

1 MR. HARNETT: Thank you very much for coming
2 here today and testifying.

3 The next person coming or speaking today
4 will be Bruce Nilles of the Sierra Club.

5 Bruce, if you weren't here at the
6 beginning, we just ask that you give a little
7 background of yourself and with Title V prior to
8 getting into your presentation. I'll give you --
9 you have 15 minutes for your presentation, and
10 I'll give you a two-minute warning sign when you
11 get through the first 13.

12 MR. NILLES: Thank you.

13 MR. HARNETT: Go right ahead.

14 MR. NILLES: Thank you. Again, my name is
15 Bruce Nilles, and I'm a senior Midwest
16 representative for the Sierra Club.

17 I work on primarily clean air issues in
18 Illinois and Wisconsin. My experience working
19 with Title V goes back about three, four years
20 now. Back in 2000 I was one of the lead counsels
21 challenging EPA's approval of the California's
22 Title V program, which had a blanket exemption for
23 all agricultural sources, regardless of the size.

24 Since then doing a lot of work in

1 Wisconsin and Illinois; spent about 12 months
2 reviewing the details of the program in Wisconsin
3 and Illinois, which then led to us petitioning
4 U.S. EPA to take action to fix those programs
5 because there is fundamental flaws with the way
6 that program is being implemented, despite its
7 promise.

8 I personally reviewed and commented on
9 dozens of Title V permits.

10 Most recently, as of yesterday we joined
11 with our allies here in Illinois to sue EPA for
12 its refusal to answer a petition we had filed
13 regarding five coal-burning power plants in the
14 greater Chicago area.

15 So I thank you for the opportunity to be
16 here. It's an honor to sort of talk about a
17 program that is a fundamental keystone of ensuring
18 compliance with the Clean Air Act and sort of
19 underscoring why this program is so very
20 important.

21 In the greater Chicago area, there are
22 about 8 million people who live in an area that
23 violates regularly ozone and fine particle
24 standards. About 500,000 of those are asthmatics.

1 We are in an asthmatic epidemic around the
2 country. We are ground zero here in Chicago.
3 More people die of asthma attacks in Chicago than
4 any other place in the country.

5 We are making progress on clean air, but
6 obviously a keystone part of that is the Title V
7 program to make sure existing sources are doing
8 their fair share and actually complying with the
9 laws enacted by Congress and rules adopted by EPA.

10 My testimony, folks, is on two points.
11 One is that the program has tremendous promise and
12 there is some great success stories about why this
13 program, achieving what Congress intended when it
14 enacted Title V in 1990. But also to point out
15 some of the shortcomings and why, despite the
16 promise, today we are still seeing a large number
17 of sources without permits and some very serious
18 ongoing compliance issues.

19 Some of that responsibility obviously
20 rests with the states, but at the end of the day
21 Congress made very clear that there is one person
22 with the back-stop responsibility, and that's U.S.
23 EPA. So much of my comments will focus on what
24 U.S. EPA has not done, with the one bright light

1 of what it has done to begin to rectify some of
2 the very serious problems in the state of
3 Wisconsin.

4 In terms of benefits, about once a week
5 I receive a call from typically one of our Sierra
6 Club members -- we have 26,000 members here in
7 Illinois; 12,000 in Wisconsin -- concerned about
8 something going on in the neighborhood relating to
9 clean air, whether it's some previously unseen
10 smoke, whether it's some noxious smells, and they
11 want to know what's coming out of that smokestack
12 at the end of their driveway or down at the other
13 end of town, and the very first place I will send
14 them is take a look at the Title V permit, if one
15 has been issued.

16 It is a tremendous source of information
17 for residents and citizens who know nothing about
18 clean air laws. It is a place where they can go
19 and work out what exactly is going on down there,
20 how many emission units are there, what is coming
21 out of those emission units, are they in
22 compliance, and a whole range of information that
23 is fundamental to educate and let people know what
24 is going on in their community.

1 It's an extraordinarily useful
2 information for citizens to be empowered to do
3 something about ongoing compliance problems. For
4 the past year I've been working with residents in
5 the city of Evanston, just north of here, who have
6 been very concerned about a medical waste
7 incinerator. Illinois has more medical waste
8 incinerators remaining than any other state except
9 for Florida. We have 12. One of them is in the
10 middle of a residential neighborhood right next to
11 a school. No one knew it was there. For years
12 that hospital has been operating its incinerator.

13 When those neighbors started digging to
14 what is going on, they found, looking at quarterly
15 compliance reports and looking at the annual
16 certifications, that that facility not only was
17 emitting a lot of dioxin and mercury right into
18 their neighborhood, but they were regularly
19 violating their requirements. They were regularly
20 using the bypass stack, which we all know means
21 that there was no pollution control when they were
22 burning large amounts of plastics and large
23 amounts of dioxin and mercury forming, causing --
24 releasing materials.

1 Last night those residents succeeded in
2 persuading the city counsel to shut down the
3 Evanston incinerator. They persuaded the city
4 counsel on an 8 to 1 vote that there is no place
5 in a residential neighborhood for an incinerator.
6 And it all started with the information they
7 obtained through the Title V program.

8 So I think it highlights how this
9 program works. It identifies and educates and
10 empowers people to actually do something about the
11 very serious air pollution problems that continue
12 throughout this country.

13 There are many other benefits of the
14 program. Obviously it's a critical enforcement
15 tool when the regulators are unwilling or unable
16 to enforce the law. It provides a federally
17 enforceable permit for citizens to take action to
18 protect themselves and their communities.

19 So in sum, there is tremendous benefits
20 that Title V offers to residents and citizens
21 around the United States. But now let's turn to
22 sort of some of the very serious shortcomings and
23 the problems facing that program.

24 There is no dispute that Congress made

1 clear that that the entity who has responsibility
2 make sure this program is working is U.S. EPA.
3 Despite that grant of power, the agency, with the
4 one exception of Wisconsin, has repeatedly ducked
5 tough questions when the states have let their
6 programs languish or are failing to enforce
7 fundamental components of the program.

8 If we look here in Region 5 -- which
9 includes the states of Illinois, Indiana,
10 Michigan, Minnesota, Ohio, and Wisconsin -- here
11 we are six, seven years after Congress said all
12 the permits should be issued, and we have only
13 86 percent of permits issued. There are over 400
14 major sources of air pollution in the Great Lakes
15 Basin that don't have their Title V operating
16 permits. There are also additional hundreds and
17 hundreds of FESOPs that are sitting at the states
18 that have not been acted on.

19 So we're focusing just on those
20 application for Title V permits. There are over
21 400 have not been issued. In Illinois part of
22 those permits have not been issued involve 22
23 coal-burning power plants, unequivocally the
24 largest sources of sulfur dioxide, nitrogen oxide,

1 and mercury in the state.

2 How did this situation get so bad? How
3 come the permits aren't even in place? When we
4 dug into what was going on in Wisconsin, I
5 mentioned back in 2002 we spent a significant
6 amount of time looking at why was this program not
7 working; what was going wrong.

8 What we found was consistently that
9 industry realized that for the most part it
10 couldn't change the statute. It couldn't get a
11 consensus to change the statutes. It couldn't get
12 a consensus to change EPA rulings. But what they
13 were extraordinarily effective at was making sure
14 that the state agencies with the front-line
15 responsibility didn't have the resources to do the
16 job.

17 Now, the cynical side of me said, "How
18 bad was it?" And what we compiled was a series of
19 legislative actions pushed by industry in the
20 state of Wisconsin that consistently denied the
21 agency increasing permit fees so it had the
22 resources to do its job. They even cut fees
23 twice, including eliminating the Consumer Price
24 Index, which, as you all know, to make sure that

1 the fees are in fact at a sufficient level and
2 increase every year to increase with inflation.

3 So in Wisconsin when they got EPA
4 approval for the program, they estimated they
5 needed 200 staff to write the permits, to enforce
6 the permits, to conduct regular inspections.
7 Today there are 88 staff. There is just not any
8 resources to do the fundamental requirements that
9 Title V requires. All the streamlining in the
10 world won't fix that dysfunction.

11 As I mentioned, and as I'm sure you all
12 know, the way Title V is supposed to be funded is
13 through permit fees. Congress said this is not
14 for taxpayers to be responsible for. If a company
15 wants to put out air pollution, it has to be
16 responsible for providing enough resources to
17 administer that program.

18 So based on this finding that there was
19 fundamentally a lack of resources, we petitioned
20 EPA in December of 2002 to take action and order
21 the State of Wisconsin to fix its program. The
22 first thing that happened was that the nonpartisan
23 legislative audit bureau in Wisconsin, at the
24 request of legislators who were saying, "What the

1 heck is going on here?" commissioned a study.
2 They issued a 104-page report -- and I'll leave
3 one here for this committee -- that did a very
4 thorough and sort of reexamination of our
5 investigation and had some highly critical
6 conclusions.

7 The number of inspections in the state
8 of Wisconsin between 1995 and 2002 declined by
9 41 percent. In 1995, 470 major sources of air
10 pollution were being inspected every year 470.
11 Today there is less than 250 being inspected every
12 year.

13 They also found out that 15 percent of
14 the air pollution sources, including 10 percent of
15 major sources in the state, have never, ever, in
16 the entire history of the program, had an
17 inspector on site. So there hasn't ever been an
18 inspector who could show up and make sure when
19 they say they have five emission units, there are,
20 in fact, five emission units. By any stretch and
21 any assessment, that program is severely broken.

22 To its credit, and this is the one
23 bright light, is on March 4th, 2004, earlier this
24 year, Region 5 did issue the state a notice of

1 deficiency, and it cited a whole range of serious
2 defects with the program, including that they have
3 failed to demonstrate they have the resources to
4 actually administer the program.

5 There is a whole range of other problems
6 that I won't get in. They were using non-Title V
7 resources to supplement the Title V program.

8 There was a whole lot of accounting stuff that
9 made no sense and was much of it illegal, a series
10 of other very serious problems that EPA identified
11 as part of its assessment that were wrong with the
12 program. So it's clear that that program is now
13 under the sanctions clock and has 18 months to
14 correct those problems or the state faces the
15 sanctions by the Clean Air Act, including loss of
16 highway funds.

17 An interesting thing to note is that the
18 industry still doesn't believe something is going
19 to happen. They're still running around saying,
20 "We don't need more fees," and they're still
21 telling the legislature, the overwhelmingly
22 friendly legislature, "Don't need an increase in
23 fees because EPA won't possibly take away our
24 highway funds," which we're trying to assure them

1 that it's a nondiscretionary obligation.

2 Four months after we completed our
3 investigation into Wisconsin, we did the same
4 thing in Illinois. Many of the very same problems
5 we identified in Wisconsin were also present in
6 Illinois. Same serious problem; they're not
7 issuing permits on any kind of reasonable
8 schedule. As I mentioned, the 22 coal-burning
9 power plants in Illinois still don't have their
10 Title V permits. This is a particular concern,
11 because six of them are either in or surrounding
12 Chicago.

13 We know from a series of studies,
14 Harvard study, that those are causing direct,
15 identifiable, quantifiable health effects today in
16 Illinois. We also know they are regularly
17 violating their opacity standard. Of course, one
18 of the critical parts of Title V is that they
19 include a compliance schedule to bring an end to
20 ongoing violations. In the absence of those Title
21 V permits, there is no compliance schedule, and
22 those facilities for the last 18 months, which is
23 what we have data for, continue to violate their
24 opacity standard, which obviously means more fine

1 particle pollution in the greater Chicago area.

2 Illinois -- let me just finish up in
3 Illinois. In response to our petition, the state,
4 to its credit, and in part the new governor,
5 responded by increasing permit fees from 10 to
6 \$16 million, a decent improvement. We know it
7 gets us closer to where we need to be. That was
8 about what they estimated in 1995 they needed. So
9 the increase from 10 to \$16 million is certainly a
10 significant down payment to begin to get the staff
11 to be able to actually write permits and conduct
12 regular inspections on the schedule that EPA
13 requires.

14 So in conclusion, on the sort of -- the
15 good news is Wisconsin is under a clock. The
16 state agencies and the governor's office appear to
17 be taking it very seriously, despite what industry
18 is saying. It clearly, by EPA issuing a notice of
19 deficiency, it seems that we've hit rock bottom.
20 The situation is not going to get any worse. The
21 state realizes it can't continue to cut permit
22 fees, and it has to do something to fix this
23 problem and is taking some steps to remedy the
24 situation, including talking about does it need to

1 increase permit fees and how much. It's obvious
2 that it generated a tremendous amount of attention
3 from the legislative audit bureau.

4 So in summation of the point about
5 Wisconsin, when EPA does use its enforcement
6 discretion, when EPA does use its enforcement
7 obligations and obligations to remedy states'
8 Title V programs, it works. We are beginning to
9 see some quantifiable improvements in Wisconsin
10 and underscore that the problems we found in
11 Wisconsin we don't believe are unique in
12 Wisconsin. We know that many of those same
13 problems are going on in Illinois. Many of the
14 same problems are going on in Minnesota, where
15 they're commingling funds. These are things EPA
16 must address, and we believe has an obligation to
17 address.

18 Couple of other quick points. There is
19 this crazy situation where when a new source has
20 issued a construction permit in Wisconsin and
21 Illinois, the Title V permit doesn't get issued
22 until 18 months later. To give you an example,
23 about 50 miles south of here they want to build a
24 giant, new coal-burning power plant in the

1 nonattainment area. When they issued the
2 construction permit, the state said, "We're not
3 going to issue the Title V permit until at least a
4 year after operation begins."

5 Now, from a sort of coordination
6 standpoint and a citizen appeal standpoint, we
7 appealed the PSD permit, the underlying
8 construction permit to the environmental appeals
9 board. We haven't appealed the LAER determination
10 or the MACT determination. We're waiting until
11 the Title V permit gets issued.

12 Well, the way that the state has
13 constructed that Title V issuance timetable, we're
14 going to be petitioning EPA after that facility is
15 operating. And if we're right that the MACT
16 case-by-case determination is wrong, and if we're
17 right that the LAER determination is wrong, then
18 EPA is going to be in the situation of telling a
19 source that is now existing that they have to go
20 back and undertake costly retrofits.

21 It doesn't have to be that way. We
22 could issue the Title V permit and the
23 construction permit at the same time, resolve all
24 the questions about are, in fact, they in

1 compliance with the Clean Air Act, and get all of
2 that taken care of before a single shovel is put
3 in the ground. So we believe that's what the
4 Clean Air Act requires, despite the EPA's
5 regulations allowing states to issue permits after
6 the construction permit is issued.

7 Additional logical standpoint, and the
8 certainty from a business perspective, it's hard
9 to imagine that businesses like the uncertainty
10 that we are keeping in our back pocket, an appeal
11 of the Title V permit a year after the
12 construction permit is issued.

13 The final point I wanted to make was
14 Title V works. We have many examples in
15 Wisconsin, Illinois, where it is making a real
16 difference. They are clearly some very serious
17 defects, but these are all within U.S. EPA's
18 powers to fix that we have seen. The big one is
19 resources and just consistent U.S. EPA oversight,
20 which with the one exception of Wisconsin, has
21 been noticeably absent.

22 Thank you.

23 MR. HARNETT: Don van der Vaart?

24 MR. VAN DER VAART: Please stay busy up here

1 in the Midwest.

2 One question I did have, and you really
3 didn't touch on it, but the compliance
4 certification. I presume you believe you need to
5 certify both compliance and noncompliance. Do you
6 think Title V obligates the permit to contain
7 methods for determining compliance so that they
8 can make that certification?

9 MR. NILLES: Absolutely. As we read Title V,
10 it says the whole purpose is to take the
11 underlying construction Title I obligations and
12 wrap around the monitoring reporting and
13 recordkeeping obligations so that you can
14 actually, at the end of the stay, in short,
15 continue its compliance.

16 And how else do we tell the citizens
17 that we have any certainty that that smokestack at
18 the end of their driveway is meeting its clean air
19 obligations, unless we have that information.

20 MR. HARNETT: Richard Van Frank?

21 MR. VAN FRANK: Do you know of any instance
22 where a facility has been shut down once the
23 construction permit has been issued, the facility
24 is built, and then the Title V permit is

1 impossible to issue because they can't meet the
2 requirements? Do you know of any instance where a
3 facility has not been allowed to operate?

4 MR. NILLES: I am not --

5 MR. VAN FRANK: Thank you.

6 MR. NILLES: (Continuing) -- yet.

7 MR. HARNETT: Lauren Freeman?

8 MS. FREEMAN: Thank you.

9 One of the issues this task force talked
10 about at our last meeting was sort of a cost
11 benefit discussion about what Title V adds to the
12 process on reporting and compliance and
13 information for the public. And I think this task
14 force appreciates very much that these permits are
15 important and that states are behind and that is
16 something that needs to be corrected.

17 But we talked about last time the fact
18 that underlying regulations like opacity
19 regulations, MACTs, NSPS, SIPs all have
20 requirements to record and report, by and large,
21 data. So if there is an excess emissions, it's
22 being reported. It's not as if these are, you
23 know, secret emissions in the absence of a Title V
24 permit. Is that your understanding as well?

1 MR. NILLES: My understanding is it's sort of
2 a haphazard. What Title V is supposed to require
3 is to the extent they are not consistent across
4 every NSPS, PSD obligation, underlying
5 requirement, that Title V will make sure that we
6 have a floor, a minimum requirement of monitoring,
7 reporting, and recordkeeping.

8 MS. FREEMAN: So what you're looking for from
9 getting the Title V permits from these sources is
10 more consistency in the way these data are
11 reported, so --

12 MR. NILLES: We're looking for a minimum
13 floor so that we can assure that they're in
14 continuous compliance.

15 MS. FREEMAN: What else would you see Title V
16 adding to these sources?

17 MR. NILLES: I gave the example of making
18 sure they're on a compliance schedule. We have
19 coal plants that you can see from here that are
20 not complying with their opacity requirements
21 today. They don't have Title V permits. If they
22 had Title V permits with a compliance schedule, we
23 could be taking some action to fix them.

24 MS. FREEMAN: So then your assumption is that

1 these sources would be certifying noncompliance,
2 that they agree that it's noncompliance. That's
3 what you're saying.

4 MR. NILLES: No. I would say that the state
5 has a mandatory duty to include a compliance
6 schedule when there is ongoing noncompliance
7 before a permit is issued.

8 The Clean Air Act says if you're not in
9 compliance when the Title V permit is being
10 issued, the state is required to include a
11 compliance schedule.

12 MS. FREEMAN: Okay. Then the assumption then
13 is that they're in noncompliance, which is
14 something that they may not agree with. You'd
15 have to agree with that.

16 MR. NILLES: This is not regarding industry
17 interpretation. This is what the state has a
18 mandatory duty, if they're in possession of
19 quarterly reports, to show ongoing violations of
20 each unit that they have to do something about.

21 MS. FREEMAN: Thank you.

22 MR. HARNETT: Bob Palzer?

23 MR. PALZER: Hello. I don't know if you were
24 here when Steve Muraswski gave his presentation

1 earlier this morning.

2 MR. NILLES: I don't believe so.

3 MR. PALZER: Well, one of the points that he
4 made, and I was going to ask a follow-up question,
5 but I asked another one instead, but I thought I
6 might ask you, he was recommending that the EPA
7 and the state agencies should have a pre-public
8 comment review by the prospective permittee before
9 the permit is issued. That is to, you know, to
10 avoid problems that you have down the line later.

11 My question to you is, do you feel that
12 it would be helpful for the public to be involved
13 in a process before a public hearing occurs,
14 rather than getting a permit that's been
15 negotiated between the permittee and the
16 regulatory agencies?

17 MR. NILLES: I think some additional
18 safeguards to avoid sort of the situation where
19 you have a public hearing, and it's sort of a fait
20 accompli. That here is the permit, and you
21 basically take it. Because we've seen multiple
22 instances here in Illinois where the agency and
23 the company show up at a hearing or right before a
24 hearing and say, "Here is the draft permit," and

1 we raise very serious concerns, like where is the
2 underlying Title I obligations, and they're forced
3 to rescind the entire permit and start over.

4 So from a resource perspective, there
5 may be a lot of value in soliciting public input
6 at an early stage, avoiding the scenario like
7 we've seen in multiple permits in East St. Louis,
8 where the permits come out, allegedly the
9 by-product of a negotiation between the state and
10 the industry, we point out serious defects, and
11 they're back to the drawing board for another
12 six months or more.

13 MR. PALZER: Thank you.

14 MR. HARNETT: Shannon Broome?

15 MS. BROOME: I just had a question on the
16 last thing that you said. I was confused by your
17 statement that you were challenging the
18 construction permit but not the substantive
19 requirements of the construction permit?

20 MR. NILLES: Are you talking about the coal
21 plant just south of here?

22 MS. BROOME: Yeah. You said you weren't
23 challenging the MACT or the LAER --

24 MR. NILLES: We weren't?

1 MS. BROOME: (Continuing) -- and then if you
2 don't like what's the MACT or the LAER, why
3 wouldn't you raise that?

4 MR. NILLES: I'm sorry. We appealed the
5 PSD I permit to the environmental appeals board.

6 MS. BROOME: Right.

7 MR. NILLES: They only hear PSD issues. They
8 will not hear MACT and NSR nonattainment issues.

9 MS. BROOME: Right. But a construction
10 permit was issued with those in it?

11 MR. NILLES: Correct.

12 MS. BROOME: You didn't appeal those because
13 there is no appeal process for construction
14 permits in the state of Illinois?

15 MR. NILLES: There is some very serious
16 questions about whether there is that process, but
17 we do know that Title V affords what we believe is
18 the more important appeal process, which is for
19 EPA to determine does this permit comply with the
20 case-by-case MACT determination and does the
21 nonattainment NSR obligation also meet the
22 requirements of the Clear Air Act.

23 MS. BROOME: Or you may have forgone your
24 right to appeal that by not appealing the

1 construction permits.

2 MR. NILLES: Have you read the Illinois
3 rules?

4 MS. BROOME: Yes.

5 MR. NILLES: Then you would agree that we
6 have an appeal right?

7 MS. BROOME: I haven't looked at that
8 particular issue.

9 MR. NILLES: Okay.

10 MS. BROOME: But I know there is an appeal
11 process. I said you may have. You took a risk.
12 Interesting.

13 MR. HARNETT: Adan Schwartz?

14 MR. SCHWARTZ: That's what I was curious
15 about.

16 MR. HARNETT: Shelley Kaderly?

17 MS. KADERLY: I just wanted to say that I
18 appreciate you bringing to us some specific
19 examples of issues that you have seen in a couple
20 of the states. And while you were doing your
21 investigations in the states of Wisconsin and
22 Illinois, did you sit down and visit with the
23 permitting authorities at all to identify any
24 things that they were encountering or that they

1 saw were impediments to getting their other Title
2 V's done?

3 MR. NILLES: Absolutely. In fact, the day
4 that we announced our petition to U.S. EPA, the
5 head of the air program, Lloyd Eagan, stood up
6 beside us and said, "They're right. We don't have
7 the resources to do our job."

8 MS. KADERLY: Were there any other issues
9 that they identified as being impediments to their
10 program? Sometimes we hear that some states are
11 having difficulty getting information back from
12 the permittee, that there may be other things that
13 are going on. I was wondering if there were any
14 other things identified, other than the resources,
15 as being an issue.

16 MR. NILLES: That was the big one. I mean,
17 that was the one that they have been asking.
18 They've been asking for six years for a fee
19 increase.

20 MS. KADERLY: I know. I talked with Lloyd,
21 and it's been a frustrating process for them,
22 yeah.

23 Okay, thank you.

24 MR. HARNETT: Do you know, in that case, has

1 the agency directly requested of the legislature a
2 fee increase?

3 MR. NILLES: They did in 1996, 1998, and
4 2000. In 2002 they didn't for the very first
5 time, and this year there is a new budget process
6 in the state of Wisconsin. The agency doesn't get
7 to ask for money. The governor's staff decides
8 who will get what money. So it's not clear
9 exactly how they will sort of transmit that
10 request. The governor's office is very much
11 involved. They realize that the clock is ticking
12 and their highway funds are on the line. So the
13 agency, as I understand it, continues to say it
14 orally, but there is no formal transmittal process
15 anymore in the state.

16 MS. KADERLY: Could I ask another follow-up
17 on that?

18 MR. HARNETT: Yes.

19 MS. KADERLY: I was wondering whether you had
20 looked at the Jobs Creation Act of 2003 that
21 Wisconsin has and whether that factors into
22 Wisconsin's ability to get the resources needed
23 to --

24 MR. NILLES: The jobs creation bill, we have

1 our views, but let me quote the attorney general,
2 Peg Lautenschlager. She says, "It's 98 pages of
3 alleged job creation bill. Two pages actually
4 deal with jobs. 96 pages deal with environmental
5 rollbacks."

6 It's not a jobs creation bill. It is a
7 full-on assault. EPA, to its credit, has
8 identified Region 5; to its credit has said, "Wait
9 a minute. You can't eliminate permitting
10 requirements for major sources." I mean, there is
11 a bunch of really -- industry got greedy. I mean,
12 if they'd sat down and looked at what can they
13 possibly do under the Clean Air Act, they would
14 have realized they couldn't ask for what they
15 wanted and what they got in the jobs creation
16 bill.

17 So right now the agency is trying to
18 work out, Well, is there a way to issue rules
19 implementing the jobs creation bill that actually
20 does comport with the Clean Air Act. We would
21 submit it's not possible, but we will see. And
22 thankfully the Clean Air Act preempts whatever the
23 state does.

24 MR. HARNETT: Thank you for coming here today

1 and providing that information. And if you had
2 materials, you can drop them off either with
3 Graham or Shannon outside.

4 MR. NILLES: Thank you.

5 MR. HARNETT: We'll be taking a 15-minute
6 break right now and start up shortly after 11:00.

7 (Recess.)

8 MR. HARNETT: I'd like to welcome our next
9 speaker, which will be Bill Wilson of the
10 Environmental Integrity Project.

11 If you could go right ahead, and I'll
12 give you a two-minute warning when we get to the
13 end of your first 15 minutes.

14 MR. WILSON: Thank you. Good morning. It's
15 a pleasure to be here, and I appreciate the
16 opportunity to talk to you all.

17 I just want to give a little idea of my
18 background. I'm an engineer in Texas. I've got
19 19 years' experience. I started in '85 with the
20 Texas Commission on Environmental Quality, used to
21 be the Texas Water Commission back then; worked as
22 a RCRA permit writer, went on to be an
23 environmental manager at Portland Cement Plant
24 just south of Dallas, and that permit operated our