

1 MS. ANDRIA: Absolutely. I mean, that should
2 be very basic to the process. I mean, we've been
3 asking for that. You've been asking for that.
4 We've not gotten it in Illinois. They keep doing
5 little -- an intro kind of thing, which doesn't
6 give much information, but, I mean, it would be
7 very helpful to the public. And I think it would
8 be helpful to everyone to be able to look at
9 something in a snap and see why it's being issued,
10 a permit, what the history is, what the whole
11 basis for giving the permit is.

12 MR. HARNETT: Thank you very much for coming
13 here today to talk to us.

14 MS. ANDRIA: Thank you. Thank you for being
15 kind in your questions.

16 MR. HARNETT: Our next speaker is Faith Bugel
17 of the Environmental Law Policy Center.

18 I'll warn you at a two-minute mark.

19 MS. BUGEL: Okay. I don't think I should go
20 that long, but we'll see.

21 First of all, thank you for having me
22 here today and providing us an opportunity for
23 comment.

24 Again, my name is Faith Bugel. I work

1 for Environmental Law and Policy Center, which is
2 a legal and public interest organization located
3 here in Chicago, and we work throughout the
4 Midwest.

5 I would like to start by giving you a
6 little bit of my background and how I ended up
7 involved in the Title V process. As I said, I
8 work for Environmental Law and Policy Center, and
9 a year ago I had my first community to comment on
10 a Title V permit. So that's the basis today --
11 we're going off of one experience with Title V
12 permits, which I think is more than enough.

13 I am an attorney. I have six years of
14 experience, solely in the environmental law field.
15 So I guess I am one of those technical people, but
16 with that background, this was still an
17 overwhelming process.

18 I also had the resources of an
19 environmental organization dedicated to working on
20 issues of this sort, and I had the support of a
21 legal intern, and I guess I had about 90 days, and
22 I used every single one in drafting comments on a
23 Title V permit.

24 So my first comment would be, in the

1 face of my experience and the resources I had at
2 my disposal, and the fact that I'm supposed to be
3 a technical person, an attorney with six years'
4 experience, I think the objectives of this program
5 are ideal. That this should be a program that
6 allows for citizen involvement, allows for public
7 participation, and that these permits should be a
8 place where all requirements are consolidated, and
9 citizens should be able to sit down and read one
10 of these permits and review and provide comments.

11 But my experience -- and those goals
12 aren't necessarily consistent, because I'm not a
13 citizen; I am an attorney. I've had environmental
14 law experience, and this still was overwhelming
15 for me. So, you know, to start with I'd like to
16 say don't get rid of this program. This is
17 critical. This is an opportunity.

18 But I would like to say the improvement
19 that needs to be made is this program somehow
20 needs to be made more accessible for the citizens.
21 And these permits need to be somehow made less
22 complicated so that the citizens really can sit
23 down and read them and comment upon them and don't
24 need to resort to using people like me.

1 What I would say is that I see the
2 problem is at the state level. And, you know,
3 before I start pointing fingers at the state, I
4 know the state agencies get so much heat, and they
5 are underresourced. And trying to implement these
6 programs, they're short on staff and they're short
7 on time and they're short on resources. And in
8 the face of those shortages, I think they do a
9 hero's job as well. But I also think that we have
10 these goals at the federal level, and then we have
11 the states implementing them, and somehow there is
12 a miscommunication between those goals and what,
13 in fact, happens on the ground.

14 And my personal experience was with the
15 start-up, shutdown, malfunction provisions, which
16 at the state level here in Illinois are not
17 consistent with U.S. EPA guidance, and they are
18 not consistent with the goals of the program.

19 The permit must be consistent with U.S.
20 EPA's guidance. I think that's basic. U.S. EPA
21 writes this guidance for a reason. There are
22 lengthy memos laying out the requirements for
23 start-up, shutdown, and malfunction, and then what
24 has happened in Illinois is a very boiled-down,

1 limited provision instead.

2 First of all, automatic exemptions for
3 excess emissions during start-up, shutdown, and
4 malfunction are prohibited, especially during
5 start-up and shutdown because those are
6 foreseeable events in the normal operation of a
7 source, and those events should be accounted for
8 and carefully planned for, and therefore
9 violations at that time should be eliminated.

10 I understand U.S. EPA in its guidance
11 gives discretion, but this discretion is limited
12 to the context of enforcement actions. States may
13 have the discretion to take -- to refrain from
14 taking enforcement actions. They have the
15 discretion to excuse a source from penalties in
16 the context of an enforcement action and also have
17 the discretion to provide an affirmative defense
18 in an enforcement action.

19 However, states may not excuse or
20 otherwise authorize excess emissions that would
21 otherwise be violations of applicable limitations
22 and requirements.

23 Now we have 35 IAC Section 201.262,
24 which lays out Illinois requirements regarding

1 malfunction, breakdown and start-up. And bear
2 with me while I read this, because it is short,
3 and that's part of the problem:

4 "Permission shall not be granted to
5 allow continued operation during a malfunction or
6 breakdown, unless" -- and I emphasize -- "unless
7 the applicant submits proof to the Agency that:
8 Such continued operation is necessary to prevent
9 injury to persons or severe damage to equipment;
10 or that such continued operation is required to
11 provide essential services; provided, however,
12 that continued operation solely for the economic
13 benefit of the owner or operator shall not be a
14 sufficient reason for granting of permission.
15 Permission shall not be granted to allow violation
16 of the standards or limitations of Subchapter c of
17 this chapter during startup unless applicant has
18 affirmatively demonstrated that all reasonable
19 efforts have been made to minimize startup
20 emissions, duration of individual startups, and
21 frequency of startups."

22 EPA guidance on this issue -- and I'm
23 saying this from memory, but EPA guidance on this
24 issue is multiple pages long, at least like five

1 to nine pages. That paragraph that I read to you
2 is this long (indicating), not even a quarter of a
3 page.

4 So right there you see the inconsistency
5 in the detail provided in Illinois's regulation
6 and the EPA guidance, just in terms of length and
7 detail.

8 Second, the inconsistency I'll point out
9 to you is that this indicates that permission can
10 be granted. By laying out a situation where
11 permission can't be granted, it's implied that
12 there are situations where permission can be
13 granted to allow violations. EPA guidance says
14 that the state may not authorize or excuse
15 violations.

16 Also, this specifically does not limit
17 state discretion to the context of enforcement
18 actions. While it uses those magic words,
19 affirmative defense, that affirmative defense by
20 EPA guidance is only allowed in enforcement
21 actions, and here there is no mention of
22 enforcement actions.

23 In addition, consistent with this
24 provision, the state has issued draft Title V

1 permits that are also explicitly contrary to the
2 U.S. EPA guidance. Now, I realize I'm getting
3 into the realm of the requirements that the Title
4 V permit be consistent with the state
5 implementation plan, which it is, and the
6 requirement that the Title V permits be consistent
7 with U.S. EPA regulations and guidance. And
8 again, this is where the problem lies. We've
9 ended up with a state implementation plan that's
10 not consistent with U.S. EPA objectives, and as a
11 commenter on a permit, I then get told, "Well, but
12 this is consistent with our SIP."

13 And I'm saying, looking at EPA guidance,
14 saying, "That can't be possible because this SIP
15 shouldn't be allowed." So I am left without
16 recourse, even though I've identified something
17 that is a problem. So, allow me, then, to comment
18 on these permits that we then saw.

19 In Title V permits drafted for the
20 Midwest Generation facilities here in Illinois,
21 there was a condition that authorized continued
22 operation in violation of applicable requirements,
23 just on its face inconsistent with U.S. EPA
24 guidance. The language does not provide just

1 affirmative defense, it's not limited just to
2 enforcement actions, but it specifically
3 authorizes continued operation, and I'm quoting
4 this, "in violation of applicable requirements and
5 applicable standards."

6 More specifically, regarding start-ups,
7 shutdowns, and malfunctions, U.S. EPA policy has
8 five conditions; that they be unavoidable or
9 necessary to prevent loss of life, personal
10 injury, or severe property damage; that they be
11 consistent with good practice for minimizing
12 emissions; that they minimize the impact of excess
13 emissions on ambient air quality; that emission
14 monitoring systems be kept in operation; and that
15 the permittee notify the agency.

16 However, the condition I just read to
17 you is everything that was contained in the permit
18 on start-up, shutdown, and malfunction, and none
19 of these other conditions were required. For the
20 affirmative defense to be available, there needs
21 to be proof that the emissions were short,
22 infrequent, and could not have been prevented and
23 were not part of a recurring pattern. Again,
24 these requirements were not included in the

1 permit.

2 As far as malfunction and breakdowns,
3 again, EPA guidance requires that this be
4 consistent with good practice for minimizing
5 emissions: Repairs be made in an expeditious
6 fashion; excess emissions be minimized; all
7 possible steps be taken to minimize the impact of
8 excess emissions on ambient air quality; and for
9 the affirmative defense to be available, that the
10 malfunction be a sudden and unavoidable breakdown,
11 that it did not stem from any activity that could
12 have been foreseen or avoided, that it could not
13 have been avoided by better operating and
14 maintenance practices, and that that excess
15 emissions were not part of a recurring pattern.
16 Again, all of these conditions in U.S. EPA
17 guidance are not contained in the permit or in
18 this state implementation plan.

19 Finally, regarding both start-ups and
20 malfunctions, the permittee's actions need to be
21 documented in a properly signed, contemporaneous
22 operating log, something else that was omitted
23 from the permit.

24 In sum, I'd like to say that U.S. EPA

1 has done its job and provided sufficient guidance
2 on the content, process, and structure of both the
3 state implementation plan and the Title V permits.
4 However, the permit program could be improved by
5 assuring that state SIPs and state Title V
6 proposed and issued permits are consistent with
7 that guidance.

8 MR. HARNETT: Thank you.

9 Shannon Broome?

10 MS. BROOME: Hi. Good afternoon. Thanks for
11 coming.

12 The provision you read was from the SIP?

13 MS. BUGEL: Yes.

14 MS. BROOME: I just wanted to be sure I
15 understood that. So that was different than the
16 affirmative defense in the Title V program for
17 emergencies? That wasn't the emergency defense
18 provision.

19 MS. BUGEL: No, it was not.

20 MS. BROOME: I didn't hear it, so I just
21 want -- I mean, I heard it, but I don't remember
22 it word for word. Did it say that no penalty
23 could be, or did it simply say that the state
24 could grant permission for continued operation?

1 MS. BUGEL: It simply says the state can
2 grant permission for continued operation.

3 MS. BROOME: So would you agree that if
4 shutting down my unit during a malfunction would
5 cause the unit to explode and release dangerous
6 gases to the local community, that that would be
7 an appropriate situation to continue operation
8 until could you bring it down safely?

9 MS. BUGEL: Yes, I would.

10 MS. BROOME: And would you agree that if you
11 had a bunch of molten glass in a furnace, and
12 shutting it down would cause the glass to solidify
13 such that you would have to spend \$30 million to
14 make a new furnace, and your ESP was down, that
15 that would be a situation where it might be
16 reasonable to allow somebody to continue to bring
17 it down in a more graduated fashion, or if they
18 could solve the problem within an hour, to get it
19 down in -- I mean, I've had this situation.
20 That's why I'm asking.

21 But I didn't mean that to read that you
22 couldn't get fined for it or you wouldn't have to
23 certify noncompliance. I kind of viewed that more
24 as like a safety and not causing irreparable

1 damage to a really expensive piece of equipment
2 provision, and maybe I was reading it wrong or
3 hearing it wrong. I haven't read that particular
4 one. But I just viewed it less -- as giving less
5 to the source than I think you were viewing it.

6 MS. BUGEL: I think you and I agree on
7 several points. First of all, U.S. EPA guidance
8 says that severe property damage is something that
9 you can take --

10 MS. BROOME: And I haven't studied that
11 guidance, so I'm not --

12 MS. BUGEL: And the state also says severe
13 property damage is a consideration. I agree that
14 that's a consideration. That, you know, the
15 example that you pointed out is the kind of severe
16 property damage that both the state and the U.S.
17 EPA consider as a situation where shutdown is not
18 necessarily required, where penalties can be
19 excused.

20 My issue with the state SIP and the
21 permits we've seen is not what's in them, but
22 what's missing from them.

23 MS. BROOME: Okay.

24 MS. BUGEL: And what's missing from them is

1 what is laid out in U.S. EPA guidance where it
2 says violations may not be excused, but in the
3 context of an enforcement action, the state has
4 the discretion to not assess penalties, to allow
5 for an affirmative defense in the situation you're
6 talking about, or in the context of -- or may
7 actually -- I want to -- may refrain from taking
8 enforcement action.

9 But what's missing from our SIP is that
10 the SIP and the permits themselves, the way it is
11 phrased, makes it sound like there is -- that they
12 give the state permission to excuse a violation,
13 and that is specifically what is disallowed.

14 MS. BROOME: I guess I needed to study the
15 provision because I didn't hear it as excusing the
16 violation. I heard it as granting -- saying,
17 "Look, if you've got this situation, you better
18 call us to get permission to continue to operate,
19 and it better be under these particular
20 circumstances. We may still come back and fine
21 you" -- enforcement is another situation entirely,
22 and maybe I'm just hearing it wrong, but --

23 MS. BUGEL: But that's what I would like to
24 see, is a SIP that lays out, look, you know, here

1 is the situation where, yeah, if there is property
2 damage or risk to life, go ahead. You know, we
3 will give permission for you to keep operating,
4 but it's still a violation, and we reserve the
5 right to still take enforcement action.

6 MS. BROOME: It would be interesting to kind
7 of go in and talk to the agency that wrote that
8 and see what they think it means, too, because I
9 think that's worth discussion.

10 MS. BUGEL: And isn't that the problem,
11 though, that here are a bunch of experts sitting
12 around, and we can't figure out what it means.

13 MS. BROOME: Well, I didn't read it, so I
14 can't say I can't figure it out.

15 MR. HARNETT: Bob Morehouse.

16 MR. MOREHOUSE: Yes.

17 Faith, you made a comment earlier
18 that -- you made a comment earlier that you'd like
19 to see the permits much less complicated.

20 Can you give us a couple of ideas on
21 what you are thinking about by "less complicated"?
22 The challenge is, of course, we're dealing with
23 complex rules.

24 MS. BUGEL: And that is the challenge,

1 because these are very complex rules.

2 One of things that I've heard over
3 again, and one of the challenges I faced in
4 reviewing this permit, which is, oh, gosh,
5 hundreds of pages -- 111, 12, 13, something like
6 that long, was that in every condition there is a
7 reference to a regulation or a requirement, and
8 there are, you know, ten conditions on a page
9 sometimes.

10 So as I sat down to read this, I would
11 read my condition, and then go reference the
12 regulations, which then reference something else,
13 and it's like this never-ending spider web, where
14 everything is all interconnected in a way that you
15 just can't figure out how. That's when I had to
16 enlist an intern to work through me condition by
17 condition and print out every regulation that's
18 referenced, and then she ended up printing out a
19 stack that was this thick (indicating).

20 One of the things that I think would
21 make these easier to read is if things could
22 somehow be organized, not on a -- on a
23 unit-by-unit basis, with the monitoring
24 requirements, reporting requirements, and, you

1 know -- what am I missing? Monitoring, reporting,
2 recordkeeping requirements all together, instead
3 of in this complicated way where monitoring
4 requirements are here -- you know, just in a way
5 where it intuitively makes more sense, and things
6 are grouped together so that you can read all the
7 requirements pertaining to one unit right there.

8 MR. HARNETT: Bob Palzer?

9 MR. PALZER: Thank you for coming.

10 I'm particularly interested in the
11 amount of time you've spent on dealing with the
12 issue of upsets, shutdowns, malfunctions, because
13 in a number of industrial processes these are
14 commonplace. I mean, they're just part of doing
15 business.

16 Certain operations are pretty much
17 consistent, and the upset or the breakdown or
18 malfunction is kind of an unusual occurrence or
19 may not have much of an effect in terms of the
20 amount of emissions that are occurring, you know,
21 from this unit over a period of time. In some
22 cases it's very significant, and this can, if
23 you -- if you don't take into account the
24 emissions that are occurring during these unique

1 events, you can have an emission inventory that is
2 quite different in actuality than what is assumed
3 in putting together a SIP.

4 Have you considered how that might play
5 into the situation you're describing; namely, that
6 the agency you're talking about, Illinois, isn't
7 following the general protocol that EPA requires?

8 MS. BUGEL: You know, I think you've touched
9 on something, and as you were mentioning this,
10 this, I think, gets to the heart of the problem.
11 What we've got is a situation where start-up,
12 shutdown, malfunction, breakdown are viewed more
13 leniently as an exception, and emissions during
14 those situations are permitted or authorized as
15 the exception.

16 Yet what does that leave? It leaves
17 normal operation. Well, I should hope that a
18 facility is operated, planned for, and created in
19 a way that during normal operation we're not going
20 to have a bunch of excess emissions, and in that
21 way the exceptions end up swallowing the rule.

22 Does that answer your question, or do
23 you want to repeat your question again?

24 MR. PALZER: Well, you're being responsive,

1 and I didn't ask the question in the clearest
2 possible way. I guess what I'm trying to do is
3 share with you a concern of some of these events
4 are very significant in terms of emissions and not
5 necessarily uncommon, and because the state agency
6 or in the rules these events are allowed to occur,
7 it's reasonable to consider them to occur because
8 some of these processes, there is no way of
9 avoiding them.

10 But emissions are still coming out, and
11 very commonly you don't take into account these
12 higher-than-usual emissions in coming up with an
13 emissions inventory, which is used then as the
14 basis of coming up with a SIP to be able to make
15 sure you meet the standards. And I see that as a
16 conundrum, and I was just wanting to know if you
17 had any insight of how one would get around that.

18 MS. BUGEL: And I agree that that is a big
19 concern because, you know, as I said, normal
20 operations are not the times when emissions occur.
21 They occur during start-up, shutdown, and
22 malfunction. So yeah, it's a very real conundrum,
23 and I think the bottom line is emissions during
24 these events need to not be authorized, excused,

1 but need to be accounted for and considered and
2 addressed.

3 MR. HARNETT: Lauren Freeman?

4 MS. FREEMAN: Let me just start by saying
5 that I share your frustration. I find it very
6 understandable because these permits aren't
7 necessarily easy even for people like us who do it
8 every day.

9 The one issue you highlighted, the
10 start-up, shutdown, malfunction, I think you may
11 have pointed to a -- maybe a different issue
12 that's not necessarily a Title V issue. Every
13 state has got its own start-up, shutdown,
14 malfunction provision that varies state to state.
15 Some are fairly recent. Some are not so recent.
16 There are individual start-up, shutdown,
17 malfunction provisions and federal regulations, so
18 there is a lot of variability out there. There's
19 not one model.

20 I think the EPA guidance that you were
21 referring to was actually clarified, again, in
22 2000 -- December of 2000. I may have the date
23 wrong.

24 There is a document describes the

1 relationship of that guidance to SIPs, and I think
2 that when you look through that, where you come
3 out is that the problem is with the SIP, and
4 unfortunately we find that a lot. People
5 identified something during the Title V process,
6 they want to fix it, and unfortunately the fix may
7 be you have to go back to the SIP.

8 And so I'm not sure there is a question
9 in there. I mean, that's just the way things are
10 unfortunately, because Title V really isn't
11 designed to fix every problem in a SIP.

12 I mean, maybe a question is, is there a
13 way to get people involved in SIP processes,
14 rather than trying to tackle this through Title V,
15 because it's not really the appropriate --

16 MS. BUGEL: Yeah, and I think that would be
17 helpful, to get people involved in this process.

18 MR. HARNETT: David Golden?

19 MR. GOLDEN: Thank you very much for coming
20 today.

21 I would echo what Lauren said. I've
22 been doing this about 12 years, and it's
23 impressive you can get up to speed in 90 days. It
24 makes me feel like I've been very slow on this if

1 you did it all in 90 days. That's why a lot of
2 the lawyers have what's called an ABA practice;
3 anything but air. It makes your head spin. I
4 think a lot of that is complex in the Clean Air
5 Act. As Lauren said, Title V doesn't really
6 necessarily cause this, but it certainly
7 highlights it. I do have a question though.

8 Several times you mentioned EPA guidance
9 requires X or Y, and then what permit terms and
10 conditions you are seeing is inconsistent with
11 what EPA guidance requires. I was curious as to
12 your view -- is it your view that EPA guidance has
13 the full force and effect of law?

14 MS. BUGEL: No, it's not. I understand that
15 about EPA guidance. It's guidance, not law.

16 MR. GOLDEN: What does a state or permittee
17 do where maybe every once in a while EPA will come
18 out with guidance that might be inconsistent with
19 other guidance, and so you have kind of a battle
20 of guidance versus law. I think Title V is
21 something that highlights it, but it doesn't
22 necessarily cause it per se. It just illustrates
23 the conundrum.

24 If you got to run the world for a day or

1 two, how would you solve of that?

2 MS. BUGEL: If I got to run the world, I'd be
3 in Malibu right now.

4 You know, I think -- I think that's part
5 of the problem; is there a way that U.S. EPA could
6 provide something -- you know, how do you -- it's
7 back to the question. What do you do about a SIP
8 that, as Lauren points out, that's lacking in a
9 certain area and inconsistent with guidance, but
10 guidance is just guidance.

11 Is there a way to work with the states
12 to get them to improve their SIPs, when there are
13 developments at the guidance level? What's the
14 guidance there for, if it's just guidance and
15 inconsistent and not really worth anything?

16 I believe the guidance is worth
17 something, and the states need to find a way to
18 respond to it that will not create an
19 ever-changing and inconsistent program.

20 As much as that answer is worth, maybe I
21 shouldn't be running the world.

22 MR. HARNETT: Mr. van der Vaart?

23 MR. VAN DER VAART: The memo -- just to
24 follow up on what Lauren said, the whole issue,

1 and of course there is a 150-page treaty that just
2 came out by Eric Schaeffer, who was actually the
3 author of the last memo that went back to the
4 Bennett & Bennett, and Herman, and then him. And
5 yeah, there are, like, 22 SIPs that are
6 inconsistent with it.

7 Now, coming from North Carolina, the
8 fact that a SIP is inconsistent with federal
9 guidance isn't necessarily a bad thing. We lost
10 that back in 1865, and so we still have issues.

11 But where this really plays out now, and
12 you're absolutely right, is in Title V, because we
13 have a certain number of companies, one utility,
14 who says, "We don't have excess emissions.
15 They're malfunctions." And so in other words
16 they've used it to define their compliance status.

17 And I guess my point is, is that even in
18 those states that have SIPs that you think are
19 inconsistent with these guidance memos, I think
20 you've looked to find that they're not even
21 following the rules themselves. In other words,
22 they're not even going through the steps to get to
23 the point they can certify compliance because I've
24 got a malfunction.

1 So the guidance isn't all that terrible.
2 I know you've got this issue of the violation
3 versus just the enforcement exemption, but you
4 also need to look at I don't think they're even
5 following the rules that are there.

6 MR. HARNETT: Kelly Haragan?

7 MS. HARAGAN: I just wanted to, as the person
8 who wrote that 150 pages rather than Eric
9 Schaeffer --

10 MR. VAN DER VAART: Oh. He's still at it, is
11 he?

12 MS. HARAGAN: Yeah, I spent several months on
13 that.

14 I want to raise the fact I do think it
15 is a problem in Illinois, and it is a problem in
16 lots of other states. While Illinois's provision
17 is vague -- that is a huge problem -- there is
18 other states where it's flat-out clearly illegal,
19 too.

20 I think to just realize there is this
21 big problem and say, "Well, we've discovered it
22 through Title V. It's been brought to the
23 forefront. It's not a Title V issue. It's a SIP
24 issue," that defeats the purpose of Title V.

1 Title V is supposed to raise these
2 issues so we can address them, not to just push
3 them to the sideline. So I think it is a really
4 important issue, and thanks for raising it.

5 MS. BUGEL: Thank you.

6 MR. HARNETT: Keri Powell?

7 MS. POWELL: Hi, Faith. Thanks so much for
8 coming out here to give your presentation. I
9 really enjoyed it.

10 I just wanted to know whether you raised
11 your concerns about the SIP with U.S. EPA, and if
12 so, how they responded? And how you think that
13 U.S. EPA should handle a situation where someone
14 raises in a petition an issue that U.S. EPA feels
15 is a SIP issue and not a Title V permit issue?

16 MS. BUGEL: Well, how we responded was by
17 filing suit against U.S. EPA yesterday. So
18 honestly, we -- I raised these issues in comments
19 to Illinois EPA. Illinois EPA's response was
20 basically it's -- you know, it's -- our permit is
21 consistent with our SIP.

22 So then we did petition U.S. EPA, and
23 because U.S. EPA is overwhelmed with petitions
24 like mine, they were not able to respond within

1 the deadline, and we've now gone to court to ask
2 for a response. We've yet to see what that
3 response is.

4 And that highlights another problem with
5 the program. The permits that I commented on were
6 draft permits a year and three or four months ago.
7 We have yet to see a final permit. And this
8 process has ultimately resulted in us having to
9 file suit. And that's another -- the delay
10 inherent in the program is another part of the
11 problem, is that we, you know, we had a draft
12 permit over a year ago, and we understand that
13 we're nowhere near a final permit yet.

14 MR. HARNETT: Thank you very much for coming,
15 and then we're taking a break now. We'll be back
16 at 4:00 o'clock.

17 (Recess.)

18 MR. HARNETT: The next speaker is Keith
19 Harley of the Chicago Environmental Law Clinic.

20 MR. HARLEY: Hello. Just as an initial
21 matter, I just wanted to say a special hello to
22 Bob and to Dick, who were on a federal advisory
23 committee with me five years ago on the industrial
24 combustion coordinated rule-making, and I haven't