1 I think early on it's not obvious to me, as a
2 permitter, that it's going to be easier for us to
3 reissue because we're essentially starting all over
4 again from scratch. We tried to make the application
5 process a little easier and we know more about
6 writing the Title V permits the way we want to write
7 them, but there are different permits than the
8 permits the guys already have.
9 It's not going to be quite as easy, I
10 don't think, as we all hoped it would be the second
11 time around and I'll ask you my standard question I
12 asked everybody else. A through F, what's your
13 grade?
14 MS. HARAGAN: First, I'd like to address
15 your first point. You know, obviously, you know
16 permitting, how difficult that is, way better than I
17 do. But, at least, it seems like first round, you go
18 back and you deal with those permits from eons ago
19 that are lost. You go and find them and figure out
20 what the requirements are and you get a baseline
21 agreement between the facility and regulator about
22 what the requirements are and some of those may

1 change, but it just seems like there's some of that
2 digging back into the past and finding requirements
3 that you shouldn't have to do at renewal.
4 MR. HIGGINS: That would be nice.
5 Nothings ever 100 percent and that's always an issue.
6 Someone spoke earlier today about the search for the
7 perfect permit and it may seem hard to believe, but
8 regulators try and do that, actually and we always
9 know something more than we did last time and there's
10 always different slants on the legal pieces of this,
11 that or the other thing.
12 I was hoping it would take like 30 or 40
13 percent of the time for permit 2 than it took for
14 permit 1 and I think it's going to probably take like
15 70 or 80 percent of the time.
16 MS. HARAGAN: As far as the grade, I think
17 I'd have to go with Lyman's approach and grade the
18 concept of Title V and then how it's implemented.
19 And I think the concept gets an A. I think it's
20 really helpful to have all the requirements in one
21 place and to have compliance certification
22 requirements. On implementation, I think I'd give it

1 about a C.

2 MR. LING: Keri?

3 MS. POWELL: I have a few follow-up

4 questions to better understand the incorporation by

5 reference issue in Texas. The first one is, can you

6 clarify for me when Texas keeps old permits in a

7 permit file, where is that file?

8 MS. HARAGAN: It should be both at the

9 regional office and in the office in Austin. A lot

10 of the old permits are no longer in paper form.

11 They're on microfilm. That's a problem because the

12 microfilm degrades over time. Sometimes you just can

13 read the permits.

14 MS. POWELL: How big are the Texas

15 regions? If you're an advocate that's concerned

16 about a facility in a community, how far might you

17 have to travel to get to the agency and look through

18 the files and see those permits when you're trying to

19 review the permit.

20 MS. HARAGAN: Sixteen regions. So, you

21 know, Texas is a big place and, if you're out in west

22 Texas, you may have to travel a long way.

1 MS. POWELL: If you have a facility that
2 have 27 Title V permits, is it clear after all those
3 permits are issued that there are 27 Title V permits
4 for that facility?
5 MS. HARAGAN: Yes, that is clear. There's
6 a website you can go to. You can search by facility
7 and they can tell you all the permits that apply to
8 that facility.
9 MS. POWELL: Texas Title V permits are
10 available online?
11 MS. HARAGAN: No. I mean, there is a
12 system where permits are on the computer. The
13 problem is, and I think Steve will agree with this,
14 that the search mechanism is almost useless. It
15 pulls up a list of things without a title so you
16 can't tell what they are and often things aren't
17 dated. You may be able to pull up pieces of permits,
18 but it's very difficult to determine which are the
19 current versions and piece them together to form a
20 whole permit.
21 MS. POWELL: The last question with
22 respect to incorporating regulations by reference.

1 Some of those regulations would be federal
2 regulations available online. I'm curious about the
3 availability of the Texas SIP regulations. Are they
4 also available online?
5 MS. HARAGAN: They are available online.
6 It's a good point to clarify. I think if you are
7 going to use incorporation by reference, the things
8 you're incorporating have to be easily accessible to
9 the public and I think that means really being
10 online.
11 MS. POWELL: You said Texas is
12 incorporating regulations by reference?
13 MS. HARAGAN: Yes.
14 MS. POWELL: Have you ever had any
15 problems with the incorporation of the regulation by
16 reference not specifying how that regulation applies
17 to the facility or is that pretty clear?
18 MS. HARAGAN: I think Texas actually goes
19 to a fairly detailed level in the citations that they
20 put in the permits. I think that's pretty helpful.
21 MS. POWELL: Thanks.
22 MR. LING: Bob Morehouse.

1 MR. MOREHOUSE: I just want to actually
2 echo something Kelly said earlier. We ere talking
3 about the Texas program and minor new source review
4 permits and the incorporation of those permits by
5 reference. The difficulty for the public to go find
6 them I think it is also a difficulty for the
7 individual companies because we would just as soon
8 have those rolled into one master permit, also.
9 Texas has a unique problem, which is being
10 worked on now and that is how the language of the
11 Texas program by that incorporation. You also have
12 to certify, not only to the actual permit that's in
13 the minor new source review, but to the
14 interpretations that were made in developing that
15 minor new source permit. Those representations can
16 be anything from the calculation methodology. It
17 could be an e-mail between you and the state
18 permitting engineer. Those are all representations
19 that were made during the development of the minor
20 new source review permit. And so you get into issues
21 like we estimated the stream composition to be 50
22 percent toluene. Well, what's the deviation from an

1 estimated number? We have a lot of people spending
2 an inordinate amount of wasted effort on that.
3 That issue -- part of that could have been
4 solve, I think, if those permit limits, whatever, in
5 the minor new source review permits were put into
6 Title V and you just add the minor new source review
7 permits. That issue I know that I'm referring to is
8 being worked now in the state, but that is, again,
9 the result of some of the difficulties that we've
10 had. That wasn't a question, I guess?
11 (Laughter.)
12 MR. LING: Any more for Kelly?
13 Steve?
14 MR. HAGLE: I just want to make one other
15 comment on the minor NSR permits and their
16 availability. As Steve pointed out, part of the
17 negotiations with EPA on the lawsuit settlement and
18 the NOD was that we make those publicly available,
19 and we have a requirement that a permittee gather all
20 of those permits up and make them available in a
21 public location near the facility. So they should be
22 able to find those without having to go to the file

1 room.

2 Hopefully, that's being done and that's a

3 change after Kelly came up here to Washington, she

4 may or may not have been aware of. So there is a

5 better mechanism. However, I wouldn't presume to say

6 it's perfect for making those available.

7 MR. LING: Keri?

8 MS. POWELL: I'm going to ask Steve a

9 question if that's okay really quickly just to

10 follow-up on that?

11 One thing that makes me nervous about

12 relying on the facilities to compile that collection

13 is, obviously, what do we do if the facilities don't

14 do it because they're not directly accountable as the

15 government? How about putting that in the permit

16 that they're required to do it? So, if they don't,

17 then we can enforce that requirement against them.

18 MR. HAGLE: I'm not sure I understand what

19 your question is. The permit itself will list all of

20 the new source review permits that apply to that

21 reference or that are referenced by that facility's

22 Title V permit and our rules require them to gather

1 those up and put them in a public location and make
2 them available to the public.
3 Now, if you go to that public location and
4 cannot find that information, then you can certainly
5 contact us and we will work with the company to make
6 sure that gets out there and we would not close the
7 public comment period until we've given you some
8 time.
9 MS. POWELL: Is that a state regulation
10 that requires that at this facility?
11 MR. HAGLE: I believe that's in our Title
12 V rules. I can find that out for you.
13 MS. POWELL: So you include that
14 requirement in the Title V permits themselves?
15 MR. HAGLE: It's not in the Title V permit
16 itself because at the time you're looking at the
17 Title V permit -- I mean, you're reviewing that Title
18 V permit and the requirement is, when you take the
19 permit to public notice, you make those permits
20 publicly available.
21 MS. POWELL: But, obviously, you need to
22 have the permits available throughout the term of the

1 permits. If you're not including the requirements in
2 the permit, people have got to have a way to look at
3 them.
4 MR. HAGLE: And, at that point, you'd have
5 to rely on the file room. Obviously, seeing that
6 there's been some problems with this.
7 MR. LING: All right. Thank you very
8 much, Kelly.
9 Our last speaker of the day is Wayne
10 Penrod. While Wayne is coming up, I want to ask the
11 audio person to stop the tape and the transcript. He
12 tells me he has an announcement to make from the
13 hotel facilities people. It has nothing to do with
14 Title V.
15 (Discussion off the record.)
16 MR. LING: Hopefully, that will not appear
17 on the internet.
18 Here's Wayne Penrod.
19 MR. PENROD: Thank you for the opportunity
20 to speak to you today. My name is Wayne Penrod, the
21 Senior Manager of Environment and Production Planning
22 for Sunflower Electric Power Corporation.

1 Sunflower is a generation and transmission
2 electric cooperative. Our location is in western
3 Kansas. We're just a few miles west of Dodge. If
4 you're a cooperative, serves its members at
5 wholesale. It's a not-for-profit organization.
6 Several things unique about us, and I'll
7 try to remember to mention all of them, but if
8 there's anything else that you might want to know
9 about a coop, I can probably tell you as well. We
10 operate two facilities. One is a coal-fired
11 generator of about 360 megawatts in size. One is a
12 gas-fired facility and it has both steam generation
13 and combustion turbines. Those plants are located
14 about 10 miles from each other within the
15 southwestern part of Kansas.
16 We serve 115,000 people in our service
17 territory, the western 34 counties of the state and
18 we serve regionally interconnected electric customers
19 with other electric companies and provide them with
20 economy power and contracts from time to time as the
21 situation might permit. Most of my time in the last
22 four years has been spent in two areas of endeavor.

1 One is securing Title V permits for those
2 two facilities. The other is securing a PSD permit
3 for a new facility that is to be located or co-
4 located on the coal-fired plant site. So I have
5 unique perspective, maybe, on some of those things.
6 Probably I'll forget to mention what most of them
7 are. I may depend upon questions from you if you
8 would like to ask something specific about that.
9 Our coal-fired plant was built in 1983, so
10 it's 21 years old, more or less, the newest coal-
11 fired generation facility in the State of Kansas. We
12 have a PSD permit that was issued in 1979-1980 and
13 the most significant thing, as I work my way through
14 this process, was to identify, learn, try to make
15 sure that it stayed consistent. The PSD permit is
16 the only air permit for the facility and it is
17 identical in requirements to the Title V permits. So
18 one of those two permits, from my perspective, from
19 my unique location that situation is that one of
20 those is extra.
21 The Title V permit has only one additional
22 element in it than the PSD permit had. That is, we

1 have additional surveillance requirements on the
2 smaller control devices that would be installed for
3 coal-conveying systems, ash-handling systems and line
4 unloading facilities all of which are instrumental in
5 the process. They're rather small in comparison to
6 the major emission source, which is the stack that
7 gets the gases off the boiler.
8 We have the modern control technologies
9 that were required by subpart D(a) of the Clean Air
10 Act. That is a scrubber, a high efficiency fabric
11 filter, low NOX burners. This was pre-SCR days, so
12 the company met requirement, the 40 CFR 47(a) and
13 48(a) monitoring requirements and excess emissions
14 reporting requirements. Because we're an electric
15 utility and we have Part 75 requirements also, we
16 submit quarterly electronic data reports, which is
17 the emissions from all the gas monitors on the
18 facility. So, if it's NOX or if it's SO2, it's
19 reported.
20 We also have excess emission reporting for
21 carbon monoxide. We're the only utility facility in
22 an attainment area for CO that has a reporting

1 requirement for carbon monoxide. We also have excess
2 emissions reporting requirements for opacity.
3 The Title V experience, in addition to be
4 laborious, frankly, I'm not sure there's a good way
5 to express this because I'm not trying to cast doubts
6 or aspersion on the state agency. We filed our first
7 Title V draft permit in 1998. The application was
8 filed within a month or so of the due date or a month
9 or so before the time that it was due.
10 We turned around, and being familiar with
11 all the activities that we did, we went ahead and
12 prepared, through a consultant, a Title V draft. The
13 agency, because of the uncertainty associated with
14 what was going on, I wouldn't be blaming the agency
15 and I'm not really trying to say it was EPA's
16 difficulties. But, as a practical matter, that
17 permit was held in abeyance. There was no action
18 taken on the draft permit and just six months ago,
19 plus two days, we received our permit for the Holcomb
20 facility. That's the coal-fired facility. So there
21 was a wasted effort there. There was a waste of
22 money associated with some of the efforts we went

1 through. We think that's because of the absence of
2 clear understanding, perhaps, of the requirements
3 and, perhaps, in some ways, changing requirements
4 that might have come down the pike during that
5 intervening period.
6 In the years since the Emissions Fee
7 program was initiated, we have spent $635,000
8 without, again, trying to play games with Title V.
9 We have not reduces our emissions by as much as one
10 ton. We have always been a clean unit. We have a
11 clear stack. The local Region 7 folks, when they
12 made their first visit to the plant not long after we
13 completed our compliance testing requirements, which
14 were then six months to startup, came to the plant,
15 noticed there was nothing coming out of the stack,
16 turned around and drove 400 miles back to Kansas
17 City, called us. Ask us why the unit was offline and
18 why we hadn't notified them. It's a clear stack,
19 modern coal-fired coal plants are going to look like
20 that. In our particular situation where we have the
21 fuel types we have in the control devices we have
22 installed on them, so much of this seems to be, as I

1 say, an additional requirement.

2 We understand that the imposition of the

3 Title V program requires the expense of money,

4 requires the state permitting engineers and the other

5 folks associated with compliance, monitoring and

6 those kinds of things, to learn, frankly, as we

7 learned some things about our own permit as we were

8 working our way through this process. I've not even

9 called the $635,000 emission fees and payments,

10 $135,000 of that, by the way, is the proverbial check

11 in the mail. They're due the first of next month.

12 My concern is that we, having gone through

13 that, and the state permitting agency having learned

14 a lot about our facility and the other coal-fired

15 facilities, having learned that and having now

16 received a permit and having that permit not being

17 particularly laborious in the things we have to do in

18 order to fulfill the obligations under the permit,

19 we'll be doing the same thing the next five or six

20 years seeking a second permit and we don't stand to

21 learn much about the process nor do the state

22 permitting folks.

1 That's pretty expensive when you do the
2 math and try to divide by zero. It's hard to figure
3 out how much per ton you've saved or you've spent
4 rather in trying to assess the effect of the report.
5 I was going to answer the question you
6 haven't yet asked. We really have not had any
7 problems with the state agency. We haven't had any
8 problems with EPA at Region 7. We've had frequent
9 conversations with them about the process we've gone
10 through. We've been very upfront and forthright
11 about it. I have no complaints.
12 My complaint is, not for the previous
13 seven of years, but for the next seven is that we're
14 going to be paying again to do the same thing we've
15 already done and I don't expect that I would give you
16 an A for that. I think that the cost for the program
17 has been justified once and I'm not complaining about
18 it again. But I really think that to have to go
19 through the continued payment in search of assured
20 compliance on our unit is probably not well-spent.
21 Probably the other things I forgot to say
22 -- I do have the permit here if anybody wants to see

1 it, 45 pages of permit. The rest is supporting
2 information and application data. There are six
3 pages that cover the main sources of our plant. The
4 rest of the pages cover the minor sources, which, on
5 a worst day, couldn't do as much as could be done by
6 the major source in a few minutes of an emission
7 episode.
8 The real problem with that became apparent
9 to me as we were working through the process and to
10 the agency I will give full credit because they asked
11 for a certain number of monitoring episodes during
12 the course of the calendar year. They wanted us to
13 go out on a weekly basis and observe the small dust
14 collectors and be able to assert that over the course
15 of the 52 weeks that we were not out of compliance.
16 We did a good estimate of how much time it
17 would take to do the things that they asked us to do
18 and it would have been a half a man year per year to
19 do those things. Having had that information pointed
20 out to them, they recognized that there wasn't
21 anything significant to be gained from that exercise
22 and rather would have us spend our dollars doing the

1 things at the plant that might make the difference
2 with the big source to be sure that we don't have any
3 more events there. That might otherwise be
4 absolutely as part of the operation. I would rather
5 have spent the money paving a haul road, frankly,
6 than I would have to go through this next six years
7 of going through the paper chase, frankly, of trying
8 to assure that we're in compliance when we are, as a
9 matter of course.
10 I'll answer any questions you might have.
11 I certainly don't have any other prepared comments or
12 remarks. So, if you have any questions, I'll be glad
13 to respond.
14 MR. LING: Bob?
15 MR. MOREHOUSE: Wayne, can you give me
16 some sense on the $635,000? Obviously, a huge
17 number, how does that break out? Is that all Title V
18 or was some of that a PSD permit development?
19 MR. PENROD: No, sir. That's all Title V
20 for two facilities, the one coal-fired and the one
21 gas-fired plant. That's the emission fee payments.
22 It has nothing to do with my time or the time the

1 other people spent in either assuring compliance or
2 helping me to develop the language in the draft
3 comments on the permits themselves.
4 MR. MOREHOUSE; That's fees only, so you'd
5 have to add to that all the consulting time and
6 developing the applications?
7 MR. PENROD: Yes, sir. I don't have that
8 information with me, but we have kept track of it
9 just for the record. It's substantial dollars.
10 MR. LING: Keri?
11 MS. POWELL: I was just curious about your
12 knowledge of other power plants in your area. How do
13 you think that your plant compares to other coal-
14 fired plants in Kansas?
15 MR. PENROD: In what respect?
16 MS. POWELL: You said that your plant is
17 successful because it's very clean and nothing came
18 out of the stack. I just wanted to know what your
19 experience was with other power plants.
20 MR. PENROD: I'm sorry. Let me back up.
21 I really didn't say that nothing was coming out of
22 our stack. It's a clear stack for particulate

1 purposes. You can't see fly ash. Of course, there's
2 different vintages of facilities in the state. There
3 are five, as I recall, of the coal-fired units that
4 are equipped with scrubbers. There are four of the
5 units equipped with fabric filters for particulate
6 control. I think the oldest unit I have the least
7 knowledge of and it's also the smallest located in
8 the southeastern part of the state.
9 As a practical matter, the plants are all
10 generally clean. They don't have a clear stack. If
11 they don't have a fabric filter, they don't have a
12 clear stack. They're still relatively clean.
13 MS. POWELL: Even when they say they have
14 a clear stack, it's my understanding that you might
15 not be able to see the particulates coming out of the
16 smoke stack, but the very smallest of them are the
17 most dangerous to people. You do recognize that
18 there are still dangerous particulates coming out of
19 your smoke stack?
20 MR. PENROD: I recognize that over the
21 course of the year that our total particulate
22 emissions might total a hundred tons. Our efficiency

1 of our fabric filter is as efficient as all but two
2 of the most recently issued new source performance
3 standard and PSD permits that have been issued for
4 new plants.
5 MS. POWELL: I apologize. I wasn't
6 listening close enough at the beginning to catch the
7 lay of the land in Kansas.
8 MR. PENROD: Flat.
9 (Laughter.)
10 MS. POWELL: Approximately, what portion
11 of the state are you the managing power company?
12 MR. PENROD: We serve -- our distribution
13 cooperative is the western 34 counties, which is
14 about a third of the State of Kansas.
15 MS. POWELL: And there are other
16 cooperatives that handle the rest of the state?
17 MR. PENROD: No. There is one municipal
18 utility that operates coal-fired generation and there
19 are three investor-owned utilities that operate
20 coal-fired generation in the state.
21 MS. POWELL: I guess what I was wondering
22 was -- I mean, you were saying that part of the

1 reason that you didn't see much of a benefit to Title
2 V in helping with compliance at your facility was
3 that you felt that it was already very clean and
4 while in compliance with the requirements. Is that
5 what you're saying?
6 MR. PENROD: My chief point, I think, is
7 going through the preconstruction PSD review for the
8 plant defines the control technology that you need to
9 apply and it defines the monitoring requirements and
10 the compliance requirements in every respect. So,
11 when you've gone through that process, if that
12 process was sufficient in the first place, then you
13 should have, I think, with the exception of
14 malfunctions and those kinds of things, you have
15 achieved the best that you can achieve.
16 MS. POWELL: How about other requirements
17 that apply to your plant? Aren't there requirements
18 that apply?
19 MR. PENROD: SIP requirements are much
20 less complicated for a lack of a better way of saying
21 it than the other requirements. There's not a piece
22 of our facility equipment that doesn't have a

1 requirement placed upon it. We have coal-handling
2 requirements under subpart Y. I may get the subparts
3 confused from time to time. The cooling tower has
4 Part 63 requirements, which relate to chemicals in
5 the water. All of those things are covered in the
6 PSD process.
7 MS. POWELL: Your PSD process include all
8 the SIP requirements and all the NSPS requirements
9 and all that?
10 MR. PENROD: That review includes all of
11 the NOX requirements. All those things are covered
12 in the permit we've just gone through. One of the
13 important parts, perhaps, I didn't pay enough
14 attention to this, we've just gone through this
15 process for another unit, a companion unit at the
16 same site, so those things are pretty much indelibly
17 imprinted here. And so I'm persuaded that, if you've
18 done that, you don't have anything much in regards to
19 emissions that the public ought to have undue concern
20 about.
21 MS. POWELL: I see a lot of people have
22 their cards up.

1 MR. LING: Bernie?

2 MR. PAUL: How are the Title V permit fees
3 in the State of Kansas assessed? Is it based on a
4 dollar per ton basis or is it assessed on they looked
5 at the number of Title V sources and said we're going
6 to charge these type of facilities so many dollars
7 per year and these type of facilities so many dollars
8 per year? Can you share a thought if you know that?

9 MR. PENROD: I have some awareness of
10 that. First of all, there are four different classes
11 of Title V permits in the state. The larger sources
12 like ours are Class 1. Any Class 1 sources you're
13 going to follow the same methodology. If you emit
14 more than 100 tons of one of the pollutants that are
15 included within that, which is SO2 and NOX and carbon
16 monoxide, I think. It's a small number, so I don't
17 recall. But you're assessed a fee, so many dollars
18 per ton up to 4000 tons a year on the emissions from
19 that facility.

20 We do not touch the cap. We don't get but
21 about halfway, frankly, in both NOX and SO2. But
22 there's other structures of the fees. It has been as

1 low -- first of all, I think, if I remember
2 correctly, there are 19 Class 1 permits in the state.
3 That's a state matter. Please don't write that down
4 because I'd hate for the Director of Environment to
5 fuss at me for making a false statement. But they're
6 relatively few. Most of those are in the utility
7 sector. Some of them go beyond the 4000-ton cap in
8 their emissions, but most of them are relatively
9 small emitters.
10 New facilities is the point, I think, and
11 new is 30 years.
12 MR. LING: Shannon?
13 MS. BROOME: Thanks for coming today. You
14 said that on the issue of the observations of the
15 small bags that you were looking at half a man year
16 in terms of work hours. This is an issue that's my
17 biggest pet peeve.
18 MR. PENROD: Mine, too.
19 MS. BROOME: Having been in Indiana making
20 observations of absolutely nothing. It drives me
21 nuts. What would cost out half a man year for the
22 company when they know it's not the salary. It's the

1 salary plus something and what level of person are
2 you talking about because it can't be just anybody
3 who could make these observations and do the
4 recordkeeping and all that stuff.
5 MR. PENROD: We have two people. One of
6 which is the most directly involved and makes, by
7 far, the largest portion of the evaluations. He is a
8 supervisor-level individual. He doesn't have a lot
9 of staff, but that's the level of person they have do
10 it. In fact, he at one time was the operator who was
11 responsible for the scrubber, showing compliance with
12 the scrubber. His salary is whatever it is. It's
13 probably going to be $60,000 a year that we might
14 attribute to the actual act of going through all
15 those compliance verifications.
16 But what's more important to me is that I
17 would rather have him spending time looking in the
18 main plant baghouse.
19 MS. BROOME: You're saying it's an
20 opportunity cost.
21 MR. PENROD: It's an opportunity cost.
22 MS. BROOME: Which is something that's

1 hard to quantify and I just wanted to ask you, did
2 you know that the administrative law judge who just
3 retired from Indiana is also named Wayne Penrod?
4 MR. PENROD: Is he from Indianapolis?
5 MS. BROOME: Yes.
6 MR. PENROD: We've communicated a couple
7 of times by e-mail. We have similar roots.
8 MS. BROOME: I thought Wayne Penrod was
9 testifying. I though, oh, Wayne Penrod.
10 MR. PENROD: And I knew he was from
11 Indiana and didn't hold it against him.
12 (Laughter.)
13 MR. LING: Mike?
14 MR. WOOD: Just real quick. I'll assume
15 your permit was issued by the state agency?
16 MR. PENROD: Yes, it was.
17 MR. WOOD: You mentioned EPA had done an
18 inspection. That answered that question. Was there
19 any public participation in any of your permitting,
20 particularly, more recent permitting, either the NSR
21 or Title V process?
22 MR. PENROD: I'll tell you -- well, let me

1 answer that two ways. First of all, we don't have a
2 lot of people in our neighborhood. The largest in
3 the western third of our counties has 30,000 people.
4 We go to great efforts, frankly, to invite people to
5 come to the plant to see the plant every spring as
6 science teachers are looking for class trips to take
7 their kids to see something that might be of interest
8 to them.
9 We get a host of people who come. We give
10 tours of the plant. They see the plant. They ask
11 questions. Although, some of those are elementary
12 students and the questions may not be all that tough.
13 Some of them aren't. Some of them are seniors in
14 high school and they ask some pretty tough questions.
15 So it's giving us a little bit of practice.
16 We are in the process of going through a
17 PSD review on an existing unit for some improvements
18 we're going to make. We have gone through the Title
19 V process on two units and the PSD review on a new
20 unit. And, to an extension to the permit on the new
21 unit, we have not received, other than those that we
22 offered at public hearing, any comments by any one

1 other than the state agency. The EPA did file some
2 comments. The Region 7 office did file some comments
3 that were appropriately handled at the issuance of
4 what we call the Holcomb 2 plant. That was 18 months
5 ago.
6 Public interest, public distrust, maybe,
7 of our operation and our facility is not high.
8 MR. LING: John Higgins?
9 MR. HIGGINS: Again, I want to get your
10 grade.
11 MR. PENROD: I give the agencies and the
12 process and that we learned a lot, maybe not so much
13 myself, but a lot of people at our facility learned a
14 lot by going through and thinking about the way the
15 plant operated and the compliance requirements at the
16 plant in a different way by going through the Title V
17 process. I really think the process is at worst it's
18 a B.
19 My real bad grade is reserved for what I
20 see as the cost of that in the future because we're
21 going to pay more and we've already achieved the
22 benefits that have accrued from that expense. That's

1 my fear is that the program will be more burdensome;
2 that provisions, frankly, for small businesses in our
3 business, because we're in both of those. We're in
4 small businesses, but we're in the power business and
5 so we have those kinds of costs. That's the thing
6 I'm most concerned about.
7 I'd like to be able to control some
8 emissions and spend some of those dollars doing it
9 instead of spending them on emissions fees that
10 frankly don't go to reducing emissions.
11 MR. LING: I'm going to call on myself. I
12 just wanted to make sure I understood part of your
13 testimony. I think I understood your point that
14 going through Title V the only practical difference
15 that that made compared to the PSD permit that you
16 already had was some additional monitoring
17 requirements on some of the coal-handling equipment.
18 Is that right?
19 MR. PENROD: There are 18 bag filters half
20 the size of your office scattered throughout the
21 plant. Yes, that's correct.
22 MR. LING: So, in terms of the internal

1 checks that you do for compliance with all those PSD
2 requirements, are those now different as a result of
3 Title V or are they essentially the same as a result
4 of those internal checks?
5 MR. PENROD: As a result of Title V, we
6 have a different person who goes by and assesses the
7 functionality of those particular devices. We had
8 people who did it before. The recordkeeping,
9 frankly, was not as good as it should have been, but
10 we've made that improvement. Yes, sir.
11 MR. LING: One last related question.
12 That's the practical difference, and maybe this is a
13 question for one of our lawyers rather than you.
14 But, in terms of the legal difference of certifying
15 compliance with the permit terms -- and, also, this
16 is a practical difference, the reporting, how often
17 you report, six month reporting. Are those different
18 because of Title V or is that essentially the same as
19 it was under the PSD?
20 MR. PENROD: We didn't have -- I think
21 it's probably a two-part answer again. We had
22 current requirements, pre-Title V requirements that

1 report on the main stack, SOX, NOX, CO and opacity.
2 Those reports we filed. Those aren't going to be any
3 different. The due diligence things that we do now
4 that are sufficient for the appropriate signatures
5 associated with an electronic data report are no
6 different than it's going to be for this Title V
7 activity.
8 The other things I think we've probably
9 implemented the necessary changes in recordkeeping
10 and in records of observation I think more than
11 recordkeeping. We've incorporated those into the
12 process and so those will be a little bit different,
13 but they should be sufficient for the purpose.
14 I'm not an attorney. I'm a mechanical
15 engineer. So, if there are attorney questions, I
16 can't answer those.
17 MR. LING: Steve?
18 MR. HITTE: I thank you as well for
19 coming. I guess Michael started to get into it. I'm
20 still struggling with what your concern is. You say
21 it's the future you're concerned about and I'm not
22 understanding that. Are you saying that when your

1 Title V permit comes up for renewal you're concerned
2 it's going to be more onerous. Or are you just
3 saying that you just don't like the idea of having to
4 pay fees because the money could be served better
5 elsewhere?
6 MR. PENROD: The answer is both. I am
7 concerned about the program becoming more onerous.
8 Keeping in mind that the PSD review accomplishes the
9 task that folks who are not satisfied and, perhaps,
10 are really interested in Title V solving some of
11 those problems, it's not necessary. So it's extra.
12 Our permits are all in one place to begin with. What
13 I would hope to find would be a way to bifurcate, for
14 lack of a better way of saying it, the fee payments
15 such that those who were in compliance who continue
16 in compliance who don't have continuing problems with
17 the technologies that are installed can, in some
18 fashion, get credit for good behavior.
19 MR. HITTE: Just for the record, it's up
20 to the states how they charge fees. Have you ever
21 approached the state about renegotiating your fee?
22 MR. PENROD: No, I have not. It only

1 became apparent to me when I divided the dollars by
2 the number of tons reduced.
3 MR. HITTE: And the states can tie dollar
4 fees to one source according to Title V.
5 MR. PENROD: I imagine I'd be outnumbered
6 in that discussion.
7 (Laughter.)
8 MR. PENROD: Perhaps, important here would
9 be the recognition that there are those sources who
10 are finding themselves in that very same boat. There
11 are Class 2 sources whose emissions are lower than
12 ours whose fees are not a whole lot less than ours.
13 Yet, if you add two or three of those guys together,
14 you get us. So we're supporting the program and
15 we're not, by far, the largest choice in the state.
16 We're the smallest major source in the state. So
17 there's an equity question there that just somehow
18 keeps creeping into my thinking process.
19 MR. LING: Keri?
20 MS. POWELL: Is this our last presenter?
21 Do we have more?
22 MR. LING: Wayne's the last one signed up

1 unless there's --

2 MR. PENROD: I feel a cold coming on.

3 (Laughter.)

4 MS. POWELL: I'll go easy on you.

5 MR. PENROD: You have been thus far.

6 MS. POWELL: Whether those inspectors went

7 out without anything except looking and seeing

8 nothing coming out of your stack. Did they come

9 back?

10 MR. PENROD: No, they did not.

11 MS. POWELL: How often do the inspectors

12 come to inspect your facility?

13 MR. PENROD: The state agency by virtue of

14 their own interim directions appear on a religious

15 once-a-year basis to review the operations. Of

16 course, we file either quarterly reports or semi-

17 annual reports, depending on the process, depending

18 on the particular requirement and so we're self-

19 reporting in that regard.

20 What they developed over the course of the

21 last 20 years that the plants operate is they know

22 what the equipment is. They know what it's capable

1 of doing and my assessment is I'm not volunteering
2 this for them because I never asked them the
3 question, is it they spend their time where they
4 think they can be of more value to the constituency,
5 which includes me, by the way.
6 MS. POWELL: Have you ever been with the
7 inspectors when they did an inspection?
8 MR. PENROD: I've been with the inspectors
9 one time. The EPA Region folks, as a practical
10 matter, probably come out every three years. They'll
11 come with the state agency. Sometimes it's a
12 training exercise. Sometimes the folks are just
13 trying to get acquainted with each other to see that
14 they do the same things or they think about them in
15 much the same way. We've never had a question.
16 We've never had a problem.
17 MS. POWELL: I'm sorry. You're describing
18 your state inspectors come once a year and U.S. EPA
19 comes once every three years, so when you are on an
20 inspection was that a U.S. EPA inspection or a state
21 inspection?
22 MR. PENROD: The one particular inspection

1 I was on was just a state inspection.

2 MS. POWELL: Can you tell me what happened

3 at that inspection?

4 MR. PENROD: They asked to see our

5 records. Those are very specific as they are laid

6 out in the regulations. You take them, show them the

7 records. They ask to see the relative accuracy

8 reports and the gas monitors and the audits on the

9 opacity monitor. They look through those, even

10 though we file those on a quarterly basis. They come

11 to the site to verify more than anything else that I

12 think that they're there. They looked at them. They

13 looked at the appropriate pages, which are, frankly,

14 rather thick. We do a good job of reporting that we

15 provide a lot of information. I don't know that it's

16 easily assimilated, but we try.

17 They look at the facility. They observe

18 the stack. They observe, in the case of the dust

19 collectors, they'll drive around and they'll see

20 anything as a practical matter. Sometimes, by the

21 way, the coal-handling system is operating when

22 they're there. Sometimes it's not.

1 MS. POWELL: Do you have continuous
2 monitors on your stack?
3 MR. PENROD: Yes. That's a requirement of
4 subpart A.
5 MS. POWELL: They're SIMS or COMS?
6 MR. PENROD: SIMS. We have COMS, too, for
7 opacity.
8 MS. POWELL: Just to clarify something,
9 you said in the past your recordkeeping might not
10 have been as good as you would have wanted it. Has
11 it gotten better, your recordkeeping?
12 MR. PENROD: Our recordkeeping, as it
13 relates to the 18 discrete baghouses that are located
14 in the coal-handling system and the ash-handling
15 system and the lime-handling system, the main stack,
16 we would have been in trouble long ago if we weren't
17 doing that correctly.
18 MS. POWELL: Just a final thing. You
19 didn't have to do any kind of annual compliance
20 certification prior to Title V. Right?
21 MR. PENROD: We do a certification with
22 the filing of each electronic data report. We did

1 with the Part 60 reports prior to that as well. That
2 did not relate to the 18 coal-handling dust
3 collectors.
4 MS. POWELL: So this is the first time.
5 Have you actually had to file a 105 compliance
6 certification yet?
7 MR. PENROD: June 23rd was the end of the
8 first six months and so I have 28 days left.
9 MS. POWELL: You have to file a
10 certification every six months?
11 MR. PENROD: Yes.
12 MS. POWELL: I'm assuming you're not
13 planning on certifying non-compliance of anything.
14 MR. PENROD: No.
15 MS. POWELL: Do you have any evidence of
16 possible non-compliance?
17 MR. PENROD: I have no evidence of any
18 non-compliance. I have a due diligence process that
19 I have to go through for the second quarter which,
20 frankly, would go through the end of June for my
21 electronic data report and have computerized
22 recordkeeping for all of the maintenance activities

1 that are done on the control devices and with the
2 monitoring devices. And so it frankly becomes a
3 check, those locations, reading the reports, which I
4 don't wait six months to do, and then the
5 certification.
6 In fact, I think I misspoke. We only have
7 the annual certification, but we have the semi-annual
8 reporting. The plant manager for that facility would
9 like to see that due diligence statement by me before
10 he files the semi-annual report.
11 MS. POWELL: Just a last question. Does
12 your facility undertake any monitoring that isn't
13 specified in the Title V permit?
14 MR. PENROD: Certainly.
15 MS. POWELL: I'm sorry. This is one more
16 question. When you're certifying compliance, do you
17 take into account evidence for that monitoring as
18 well as your Title V monitoring?
19 MR. PENROD: Some of the things that you
20 speak may be individual actions that are undertaken
21 by a shift supervisor, by a maintenance mechanic, by
22 an operator who observes a wisp of coal dust out one

1 of the little dust collectors. He write that work
2 request. The work request goes through the system as
3 is appropriately prioritized and taken care of. It's
4 not an expedience of the opacity standard. So we do
5 things that are reported in the fashion I think you
6 just described. I'm aware of all of those, but only
7 if I go through every maintenance record and I do not
8 go through every maintenance record.
9 MS. POWELL: Is it okay if I ask another
10 question? I'm sorry. Nobody else has their card up.
11 So you're the responsible official that signs?
12 MR. PENROD: No, I'm not. I do the due
13 diligence for the responsible official. I'm the
14 designated representative for the EDRs, but I'm not
15 the responsible official because I have no operating
16 responsibilities for the plant.
17 MS. POWELL: Who is it that signs your
18 compliance?
19 MR. PENROD: The plant manager.
20 MS. POWELL: You're doing a due diligence
21 for him?
22 MR. PENROD: Yes.

1 MS. POWELL: So he's relying on you to
2 give him good evidence and you say you don't review
3 all the reports?
4 MR. PENROD: I don't review all the
5 maintenance records for all of the equipment as a
6 normal process.
7 MS. POWELL: But you're saying that some
8 of those maintenance reports might have an
9 observation or evidence of a problem?
10 MR. PENROD: None of those will have an
11 observation of a problem. We do things before we
12 have to. Just as an example, if I can use this one.
13 As I say, we have a clear stack, no particulate
14 matter can be observed in the stack at exit. I went
15 through the plant for another culture class, frankly,
16 on Wednesday. I observed what I imagine would be a
17 percent or two opacity at the stack exit. I asked
18 the plant manager if there was something that was
19 happening with the fabric filter. He looks up. No.
20 They investigated. We don't know whether we've
21 discovered anything or not, but we're looking for the
22 source of 1 percent. It's not a compliance matter

1 and I'm not going to report it.

2 MS. POWELL: Thank you.

3 MR. LING: Any more questions for Mr.

4 Penrod?

5 (No response.)

6 MR. LING: Thank you very much.

7 MR. PENROD: Thank you.

8 MR. LING: This concludes the list of

9 speakers today. So I appreciate all the speakers if

10 any of them are still here who came and who testified

11 and who answered all our questions patiently.

12 Before we formerly adjourned, I just

13 wanted to say a couple of things to the Taskforce and

14 also give the Taskforce a chance to say anything they

15 want to say in conclusion.

16 First of all, I would like have a call at

17 some point very soon after this meeting to, number 1,

18 discuss how the people thought the running of the

19 meeting went and what adjustments we need to make for

20 the Chicago meeting. I also want to discuss the

21 logistic of planning out the Chicago meeting and

22 subsequent meetings and how the Taskforce wants to

1 operate in between meetings and things like a lot of
2 the issues that have come up today about receiving
3 testimony, summaries and all that kind of stuff. I
4 don't want to do that today, but I think we need to
5 set a call up about that very soon.
6 What I do want to do today, though, is
7 check the date for Chicago. It's tentatively
8 scheduled for September 14th. I just want to make
9 sure. If anybody has a current conflict with that
10 date, let me know.
11 Steve?
12 MR. HITTE: Recognizing that we've already
13 signed a contract and there will be substantial
14 penalties if we change, September 14th is, I think, a
15 Tuesday.
16 MR. LING: If anyone has a conflict, just
17 let me know before you hit the exits. I do see a
18 couple of cards up.
19 Shelley?
20 MS. KADERLY: I wanted to thank all the
21 presenters today, again. I think we got a lot of
22 valuable information today. One of the things that

1 we talked about on our call just a few days ago was
2 if there were any pieces of information that the
3 Taskforce identified that maybe EPA could provide or
4 share it with the Taskforce to help us do our duties
5 here. One of the things I think would be helpful is
6 if EPA gave us an overview of what Title V requires
7 for the minimum public participation requirements.
8 Some of the difficulties that we heard
9 today, I suspect, might be more specific to
10 particular agencies rather than the underlying Title
11 V program requirement. So I'd like to get some
12 clarification on that, if we could.
13 Also, I wanted to let you know that with
14 me and I'll leave it with whoever wants to accept it,
15 I brought a recent survey that the State of New
16 Mexico did on what the Title V fees are for each of
17 the states and some other information that the State
18 of Oklahoma compiled recently as well that might be
19 of use to the committee.
20 MR. LING: Bernie?
21 MR. PAUL: When I look at the name of this
22 Taskforce, the Title V Performance Taskforce, it lead

1 me to wonder how are we going to measure the
2 performance of the Taskforce and maybe this comes
3 from being ingrained in corporate culture for 14
4 years now, you can't do anything about performance
5 unless you have some metrics about how well things
6 are.
7 Recognizing that you cannot measure
8 everything, I'd like when we have our next call, and
9 I wanted to raise this today so people would start
10 thinking about it, what are some quantifiable
11 measurements we might be able to use as we go through
12 this process. And, if it would help, as we have our
13 next round of hearing, if we could suggest particular
14 measures that people could bring to us about their
15 views of the program. That would give us some data
16 to work with. I'm one of these people that likes
17 data, but I understand that not everything can be
18 quantified, nor needs to be quantified, but I think
19 it helps sometimes to put a context around stuff.
20 MR. HIGGINS: Just for the record, did
21 everybody get the minutes of our last call? We
22 somewhat got into that. I know you weren't in on the

1 call.

2 Bernie, I'd like to say we weigh our

3 permits and the heavier they are the higher score we

4 get. Remember, Steve Martin once suggested that the

5 best way to assess the quality of art is how it

6 smelled and how much it weighed, so that would be

7 fine with me.

8 MR. LING: Steve?

9 MR. HITTE: In the spirit of your

10 question, Michael, about having a call, I agree. We

11 probably in a couple or three weeks should just have

12 a call. One thing that's running through my mind is,

13 okay, if we, the Taskforce, are suppose to digest

14 what we've heard, I'm not quite sure what each of us

15 heard in the sense of what we need to act on. So I

16 would propose that we need to talk about that and I

17 do know that somebody asked me this at the break

18 regarding the availability of all this stuff here.

19 In less than two weeks, Graham will have

20 notes, key points that he picked up from today's

21 meeting that will be made available and, in about the

22 same amount of time the recorder who did the verbatim

1 will be available. And then, regarding the digital
2 audio that we did, that, in theory, will be available
3 tonight but it's going to take us a few days to put
4 it on the website and what we will probably do is we
5 noted the timeframes that each person spoke, so we
6 will have this digital, whatever the right word is,
7 broken up into 30-minute segments.
8 You'll know the first hour Mike Ling
9 spoke. So the first two 30-minutes will be Mike.
10 The next hour will be John Paul, et cetera, et
11 cetera. That should be available, as I say,
12 imminently. So, for those of you who really want to
13 dive into rehearing what we heard and what it is we
14 think we need to act upon, at least you'll have
15 materials outside of any notes you may have taken
16 today.
17 MR. LING: Is that another one from you,
18 Bernie? Or is that left over?
19 (No response.)
20 MR. LING: One thing I would suggest is,
21 why don't we go ahead and look at candidate dates for
22 the call. Let's say two weeks from now.

1 Oh, you're right. Okay. The week
2 following the July 4th holiday, July 12th.
3 MR. PAUL: I know I will be on vacation
4 that week, but we can't let the R&R needs of one
5 lonely person interfere with the plans of everyone
6 else.
7 MR. LING: We scheduled the last one and
8 you couldn't come.
9 MR. PAUL: It's a plot.
10 MR. HITTE: I think we do have to
11 recognize we're not always going to get everyone, but
12 it's nice to know if there are major things that half
13 the people can come to the week of the 12th besides
14 vacation for Mr. Bernie.
15 (No response.)
16 MR. HITTE: The day of or the week of?
17 MS. KADERLY: I was going to suggest,
18 typically, Mondays and Fridays are hard to get people
19 together. If at all possible, Tuesdays through
20 Thursdays might be best.
21 MR. LING: Probably the 13th or 15th, so
22 try to keep relatively flexible on those days until

1 we can get something locked in, which we'll try to do
2 very soon after we get back.
3 MR. HITTE: And it will always be 1:00
4 o'clock on because of the West Coast folks.
5 MR. LING: Any parting thoughts?
6 MR. HIGGINS: One suggestion for setting
7 up calls, you might use -- pick a day and schedule
8 another couple or three months and then people can
9 adjust their schedule if they need to.
10 MR. HITTE: In that spirit, do you think
11 we should just set up a monthly call and if we need
12 it we have it? Is that the best way, starting in
13 July and another one in August, et cetera?
14 MR. LING: Okay. Thank you very much to
15 the Taskforce for participating. I know it was a
16 long day, but I thought it was a very good session.
17 Thanks to everybody in the audience who participated
18 and spoke as well.
19 With that, have a good trip back everyone.
20 (Whereupon, at 4:45 p.m., the above-
21 entitled meeting was concluded.)