certified Shorthand Reporter
 Registered Professional Reporter



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20 My commission expires
21 May 16, 2016
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